

Violence at Home

Contents

Executive Summary	2
Domestic violence	2
What is domestic violence?	3
Bringing offenders to justice	5
The joint inspectorates' assessment	5
Children's safeguards	8
Policy into practice	8
The way forward	9
Recommendations and action points	10
ACPO, CPS, Home Office	10
Police	10
Police and CPS	11
CPS	12
Police, CPS, LCJBs	14

Executive Summary

Domestic violence

In recent years, the issue of domestic violence has periodically attained a high public and political profile – typically because of an outcry surrounding a particularly tragic case, sometimes because of new research on the prevalence of domestic violence or difficulty in securing convictions, and occasionally because of the ‘celebrity status’ of a victim or perpetrator. Whenever the police response to domestic violence incidents, and subsequent prosecution by the CPS, have been put under a critical spotlight, incremental improvements in practices have tended to follow. And in some instances, improvement was much needed. Until relatively recently for example, dominant police culture depicted violence in the home as ‘just another domestic’ – a nuisance call to familiar addresses that rarely resulted in a satisfactory policing outcome. To the service’s credit, tremendous efforts have been made in the last five years or so to overturn this stereotype and ensure that domestic violence is treated as a serious incident, requiring a high standard of professional investigation. The CPS too has raised the profile of domestic violence, issuing revised policy and guidance and setting up a network of Area domestic violence coordinators. But all too often, policies and rhetoric are not matched on the ground by effective responses and solid investigative practice.

This report flows from a joint review conducted by HMIC and HMCPSI into the investigation and prosecution of domestic violence cases. The importance of keeping the issue under review is highlighted by the fact that –

- Every minute, the police receive a domestic violence call.
- Every day, thousands of children witness domestic violence.
- Every week, two women are killed by a partner or ex-partner.

A parallel theme across the whole of the criminal justice system is the Government’s intention to give stronger emphasis to the needs of victims and witnesses. There is now better witness care – often facilitated through specialist police officers – to victims through the criminal justice process and they are encouraged to articulate the impact of offences upon them in personal statements. For the last two years the CPS has been responsible for communicating directly with victims to explain case decisions (eg, to discontinue a prosecution). Formerly, decisions were communicated by police officers who may have had no previous contact with the case.

The police service and the CPS are the two CJS agencies which respond to and initiate prosecutions in cases of domestic violence. The police gather evidence where it is believed that an offence has been committed, arrest and charge the alleged perpetrator and then pass the case file on to the CPS. The CPS review the charges and strength of the evidence in support of a prosecution, and where there is sufficient evidence, take the case to court. Effective investigation and effective prosecution are thus closely linked, and the inspection team worked together to examine the effectiveness of police and CPS practices from the beginning to the end of the process, looking in particular at:

- current police policy and practice and investigative quality;
- working relationships between the police and CPS, and liaison with local domestic violence organisations, focusing especially on measures that could increase the number of offenders brought to justice for domestic violence;
- the care and treatment of victims and witnesses;
- the extent and causes of attrition; and
- the application of the revised CPS Policy and accompanying Guidance, the Code for Crown Prosecutors and any relevant charging standards.

The review was undertaken during the consultation periods for the White Paper *“Safety and Justice: the Government’s Proposals For Domestic Violence”* and the Green Paper *“Every Child Matters”* and aims to inform these proposals.

What is domestic violence

There is no statutory or common law offence as such of ‘domestic violence’. The term is generally used to cover a range of abusive behaviour, only some of which is criminal. Abuse can be physical, on a spectrum from a minor blow through sexual assault to murder – all of which are subject to legal sanction. But the abuse may be non-physical – for example, threats (to a partner or children in the household), intimidation, verbal harassment, isolation or enforced financial dependence, not all of which are subject to legal sanction. The Protection from Harassment Act 1997 created offences of harassment and putting a person in fear of violence and enabled the prosecution of abusive psychological behaviour that did not fit easily into pre-existing legislation. Convictions can also provide victims with a practical outcome in the form of restraining orders.

The range of behaviour encompassed within 'domestic violence' is reflected in a variety of working definitions used by different agencies, a fact that hampers consistent research, evidence-gathering and policy formulation. Even the two CJS agencies most closely involved with domestic violence – the police service and the CPS – work to different definitions in terms of scope.

For the purposes of data collection under the Best Value Performance Indicator, Home Office Circular 19/2000 defines domestic violence as "...any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners or family members, regardless of gender."

This is the definition adopted by ACPO and, in the main, forces have also adopted this as their working definition (with minor adjustments to the wording). Some forces, however, use the Home Office definition outlined in the Safety and Justice consultation paper which is restricted to violence occurring between current and former partners and does not include other family members. This is also the definition currently used by HMIC.

For the CPS, the nature of the abusive behaviour is defined in similar terms to that outlined in Home Office Circular 19.2000 but is restricted to criminal offences. The scope of the definition, however, is extended to include child abuse.

The potential for confusion, and the impediments to effective collaboration and monitoring, are obvious and urgent effort is needed to establish a common definition.

Inspectors would like to see a common definition of domestic violence, so that monitoring is accurate and feeds into joint performance management at individual agency level and at local criminal justice board level. Action can then be taken to improve service delivery at all points and any success achieved can be fed through to members of staff and the general public. This is what is needed to encourage victims to support the investigative and prosecution process and to raise levels of public confidence in the criminal justice system.

Although the most common perception, and the majority of recorded incidents, is of abuse by a man against his female partner or former partner, men can be victims of female perpetrators. (In the CPS file sample of cases brought into the judicial process only 1.5% of cases involved assaults upon men by female partners, although there were numerous instances of counter allegations being made by male defendants against

female partners). Violence also occurs in same sex relationships. Domestic violence occurs regardless of social group, class, age, race, disability or sexuality, and both the police service and the CPS strive to reflect diversity issues in their policy and practices, recognising that some people have additional barriers to coming forward.

Bringing offenders to justice

A clear theme within the Government's policy is the emphasis on the criminal nature of offences of domestic violence and the aim to bring more offenders to justice. To that extent the joint inspectorate team looked carefully at the scale and nature of attrition. The key stages identified are incidents to which police are called, potential crime reports, crime reports, arrests, charges, convictions. Between every stage there is roughly a 50% reduction. Inspectors concluded that of the 463 incidents to which police were called, there should have been approximately 260 crime reports with potential offenders. In the event, 118 crimes were actually recorded and charges were made in relation to 21%. The CPS file sample showed that typically 50% of those charged would be convicted (guilty plea or conviction after contested hearing); that is to say 11% of those matters recorded as crime led to a conviction. Whilst in some respects alarming, it should be recognised that positive police action at the early stages may have stopped or prevented violence to the satisfaction of the victim, who in many instances did not want the matter to go further.

Attrition in relation to domestic violence offences within the judicial process is higher than for offences generally. However, the picture appears to be an improving one. In the past many prosecutors had an inbuilt expectation that a bind-over would suffice, or in any event the victim would later withdraw. The fact that over half the cases received by the CPS resulted in convictions, provides a much more positive picture.

Better quality of investigation and provision of information by police; higher standards of review by CPS specialists and more robust application of the revised policy; and in some areas the development of domestic violence cluster courts, are having a positive impact on the delivery of successful outcomes.

The joint inspectorates' assessment

Inspectors found high standards of professionalism and commitment on the part of many individuals in both police forces and the CPS in relation to domestic violence.

There is a significantly higher degree of engagement with support agencies and interest groups at both national and local level. This is having a significant impact in securing a more holistic approach to the subject.

Inspectors came across considerable amounts of good practice and good work in the Areas visited. Having said that, the inspection itself clearly had a catalytic effect in some Areas, giving a renewed impetus to domestic violence issues. Overall, the priority given to domestic violence locally was variable and depended heavily upon local initiatives and commitment.

Police work

Frontline staff were committed and sought to learn from experience. They included police staff taking first calls and police officers attending incidents, and CPS lawyers undertaking initial review and caseworkers managing cases. However, few had received any in-depth training in relation to domestic violence or to the policies developed by police forces or the CPS respectively.

There were substantial variations in the arrest rate at or near the incident; police officers have powers of arrest in order to prevent the breach of the peace or where the offence itself is an arrestable one (for instance assault occasioning actual bodily harm). However, a power of arrest specifically in relation to common assault would provide a clearer basis for officers to arrest perpetrators at the scene. Systems need to be put in place to question the non exercise of a power of arrest when such a power clearly existed. Systems to inform officers of existing court orders, injunctions, or indeed risk assessments made by their colleagues, would all add to the ability of officers to take positive action at the scene.

Evidence and advice

Effective investigation and evidence gathering is critical. The use of photographs taken at the scene, the gathering of medical evidence immediately through a forensic physician, together with an interview of the defendant under caution would all provide valuable evidence which could enable the prosecution to proceed even where the victim subsequently wishes to withdraw. The new charging initiative under which prosecutors are present in police stations to provide on-the-spot advice and guidance to police officers before charge, should raise the proportion of cases ready to proceed and more likely to succeed.

Prosecution

Domestic violence coordinators and specialist crown prosecutors within the CPS are helping to provide higher standards of review and a more consistent drive to progress cases through the conviction. Greater liaison between police and CPS specialists will improve evidence gathering and file quality. Thereafter, focusing on evidence apart from that of the victim will provide options of continuing where the victim subsequently withdraws support for the prosecution.

In 44% of the cases received by the CPS, the victim sought to withdraw. Adjourning cases to enable a formal withdrawal statement to be taken in an environment where the victim is not influenced by the defendant, is part of good practice, but to some degree can go against the general trend of avoiding adjournments and delay. This provides some general support for the development of domestic violence cluster courts, in which experienced magistrates, clerks and prosecutors manage cases actively, within a clear specialised framework.

Inspectors found little guidance to prosecutors about the use of witness summonses and witness warrants to require the attendance of victims at court, and even less in relation to compelling victims to give evidence at court. This needs to be provided, together with more positive guidance about applications under Section 23 Criminal Justice Act 1988 to admit statements of victims when they are, for instance, in fear. (This section will be replaced by provisions in the Criminal Justice Act 2003, but this will probably not take place until 2005).

Representations about bail are particularly sensitive in domestic violence cases. They were generally presented well, but there was a less certain approach to dealing with breaches of bail or additional offences flowing from subsequent behaviour.

Courts

The development of domestic violence cluster courts was seen as a positive move, and one which meant that cases were handled more professionally and with an appropriate degree of seriousness. However, more evaluation needs to be undertaken to identify best practice.

Support and witness care

Local partnerships between police and CPS, and with courts and support agencies, as well as informal support groups, are vital to raise the numbers of victims willing to support criminal prosecutions through the courts. Inspectors found that both police and CPS had made considerable strides in providing support and information to victims. But there remained a need to review arrangements for ensuring that victims of crime are routinely provided with case-specific information about significant developments such as the release of the perpetrator after arrest. Information sharing had been more variable, but protocols between ACPO, CPS and Victim Support already exist detailing the referral processes. The agreement between Victim Support and the CPS for the provision of the list of witnesses attending court is in the process of being extended from the Crown Court to the magistrates' courts and youth courts. It would be of benefit if a uniform approach to referral protocols were achieved together with regular reviews of their implementation.

Witness care is fundamental to ensuring the effectiveness of the trial process. The police and CPS have substantial roles to play in retaining a victim's support of a criminal prosecution. Nevertheless, the work of support groups, such as Victim Support and the Witness Service, Women's Aid, as well as social services and others, is needed to ensure the protection and safety of victims, and to provide them with the confidence to continue. Many of these aspects are long term issues which this joint inspectorate report cannot directly influence.

Children's safeguards

There is substantial evidence that harm is caused to children by the presence of domestic violence in their home, and in particular when they are aware of violence being perpetrated on their carer. This needs to be given high consideration by those police officers and prosecutors when deciding whether to arrest and charge or whether to continue with prosecutions respectively.

Policy into practice

The CPS has a sound policy, many police forces have appropriate policies, and ACPO is developing National Guidance for Police Staff. However, in practice implementation is far from universal. Managers and front line officers and staff are sometimes not

aware of the policy and many have not been trained in relation to domestic violence issues. Priorities accorded to domestic violence vary. Some areas with high levels of street crime or gun crime see domestic violence as a less immediate issue to be tackled. Nevertheless, the scale of domestic violence places it at the heart of the criminal justice system. There is a wide justice gap between the number of offences and the number of offenders brought to justice, and it must have a substantial impact on the degree of public confidence in the criminal justice system. Local crime and disorder reduction strategies can have an impact, and local criminal justice boards need to place it within their scale of priorities, and put in place performance management measures that will deliver better standards of investigation, prosecution and court process.

The way forward

The joint inspection team has highlighted a number of recommendations at a strategic level, and action points which can be addressed by operational units and individuals. In essence these are built round the joint inspection teams' view that a professional initial response will lead to a higher number of incidents being classified as crimes, with a consequently higher level of evidence gathering and arrest. This should lead to a greater number of charges for criminal offences. Appliance of the CPS's Code and Policy, where appropriate by specialists, with better support of the victim, will lead to more cases proceeding through the courts. Professional presentation of well prepared cases, ideally within specialist domestic violence courts following evaluation, will lead to lower levels of attrition at court and consequently higher numbers of offenders being brought to justice.

Recommendations and Action Points

The joint inspection team has made a number of recommendations, which are of a strategic nature, and has identified action points, which relate either to the implementation of existing policy and practice or to other issues for practitioners and supervisors.

ACPO, CPS, Home Office

R1 ACPO, the CPS and the Home Office develop a common definition of domestic violence to be adopted for both operational and monitoring purposes. (PARAGRAPH 1.12)

Police

R2 Forces ensure that systems are in place to ‘flag’ domestic violence incidents accurately, that responsibility for the correct application of domestic violence ‘flags’ is clearly identified within force polices and that staff with that responsibility are clear on the procedures to be followed. (PARAGRAPH 2.11)

R3 Forces allocate specific responsibility for the monitoring and review of force domestic violence policy to ensure that it remains relevant and up to date. Where implementation of policy has been devolved to BCU/local command area level, responsibility should also be allocated within BCUs/local command areas to monitor and ensure compliance. (PARAGRAPH 2.18)

R4 Forces review their existing systems for providing front line officers with previous history information to ensure that it can be easily accessed, retrieved and communicated prior to scene attendance. (PARAGRAPH 2.23)

R5 Forces revisit their minimum standards of investigation for domestic violence in light of the findings of this review; and ensure that such standards reflect the term ‘effective’ as opposed to ‘enhanced’ evidence gathering. (PARAGRAPH 2.37)

R6 Forces ensure that:

- the information recorded on domestic violence incident logs is sufficient to allow for effective supervision of scene attendance and investigation;
- proactive monitoring by supervisors takes place, particularly in reviewing decisions not to arrest; and,

- in cases of serious crime, supervisors take an active role from the outset in ensuring an effective investigation takes place. (PARAGRAPH 2.64)

R7 Forces ensure that policies include guidance on procedures for dealing with incidents involving police officers and staff as either victims or perpetrators, particularly in relation to supervisors' responsibilities during investigations; and that the guidance also addresses the support available to victims. (PARAGRAPH 2.68)

R8 Forces review Domestic Violence Officers' role and job descriptions to ensure that the role is meeting the public's needs and expectations and that job descriptions accurately reflect work undertaken; and

- as part of the process, assess workload and responsibilities to ensure that staffing levels are realistic and levels of responsibility are appropriate;
- review administrative functions with a view to providing adequate administrative support; and,
- identify line management responsibilities clearly and ensure that those responsibilities are included within the relevant supervisors' job descriptions.

(PARAGRAPH 3.6)

R9 Forces examine, within their existing structures, the most appropriate and effective mechanism for ensuring that victims of crime are routinely provided with relevant case-specific information and that all personnel are aware of the process so that victims can be advised at the outset. (PARAGRAPH 3.31)

R10 Forces review the content and extent of in-force awareness and procedural training on domestic violence for all officers and relevant support staff with a view to implementing the Centrex training programme and, in particular and as a matter of urgency, ensure that specialist officers are sufficiently well trained to equip them for their role. (PARAGRAPH 3.44)

R11 Forces agree formal information sharing protocols and procedures with social services in relation to referrals and notifications of children in households where domestic violence is a feature. (PARAGRAPH 4.6)

Police and CPS

R12 Forces and CPS Areas enter into formal agreement on the background information to be provided in domestic violence cases. (PARAGRAPH 2.41)

R13 Police officers include details of children of the family and the impact of the domestic violence upon them on prosecution files; and prosecutors take the rights and safeguarding of children into full account in domestic violence cases. (PARAGRAPH 4.18)

R14 Chief Constables and Chief Crown Prosecutors ensure that diversity awareness is included in domestic violence training and is supported by supervision and monitoring. (PARAGRAPH 5.16)

R15 Chief Crown Prosecutors and Chief Constables reach agreement about the inclusion of assessments by investigating officers of the reasons for withdrawal statements being made, and views about whether the case should proceed by way of witness summons, or warrant, or on other evidence if sufficient. (PARAGRAPH 7.30)

Action Point 1 Police officers and prosecutors ensure that action is taken in relation to breaches of bail and consider whether further charges are appropriate. (PARAGRAPH 7.68)

Action Point 2 Police officers routinely offer victims the opportunity to make a victim personal statement, and prosecutors take account of this when decisions are made and make it available to the court as appropriate. (PARAGRAPH, 8.13)

Action Point 3 Contact details for both police and CPS domestic violence specialists should be readily available to all police and CPS staff. (PARAGRAPH 10.7)

CPS

R16 Chief Crown Prosecutors review systems for identifying and highlighting cases of domestic violence. (PARAGRAPH 7.15)

R17 Chief Crown Prosecutors ensure experienced prosecutors are consulted where the victim withdraws support for the prosecution; and CPS Policy Directorate provides guidance on the factors which support requiring attendance at court or compelling the giving of evidence. (PARAGRAPH 7.45)

Action Point 4 CPS Policy Directorate provide guidance about the reason to be determined for discontinuance when the victim declines to attend court. (PARAGRAPH 7.52)

Action Point 5 Chief Crown Prosecutors ensure that:

- prosecutors make proper file endorsements in domestic violence cases which reflect consideration and application of the Policy;

- prosecutors record all factors relating to public interest where the victim withdraws support for the prosecution;
- prosecutors properly record bail representations and court decisions on the file; and,
- systems are in place so that the victim is informed of the bail decision straight away. (PARAGRAPH, 7.81)

Action Point 6 In cases of domestic violence instructions to counsel include relevant details about the Policy, plea acceptability, and witness issues in relation to securing attendance and compelling evidence. (PARAGRAPH 7.93)

R18 Chief Crown Prosecutors ensure that the suitability and performance of counsel, and HCAs, are regularly monitored in order to ensure that the CPS and the victims of domestic violence have confidence in the way such cases are handled. (PARAGRAPH 7.105)

Action Point 7 Chief Crown Prosecutors ensure that:

- appropriate information is provided to victims under the direct communication with victims scheme and otherwise;
- witnesses who may be eligible for special measures are identified at an early stage and applications are made in all appropriate cases; and
- prosecutors and caseworkers are aware of the Policy. (PARAGRAPH 8.32)

R19 The CPS produces a template for the Area domestic violence co-ordinator job description; and

- Chief Crown Prosecutors ensure that:
- the role of the Area co-ordinator is a strategic one, providing information to the Area management team, and securing Policy compliance;
- area co-ordinators and specialists meet regularly; and
- the remit of Area co-ordinators includes jointly analysing information with the police, and circulating information and guidance to the Area. (PARAGRAPH 9.13)

R20 The CPS produces a national domestic violence training package including ECHR issues; CPS staff receive domestic violence awareness training and training on the revised Policy; and agents and prosecuting counsel are fully aware of CPS policy and practice in domestic violence cases. (PARAGRAPH 9.18)

Police, CPS, LCJBs

R21 Chief Constables, Chief Crown Prosecutors and Local Criminal Justice Boards assess the priority of domestic violence offences within their areas and develop effective performance management arrangements. (PARAGRAPH 9.22)

R22 A protocol or service level agreement is agreed in each Area which gives effect to the forthcoming guidance when published, and sets out the roles and responsibilities of each agency in relation to victims and witnesses; and the implementation of referral protocols is reviewed regularly. (PARAGRAPH 10.19)