

Violence at Home

A Joint Thematic Inspection of the Investigation and
Prosecution of Cases Involving Domestic Violence



February 2004

Contents

	Preface	4
	Executive Summary	6
	Recommendations and action points	13
1	Setting the Scene	19
	The rationale for a joint review of domestic violence	19
	Defining and measuring domestic violence	21
	Attrition – the scale and nature of the problem	22
	What can be done to reduce attrition?	24
	Changes in police policy and practice	24
	Changes in CPS policy on domestic violence	26
	Civil remedies	27
	Structure of the report	27
	Methodology	28
2	An Effective Investigation	29
	Call handling	29
	'Flagging' domestic violence incidents	31
	Scene attendance – the first response	32
	Arrest	34
	Crime recording	37
	Effective evidence gathering	38
	Background information	41
	File quality	43
	Advice	44
	Charging	45
	Counter-allegations	46
	Supervision	47
	Police personnel	48
3	Supporting the Victim – What the Police Can Do	50
	Specialist officers	50
	Risk assessment	53
	Safety planning	55
	Intelligence gathering	56
	Meeting victims' information needs	58
	Police bail	61
	Cautions	61
	Anti-social behaviour orders	62
	Police training	63
4	Safeguarding Children in Domestic Violence	65
	Police action to safeguard children	65

	Children as witnesses	67
	Safeguarding children and the decision to prosecute	68
5	Diversity and Domestic Violence	70
6	Attrition	74
	Cases terminated during the investigation stage	74
	The points of attrition	77
	Cases terminated during the court process	77
	Acquittal after evidence is called	79
	Charge attrition	79
7	An Effective Prosecution	80
	Overview	80
	Nature of the CPS file sample	81
	Identification of cases	83
	The decision to prosecute	85
	Determining the correct charges	96
	Bail	98
	Binding over to keep the peace	101
	Civil proceedings	102
	File management	103
	Presenting cases in court	106
	Specialist 'cluster' courts	110
8	Supporting the Victim – What the CPS Can Do	112
	Keeping victims informed	112
	Victim personal statements	114
	Direct communication with victims	115
	Special measures	117
	Support for victims and witnesses	119
9	Learning to Improve	120
	Governance in the CPS	120
	Training of CPS prosecutors	122
	Performance management	124
10	Getting the Best from Partnerships	129
	Local partnerships	129
	The partnership between the police and the CPS	129
	Domestic violence fora	131
	Information sharing	132
11	Action Following this Report	134

ANNEX 1	Methodology	135
ANNEX 2	Structures	139
ANNEX 3	CPS policy on domestic violence	142
ANNEX 4	CPS policy guidance checklist	158
ANNEX 5	Implementation of recommendations from CPSI thematic report published in May 1998	161
ANNEX 6	ACPO and Victim Support – Victim Referral Agreement	166
ANNEX 7	CPS file sample and snapshot monitoring data	169
ANNEX 8	Project reference group	170
ANNEX 9	List of local representatives of criminal justice agencies and organisations who assisted in our inspection	171
ANNEX 10	Domestic violence workshop	174
ANNEX 11	Checklist of actions	175
ANNEX 12	Abbreviations used in the report and Glossary	176

Preface

Violence at home

A Joint Inspection by Her Majesty's Crown Prosecution Service Inspectorate and Her Majesty's Inspectorate of Constabulary on the investigation and prosecution of domestic violence.

Domestic violence is widespread in England and Wales. In broad terms –

- 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.

Over the last few years, both the police service and the Crown Prosecution Service have made tremendous efforts to revise policies and ensure that domestic violence is treated as a serious incident. The joint inspection was undertaken to assess whether new and revised policies are matched on the ground by purposeful action and high quality work.

This joint inspection was undertaken during the consultation period for the White Paper – *“Safety in Justice: The Government’s Proposals for Domestic Violence”*, and within the wider context of the Government’s intention to give stronger claim to the needs of victims and witnesses and to narrow the justice gap by bringing more offenders to justice. The inspection examined attrition from the initial call to police through to the final outcome at court. Whilst this will no doubt command attention, what appeared to be an improving situation had moved a long way from the depiction of violence in the home as “just another domestic” and an expectation that the defendant would be bound-over following a withdrawal by the victim. Similarly, within a truly joined-up system, the criminal justice system alone cannot address the issues or the full needs of the victims of domestic violence.

The inspection considered the effectiveness of practices and procedures in safeguarding children, who are affected sometimes directly, but also inevitably by the knowledge and experience of domestic violence in the home.

Thanks of the chief inspectors are extended to all the police forces and the CPS who responded to requests for information, and in particular to those six police forces and CPS Areas who were visited. Thanks go to those members of other criminal justice organisations and bodies within the Areas, who provided valuable insights into the

effectiveness of the system locally and the needs of victims and witnesses. Lay inspectors provided a valuable contribution on site, as did members of the Reference Group who gave guidance and help to the joint inspection team at key stages.

The review found inconsistencies between different parts of the country and within the same Areas as to how that policy was put into effect. This was perhaps not unexpected. Nevertheless, the report underlines the achievements of many dedicated and committed individuals, and also highlighted a considerable amount of good practice. The recommendations, at strategic level, and the action points, at a practical level, identify significant aspects for improvement.

It is hoped that this report will inform the debate which will take place about the Government's proposals in relation to domestic violence in the Domestic Violence, Crime and Victims Bill. More immediately it offers guidance about matters that can be taken forward now by police forces, Crown Prosecution Service Areas and Local Criminal Justice Boards, and the relative priorities. The role of the Local Criminal Justice Boards in providing a basis for joint action and for the effective management of performance in relation to domestic violence cases within the wider context of improving criminal justice, is an important one. The report makes the important links between successfully addressing domestic violence and succeeding in key Public Service Agreement targets in relation to both narrowing the justice gap and improving public confidence in the criminal justice system.



Stephen Wooler
Her Majesty's Chief Inspector
of the Crown Prosecution Service



Sir Keith Povey
QPM
Her Majesty's Chief Inspector
of Constabulary

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)

Setting the Scene

1.1 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. But all too often, policies and rhetoric are not matched on the ground by effective responses and solid investigative practice.

The rationale for a joint review of domestic violence

1.2 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.

1.3 In addition, a number of legislative and policy developments make this review timely. The police service has adopted the revised Home Office Circular on Domestic Violence (19/2000) – this emphasises the importance of gathering forensic and other evidence to avoid an over-reliance upon the victim’s willingness and capacity to testify. It also introduced the presumption of arrest (whenever such power is available) in all but the most exceptional cases of domestic violence, and required the collection of core data to measure compliance. The Crown Prosecution Service (CPS) revised its policy on prosecuting domestic violence in 2001 to improve the prospects of successful prosecutions where the victim was unwilling to testify. Other important recent developments include:

- relevant legislation, notably the Human Rights Act 1998, Criminal Justice Act 1998 and Youth Justice and Criminal Evidence Act 1999;
- the establishment of the first specialist Domestic Violence Court in 1999; and
- the publication in 2002 of the first National Policing Plan for England and Wales, which gave priority to domestic violence.

1.4 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 (for example, to discontinue a prosecution). Formerly, decisions were communicated by police officers who may have had no previous contact with the case.

1.5 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.

1.6 The review was undertaken during the consultation period for the White Paper – *“Safety and Justice: the Government’s Proposals For Domestic Violence”* – and aims to inform these proposals.

1.7 This opening section sets the context for the review, highlighting changes in the legislative framework and identifying critical policy developments affecting the way that police officers respond to the initial call or complaint, and the actions of CPS staff to proceed with prosecutions. It also outlines the core issues affecting the rate at which those initial complaints drop out of the system, resulting in a relatively small number of prosecutions and convictions – the process known as attrition. But first it is worth reviewing what is meant by ‘domestic violence’.

Defining and measuring domestic violence

1.8 There is no statutory or common law offence as such of ‘domestic violence’. The term is used generically 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.

1.9 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.

1.10 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.

1.11 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.

“Any criminal offence arising out of physical, sexual, psychological, emotional or financial abuse by one person against a current or former partner in a close relationship, or against a current or former family member.”

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

RECOMMENDATION

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

1.13 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 and 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.

Attrition – the scale and nature of the problem

1.14 Domestic violence accounts for a quarter of all violent crime but not every incident that occurs is reported to the police. Of those incidents that are reported, only a proportion results in criminal proceedings and still fewer result in a criminal conviction (although civil remedies may be sought successfully). This ‘falling off’

process is known as attrition and is a focus for much research and policy deliberation. Understanding the causes of attrition is only a part of the solution – CJS agencies, the voluntary sector and policy makers are working against prevailing social attitudes and the dynamics of human relationships. In some respects, the law is ahead of contemporary attitudes and behaviour.

1.15 For many years, much of the violence that took place within the context of a relationship was considered to be a private matter, not a crime. Another manifestation of cultural obstacles to criminalising domestic violence meant that rape within marriage was not recognised as a crime until the decision of the House of Lords in *R v R* [1992] A.C.599. Accordingly, many victims did not report the abuse.

1.16 Even though the statutory position now makes it clear that violence, in whatever context or relationship, is a crime, the degree of under-reporting is particularly high for domestic violence. The victim may be physically prevented from contacting the police or have a rational fear of reprisal. In many cases, victims are reluctant to discuss their private affairs with strangers; there are concerns about the consequences of reporting where the victim is financially dependent upon the perpetrator; for many parents there is an underlying fear that contact with the police and social services over a violent and unstable household exposes them to the risk of children being removed from their care. Others, perhaps through experience, know that the criminal justice process can be an ordeal and believe that the end result will not be worth the cost to them, so are reluctant to begin the process.¹

1.17 Among those victims who do come forward and report the violence, attrition rates have been consistently higher than for most other crimes – especially given the fact that the victim can invariably identify the perpetrator. The absence in many cases of corroborative evidence (reflecting poor investigation at the scene and subsequently) leads to a reliance upon the victim's statement and willingness to pursue the complaint. If the victim, for a variety of reasons such as those outlined above, then withdraws the allegation and is reluctant to co-operate with enquiries and prosecution, CPS lawyers will often take the view that the case is unlikely to succeed at court and it is dropped.

What can be done to reduce attrition?

1.18 Much of the focus of this thematic review addresses this problem of attrition. The legislative context and government policies are vital starting points, and over the last decade some important initiatives have begun to make an impact. In the late 1990s, a Governmental campaign to change social attitudes was launched, entitled ‘Break the Chain’, which promoted a message that domestic violence is not acceptable. There has been proactive support for multi-agency approaches, as set out in ‘Living Without Fear’, and an accompanying good practice guide for agencies working in the field. The initiative’s three strands – support and protection, justice, and preventing violence – have formed the basis of Government policy on domestic violence ever since. Support has come partly from the special measures for vulnerable and intimidated witnesses provided by the Youth Justice and Criminal Evidence Act 1999 (Section 17 was drafted specifically to help victims of domestic violence). In 2002, Rape Sentencing Guidelines were revised so that rape by a defendant known to the victim is treated no less seriously than stranger rape. Revised CPS guidelines now emphasise that decisions to proceed with a case should not rely upon the victim’s willingness to attend court.

1.19 In 2003, the Government demonstrated a continuing commitment to address domestic violence through its publication of a White Paper entitled “*Safety & Justice – the Government’s Proposals on Domestic Violence*”. At the time of writing, responses to the consultation process are being considered, but there are indications of considerable support for some of the proposals, such as:

- criminalising the breach of non-molestation and occupation orders;
- increasing court protection for victims and witnesses of domestic violence by allowing them to apply for anonymity;
- extending the Protection from Harassment Act 1997;
- making common assault an arrestable offence; and
- establishing multi-agency reviews in domestic violence homicide cases to learn lessons of how deaths might have been prevented.

Changes in police policy and practice

1.20 The Home Office and the Association of Chief Police Officers (ACPO) have also overhauled the police response to domestic violence, with a focus on bringing

offenders to justice. Home Office Circular 19/2000 sets out good practice in the investigation and prosecution of domestic violence cases and highlights the need for effective evidence-gathering; this should help in avoiding a reliance upon the victim's statement. Significantly, it created a presumption of arrest, stipulating that:

“Where a power of arrest exists, the alleged offender should normally be arrested. An officer should be prepared to justify a decision not to arrest in the above circumstances... If the evidence is present, whether or not including evidence from the victim, then a charge or summons should be preferred, unless there are exceptional reasons. Such reasons should be recorded”

1.21 Although the dynamics of the situation can sometimes make such positive action difficult to implement, removing the offender from the scene offers immediate protection to the victim and allows support to be offered in a less threatening environment. Most forces have introduced this policy, although as the findings from this review illustrate, its impact so far is variable.

1.22 The Home Office Circular covered other related territory, including advice on domestic violence units – notably that clear job descriptions exist and that there is a defined line of supervision for domestic violence specialists. It promoted the inclusion of domestic violence in local crime and disorder strategies under the Crime and Disorder Act 1998, and this has been partially successful. In the last review of strategies, 86% of partnerships prioritised domestic violence, but only 7% had set measurable targets for reduction. Another critical element of the Circular concerned the impact upon children and the need for close liaison with social services and other organisations, given the close link between domestic violence and child abuse. It is, for example, estimated that incidents where a perpetrator abuses both an adult partner and children range from 30% to 60% of recorded incidents. The Department of Health recently confirmed that 75% of children on the child protection register live in households where domestic violence occurs. In addition, the perpetrator's abuse may include threats to harm children, allegations relating to parenting, threats to report the partner to social services and using contact with children to prevent a victim from leaving.¹ Finally, the Home Office Circular pointed to the importance of policies governing situations where police officers and or police staff are victims or offenders. ACPO has undertaken a lot of work in this area over the last year. A draft ACPO policy on police officers who commit domestic violence-related criminal offences has been produced and is currently the subject of consultation.

I Page 7 of the literature review

Changes in CPS policy on domestic violence

1.23 CPS policy on domestic violence was revised in 2001 to take account of the Human Rights Act 1998, the revised Code for Crown Prosecutors and the Youth Justice and Criminal Evidence Act 1999. A key contribution to the revised policy (the Policy) was consultation, both internally and externally and with victims, and included consideration of terminology. For example, some strong views were expressed on the use of the word ‘victim’, which has negative connotations whereas ‘survivor’ is more positive. However, the policy is essentially about criminal proceedings and the fact that the individual concerned is the victim of a crime, and so the term is retained. For similar reasons the term ‘defendant’ is used rather than ‘abuser’. The definition of domestic violence was reviewed but left largely intact, except for the addition of financial abuse to the list of abusive behaviour.

1.24 Details of the revised policy are set out in Annex 3 but in brief it covers:

- focusing on the victim’s priorities – safety, support and information;
- constructing cases, wherever possible, on the basis of evidence other than/additional to that of the victim;
- acknowledging the civil/criminal interface; and
- recognising that the domestic context may be an aggravating rather than a mitigating feature.

1.25 In deciding whether or not to prosecute, the safety of the victim, the victim’s children, or any other person involved, will be a priority. In order to ensure that victims are kept informed of progress, the CPS is committed to working closely with the police and courts – for example, to notify victims of defendant’s bail conditions. It also anticipated the Direct Communication with Victims scheme, whereby the CPS explains case decisions to drop or reduce offences directly to victims. Prosecutors must have a fully informed picture of the victim’s circumstances, including details of any civil orders, before they make key decisions. They adhere to the recommendation of the 1998 thematic review (Cases Involving Domestic Violence – thematic report 2/98) and thus no longer ask victims to attend court to explain why they wish to withdraw the allegation.

1.26 The Policy includes commitments to publish the results of the CPS monitoring of domestic violence cases and *“to work and train with our colleagues in the criminal justice system and with Women’s Aid, Refuge and similar groups locally and nationally*

to improve our understanding of domestic violence and make the right casework decisions.” The Policy launch coincided with the establishment of a national network of Area domestic violence co-ordinators for all 42 CPS Areas, to exchange information, address problems, encourage consistency and share good practice. A two-year domestic violence project has recently been established to identify measures to improve effective prosecution of cases. The project includes evaluation of specialist (cluster) courts, development of two pilot projects and evaluation of victims and witness support.

Civil remedies

1.27 Finally, although this review concentrates on the criminal process, it is important to note that victims also have recourse to civil remedies, which in some cases are easier to obtain and offer effective outcomes. Under the Family Law Act 1996 (Part IV), victims can apply for occupation orders and/or non-molestation orders. Occupation orders regulate the occupancy of a shared home to protect any party or children from domestic violence. Applications may be made on notice, or without notice, to the perpetrator. A power of arrest may be attached to these orders so the police can arrest, without warrant, anyone whom they reasonably suspect to be in breach of such an order. The penalty for breach is up to two months imprisonment if the sentence is imposed in the magistrates’ court, and up to two years when imposed in a County Court. In theory, victims can pursue both criminal and civil remedies against an individual perpetrator, but in practice (unless they have the financial means to do so) often have to choose one or other route. This is because public funding – ie, legal aid – is not generally granted to pursue civil remedies where bail conditions have been imposed via the criminal prosecution process, unless the conclusion of the prosecution is imminent and bail conditions will soon be revoked. The Family Law Act 1996 (Section 60) could allow third parties to apply for these orders on behalf of a domestic violence victim, but this is not yet implemented.

Structure of the report

1.28 In order to present the review findings logically and accessibly, the report follows a generally chronological order, beginning with the police response to the initial call or complaint and tracking the investigation and evidence-gathering, support to victims, liaison with CPS and other agencies and then preparation of a case file for prosecution.

The CPS part in the process is examined in terms of identification of cases as domestic violence ('flagging'), charging, reviewing the evidence for prosecution, presenting cases in court, bail conditions and civil remedies. Related and important issues such as risk assessment, the implications of the Human Rights Act, the impact of domestic violence upon children, diversity considerations and training/learning from experience are covered throughout the report at points where they most sensibly fit with the chronology of events.

1.29 A number of very brief case studies are used to illustrate points. These studies are anonymised, but taken from actual cases. They were provided from material from the Northern Rock project: Attrition in Domestic Violence Cases Entering the Criminal Justice System.

Methodology

1.30 This inspection was undertaken jointly by Her Majesty's Crown Prosecution Service Inspectorate and Her Majesty's Inspectorate of Constabulary. CPS Areas provided position statements, and police forces answered questionnaires. Six Areas of varying types were selected and 80 domestic violence incidents from each force were examined in detail, as were the domestic violence files received by the CPS Areas from police in the month of March 2003. Interviews were conducted with, or questionnaires sent to, police and CPS personnel, representatives of other criminal justice agencies, and groups involved with domestic violence issues. A workshop was held with professional and voluntary workers. Inspectors observed cases at court. A literature review was commissioned to inform the inspection, and a reference group provided comment and guidance during the stages of the inspection.

1.31 The scope and methodology are set out in more detail in Annex 1.

1.32 Some information about the structure of police forces and the CPS, both generally and specifically in relation to domestic violence, is contained in Annex 2.

1.33 A glossary of terms and some of the abbreviations used in the report are contained in Annex 12.

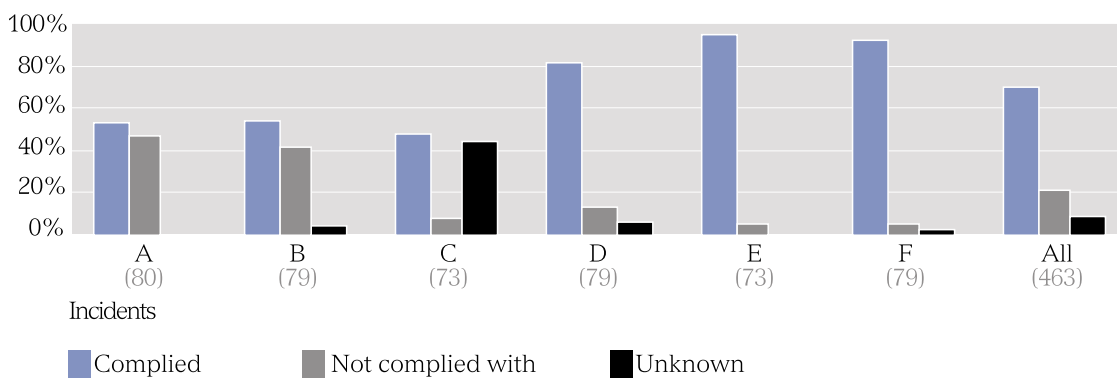
An Effective Investigation

Call handling

2.1 Normally, the first contact a victim of domestic violence will have with the police will be with control room staff, either a police officer or member of support staff. In dealing with calls, call handlers have to obtain sufficient initial information to prioritise the call correctly and ensure that an appropriate police response is despatched. Where the call relates to domestic violence, call handlers can face a difficult task. If violence is taking place or a disturbance is ongoing at the time of the call, the main priority is clearly to ensure that officers attend the scene as quickly as possible. Where this is not the case, however, the caller may still be distressed or the circumstances may be such that they are unable to speak freely. In all of these situations, language may also present difficulties. Regardless of the circumstances, however, the manner in which a call is handled from the outset and the sense of priority it is afforded are important.

2.2 As part of the attrition study, an examination was made of the detail obtained for initial incident logs and compliance with force policies on call grading. The results in relation to call grading are contained in the table below:

Percentage of incidents where call grading policy was complied with



2.3 In two of the forces visited, the graded priority allocated to domestic violence calls did not comply with force policy in 40–45% of incidents resulting in calls being ‘under-graded’. It should be noted that, in both forces, this ‘under-grading’ had minimum impact on the majority of actual response times as the tendency was for officers to be despatched immediately to the scene when the call related to domestic violence. That said, there were occasions when the call grading resulted in victims either having to phone again or wait several hours for the police to attend.

2.4 It was also found that these forces had a higher than average number of incidents where it was considered that insufficient initial detail had been obtained for the incident log. It is apparent, therefore, that there is a relationship between the quality of information recorded at the time a call is made and the priority attached to the call on the incident log. In one of the forces concerned, comment was made that there was pressure on call takers to transfer calls quickly to dispatchers to ensure a speedy response, and concern was expressed that pressure to transfer messages quickly was affecting the quality of information obtained. There were few instances, however, of supervisors actively monitoring calls through, for example, 'dip-sampling', or either questioning or re-grading inappropriately graded calls.

2.5 During interview, many of the call handlers, in all forces, referred to 'experience' as their source of knowledge when dealing with domestic violence calls. Supervisors also referred to relying on the experience of their staff to deal with and grade calls appropriately. None referred to 'training'. Indeed, the review did not reveal anyone engaged in the handling of domestic violence calls who had received training or practical guidance in taking them. This, combined with pressure on call handlers to deal quickly with one call in order to be free to take the next, has the potential to compromise the very first response to a domestic violence incident.

2.6 Some experienced members of control room staff did show good understanding of the complexities of domestic violence and all demonstrated a high level of commitment to dealing effectively with the wide range of calls they receive. In one force, call handlers commented that they would deploy officers to an incident even if the caller stated that they did not want the police to attend. In another, call handlers were mindful of the fact that a caller might not be able to speak openly and commented that, where a call was 'abandoned', they would telephone back. In these circumstances, if a third party answered, they would insist on speaking to the original caller and, in any case, would send officers to the scene.

2.7 Forces cannot afford, however, to rely on commitment and experience alone. Call handlers are the first point of contact with the police service for the majority of victims of domestic violence, and the way in which a call is dealt with can set the tone with victims for the remainder of the police response. In addition, if a call is to be correctly prioritised, then adequate time must be taken to allow for sufficient information to be obtained from the caller. The Centrex "Responses to Domestic Violence" Modular Training Programme includes a module for call handlers and is commended to forces as a training resource.

‘Flagging’ domestic violence incidents

2.8 Three quarters of forces in England and Wales have now introduced systems to identify or ‘flag’ domestic violence incidents, with ‘flags’ subsequently being used by Domestic Violence Officers (DVOs) or other nominated members of staff to retrieve incidents for follow-up contact with victims and to update domestic violence records and databases. Such systems were found to be in place in all of the forces visited, although, not surprisingly, ease of retrieval was found to be dependent on the effectiveness of individual force IT systems. In Northumbria Police, for example, this ‘flag’ automatically generates a form on the incident log which requires completion prior to the incident being closed and which then automatically populates the domestic violence database. This force was also readily able to provide full case-tracking information for the attrition study – from original incident logs to related crime reports, intelligence entries and even court disposals – because of the way in which their IT systems are linked.

2.9 In all cases, however, search and retrieval of incidents are reliant on ‘flags’ being correctly applied at the outset. Whilst this did not form part of the attrition study and, therefore, the extent to which this is happening in practice has not been established, correct ‘flagging’ was highlighted as an issue by many DVOs, with comment being made about the reliability of ‘flags’ as critical to retrieving domestic violence incidents. It was also apparent that DVOs are often relied upon to double-check IT systems to ensure that no incidents are missed. This places an additional and avoidable administrative burden on these officers.

2.10 In addition, forces are currently required to provide statistical returns to both the Home Office and HMIC and the use of ‘flags’ in recording processes is vital in ensuring that such data is properly collected. At present, only a third of English and Welsh forces properly report the required data to the Home Office and, of those that do, there is considerable reason to doubt the accuracy of the data provided. (The accuracy of monitoring in the CPS is also the subject of doubt – see paragraph 9.25).

2.11 The importance of ‘flags’ and their correct application in ensuring that, at the very least, domestic violence records can be updated, cannot be overstated. It is essential, therefore, that ownership of this task is clearly identified within force policies and that staff are clear on the procedures to be followed.

RECOMMENDATION

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.

Scene attendance – the first response

2.12 Over the last fifteen years, the police response to domestic violence has been the focus of much critical attention and research. In particular, criticism that responses were failing to assist victims in limiting or stopping violence and that police powers of arrest were not being used effectively has led to radical shifts in policy.

2.13 The revised Home Office Circular highlights the importance of policy in *“giving guidance to officers on how the force prioritises the issue, what standards of investigation are expected and procedures that must be followed.”* As part of the review process, therefore, forces were asked to provide a copy of their domestic violence policy. From these, 24 policies were selected at random and examined in detail to establish an overview of policy content and the likely quality of service delivery in England and Wales.

2.14 All of the policies examined had a clear statement of the policy’s aims together with an explicit definition of domestic violence. Approximately two-thirds contained references to clear lines of accountability and supervision. More so, pointed to the roles and responsibilities of support staff and police practitioners and the vast majority (96%) also contained references to the role and responsibilities of the DVO. However, only 30% included the issue of resourcing the role.

2.15 An assessment was made of standards of investigation, including scene management and procedural guidelines for investigating officers. Approximately 88% of forces clearly outlined minimum standards of investigation and scene management preparation. All of the policies examined included reference to an ‘arrest policy’, with the majority defining this as positive action in relation to arrest. However, a noticeable few either did not state or were not explicit about what this should mean in practice. Of those that were ambiguous, the Human Rights Act was often quoted as the prime reason to exercise caution – in some cases to the point of confusion. In addition, whilst

88% of policies contained references to relevant legislation, less than a third made mention of police powers.

2.16 Finally, 92% provided explicit details of the information to be obtained and recorded on IT systems or relevant force forms. Only half, however, made links between information gathering and intelligence/problem solving and only 10% provided information on safety planning and risk assessment.

2.17 The analysis shows that forces have responded to the need to set out what is expected of officers attending incidents of domestic violence, including standards of investigation and the exercise, where appropriate, of powers of arrest. The quality and clarity of guidance varied considerably across forces, however, indicating a likely broad spectrum of quality of service delivery; these results were borne out during visits to the six forces taking part in the inspection.

2.18 Whilst all officers spoken to were clear about the fact that domestic violence was a priority within their force, with many citing examples of the way in which police responses have developed over the years, with the exception of specialist officers, few had any real understanding of the dynamics of domestic violence. In addition, effective understanding of policy was found to be variable, resulting in differing standards of response being applied which were often dependent on the knowledge, and experience, of individual attending officers.

CASE STUDY

“...he attacked me again recently, even though he is still bound over, and I called the police at about 3 am. They didn’t come until the morning, and even though I told them he was at his mum’s they didn’t go and look for him. They only went there on Saturday (he attacked me on the Tuesday), and then he wasn’t there because he was staying at a friend’s. They didn’t really seem to care about it at all. The help you get seems to depend on who comes out and what their attitude is.” (Beatrice)

RECOMMENDATION

All 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.

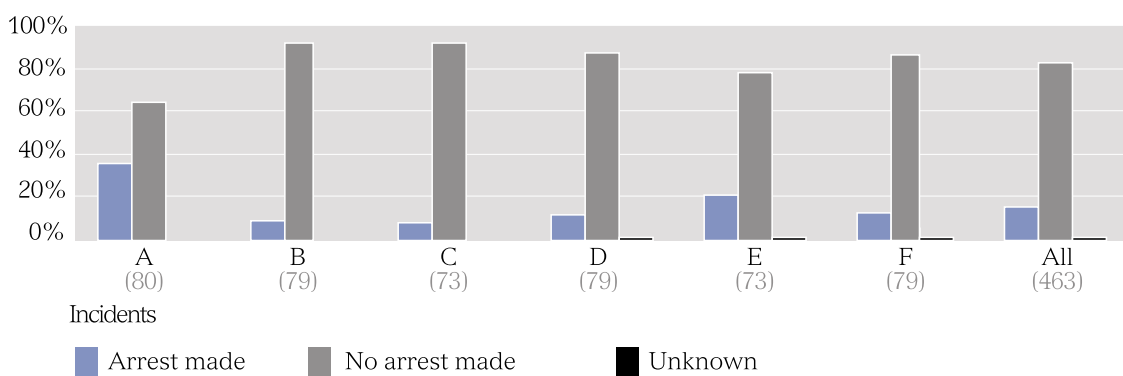
Arrest

2.19 As already indicated, Home Office Circular 19/2000 created a presumption of arrest where such a power exists. It was found that where policy was clearly articulated, virtually all officers were clear that, where a power of arrest exists, it should normally be exercised to protect the victim and any children from the risk of further violence. For example:

*“Arrest where lawful, necessary in the interest of public safety, the prevention of crime or the protection of the rights and freedoms of others unless, **exceptionally**, a less intrusive measure would achieve these aims. The reasons for the action must, in all cases, be fully documented.”*

2.20 Conversely, where policy was found to be vague or where officers perceived it to be open to interpretation, there was less likelihood of an arrest being made. Every incident will be different and it is considered important that attending officers are able to exercise professional judgement. Equally important, however, is the need to ensure that officers are provided with clear guidance as to what is expected in relation to scene attendance, including circumstances when the exercise of discretion would not be considered appropriate. As part of the attrition study, an examination was made of the number of incidents leading to an arrest being made and the results are outlined in the following table:

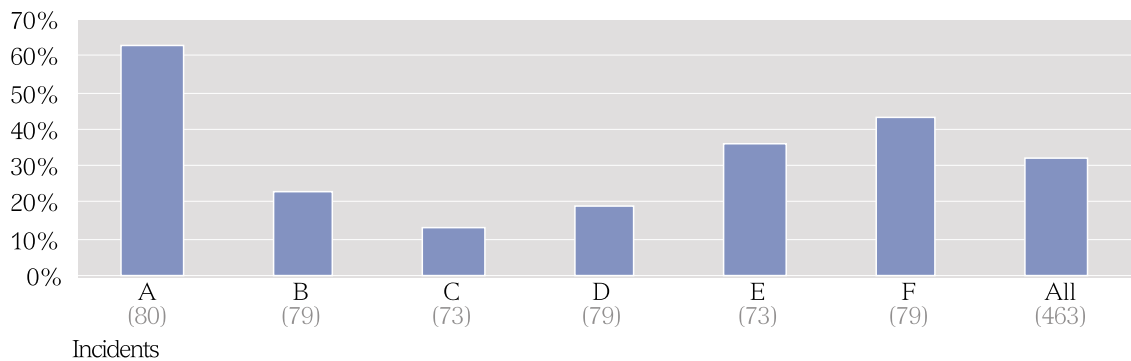
Percentage of incidents leading to an arrest, at or near the time of the incident



2.21 An examination was also made of a sample of incidents where, potentially, a power of arrest was available to ascertain in how many cases an arrest then resulted. Again, there are considerable variations amongst the forces – from 13% to 63%. It should be noted that, in reaching a decision as to whether a power of arrest was

available, reference was made directly to the information recorded on the incident log by the call handler at the time of the initial call. Where a caller indicated that they had been assaulted, for example, and no mention was made of injuries, this was included in the figures. It is acknowledged that there is currently no specific power of arrest for common assault – there is, however, a power of arrest in order to prevent a breach of the peace.

Percentage of incidents where power of arrest was potentially available and where an arrest was made



2.22 Both tables highlight significant differences in the action taken by officers responding to domestic violence incidents when it comes to whether or not an arrest is made. Whilst more detailed study would be required to explain the differences, what can be said is that in Force A, not only was force policy clearly articulated, but officers were clear about their powers of arrest and the reasons for effecting an arrest. In addition, officers also commented on the effectiveness of arrest in removing the offender from the scene and preventing further incidents requiring further police attendance and, in this force, there was greater use of the power of arrest in order to prevent a breach of the peace.

2.23 The information with which officers are equipped prior to attending an incident can also impact on the quality of first response. All forces visited had in place systems for providing front line officers with previous history information prior to attending an incident. In only one force, however, was this information passed to officers as a matter of routine. In the remaining five forces, either Control Room Staff had no ready access to this information, or it was not readily retrievable, or, attending officers had to request that the relevant checks be done. In the latter case, call handlers' 'experience' was again referred to as being the deciding factor as to whether or not previous history information would be passed to attending officers.

RECOMMENDATION

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.

2.24 A similar situation was found in relation to information about court orders, bail conditions, injunctions with power of arrest and non-harassment warnings. Much of this information originates from courts and solicitors and requires, therefore, systems to be put in place if the police are to be made aware of their existence. Even where such systems were found to be in place, much of the information was held on 'hard-copy' and not necessarily in a central location making it difficult to retrieve. In practice, therefore, attending officers are often unaware of the existence of these protective measures until the victim advises them. For this reason, HMIC share the Government's view expressed in the consultation paper – that breaches of court orders should be criminalised and that a central register should be created of all orders as well as the existence of 'bind-overs'. Furthermore, the register should be available electronically and in such a form that every force can properly brief officers en route to incidents.

GOOD PRACTICE

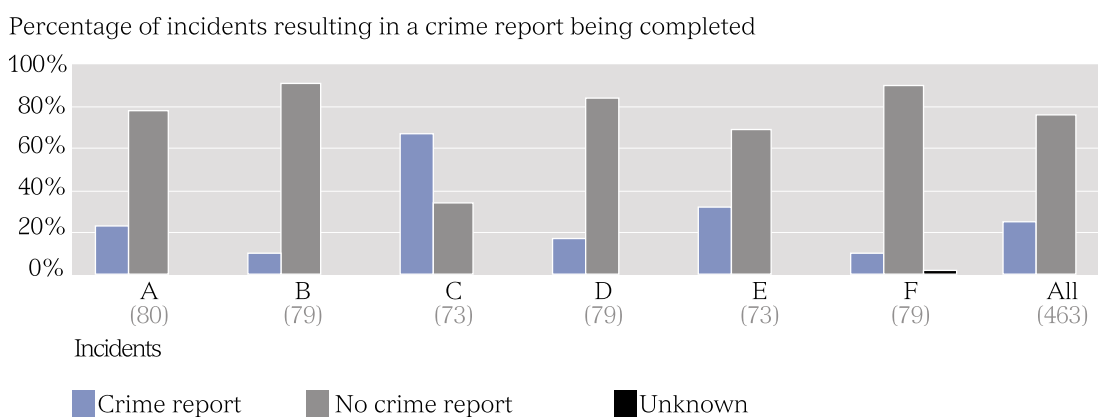
West Yorkshire Police has developed an IT application – VIVID (Vulnerable and Intimidated Victims Database) – which will link incident data relating to child protection, domestic violence, hate crime and vulnerable adults with crime intelligence and custody systems. Officers responding to incidents will now receive improved quality previous history information together with information on civil injunctions and harassment warnings. An e-mail referral facility has also been incorporated to facilitate information-sharing with other agencies in appropriate circumstances.

Crime recording

2.25 As already indicated, the term ‘domestic violence’ is used to refer to a range of behaviours, not all of which is criminal. In attending the scene of an incident, police officers not only have to consider whether they have a power of arrest, but whether or not a crime has been committed. This is a fundamental part of any investigation process – unless a crime is identified, no investigation will take place and no offender will be charged.

2.26 In April 2002 ACPO, in collaboration with the Home Office, adopted a National Crime Recording Standard (NCRS). The aims of the standard are to promote greater consistency between police forces in recording of crime and to take a more victim-centred approach to crime recording. By this standard, all incidents coming to the attention of police which appear to be crimes should be recorded as such unless there is evidence to show that allegations are false.

2.27 As well as the number of incidents resulting in an arrest, an examination was made of the number of incidents that resulted in a crime report being completed. The results are shown in the table below. In reading this table, it is important to bear in mind that not every incident attended by the police involves a crime and this is dealt with in more detail at Paragraph 6.2. If the NCRS is being complied with, however, a degree of consistency would be expected amongst the six forces.



2.28 Overall, the percentage of incidents against which a crime was recorded was found to be 25% but, once again, great variations were found amongst the individual forces, with submissions of crime reports ranging from 66% in one force to 10% in another. Given the degree of inconsistency, the only conclusion that can be drawn is that, in relation to domestic violence, the NCRS is not being applied by all forces with, potentially, a significant under-recording of domestic violence crime.

Effective evidence gathering

2.29 The majority of policies examined in forces, in outlining investigation standards, reflected the expression used in the Home Office Circular – ‘enhanced evidence gathering’. In practice, the expression refers to a variety of evidence gathering processes that are intended to corroborate the evidence of the victim and which might provide an opportunity to proceed with a prosecution where the victim is unwilling or unable to testify. By its very nature, often the only witness to a domestic violence crime is the victim. Consequently, the view is taken that these practices amount to ‘effective’ as opposed to ‘enhanced’ evidence-gathering and that an effective investigation must consider all types of evidence that could corroborate the victim’s account, including:

- any admissions;
- photographs;
- 999 tapes;
- officers’ statements about injuries and the condition of the scene on attendance (eg signs of disturbance);
- neighbours’ statements;
- medical evidence;
- children’s evidence, where appropriate;
- closed circuit television (CCTV) footage;
- similar fact evidence (the facts / evidence of one offence is of such ‘striking similarity’ it can support the allegation of another offence);
- res gestae (spontaneous statements in response to exciting events that are hearsay evidence but admissible due to the close connection between the event in issue and the making of the statement).

2.30 Although the majority of forces have set out minimum standards of investigation within policy, effective knowledge and understanding of policy is not widespread within forces and it is not, therefore, being followed routinely or consistently. During interview, in only one force was mention made of recording evidence of victims' injuries and descriptions of the scene. Officers in this force were also aware of the benefits of speaking to all potential witnesses and seizing physical evidence such as 999 tapes; however, this was the exception. This was supported by the CPS file sample which also highlighted few examples of the police providing descriptions of the victim and the scene in their statements.

2.31 In four of the six forces, 'Polaroid' instant picture cameras had been provided to take photographic evidence but officers commented on the lack of availability and poor photograph quality and it was clear from interviews that these were rarely used. As commented in one force:

"At present, there is one Polaroid camera per section, but there are four/five cars, so they don't tend to be used. No one is sure where the cameras are kept or if there are any films"

2.32 This was borne out by the files sent to the CPS in the police file sample, in which only one file was found to contain photographs, and that was of damage caused to property by the offender. Similarly, there was little evidence of use of Scenes of Crimes Officers (SOCOs) to assist with scene examination and photographing of injuries. This was further evidenced from comment in the CPS Area position statements. Whilst 32 CPS Areas said that the police use instant cameras to record injuries at the scene, most qualified their answer by stating that it does not happen in all appropriate cases.

2.33 The importance of photographic evidence cannot be emphasised enough, as one Crown Court Judge pointed out:

"It should be standard practice to get good quality photographs, of all injuries, as soon after the complaint is made as possible. The photographs should be available to officers who interview the defendant...with questions along the lines of: 'Is this a photograph of your partner?' and 'Can you tell us how she came by these injuries?'... which may well prompt admissions in some cases, or a complete pack of lies in others. However, I am sure that the vital point is to put the photographs before the defendant as soon as possible, before he has a chance to justify his conduct to himself and before he has time to think of an explanation. In some cases, where the injuries are sufficiently serious, it may be appropriate to use the photographs in the course of a bail application, if there is one. If there is, nevertheless,

a retraction statement, the Crown may be able to get the complainant into the witness box, show her the photographs and ask 'Do you recognise the person in these photographs?' and, providing the answer is 'Yes', 'Can you tell us how you got these injuries?' I believe many witnesses would find it hard to lie in that situation."

As technology improves, forces will want to consider providing digital cameras from which good quality pictures can be downloaded and printed at police stations. This could be done immediately to use in investigative interviews, and subsequently to use as evidence at court.

2.34 On those occasions where victims had attended a hospital Accident and Emergency Department, the provision of a statement from the examining doctor was in most instances troublesome. The provision of a statement at or soon after examination is difficult if not impossible at the time due to the pressures of work. The duty of medical confidentiality requires the victim's consent before a statement can be made. Furthermore, junior doctors are often employed on short-term contract as part of their development. Most forces have established arrangements with hospital administrators for the police to forward copies of a consent form for information and a statement to be provided by the doctor according to an agreed format. Very often this practice works well. However, the review found one BCU where the practice had fallen out of use. Instead, officers from the local Criminal Justice Unit regularly took statements from doctors very shortly before a trial. It was evident that no performance monitoring of these arrangements was taking place either by the police or the hospital authorities resulting in the success of trials potentially being threatened.

2.35 The quality of medical statements obtained from hospital staff was not particularly high reflecting a possible need for medical staff who are routinely called upon to provide such evidence to receive appropriate guidance. One measure to overcome the problems associated with evidence from hospital staff would be routine follow up examinations by medical practitioners already contracted to police forces to provide such services i.e. forensic medical examiners or forensic physicians. Some forces may be reluctant to use FMEs/FPs on the grounds of cost, but it may prove to be a false economy if the outcome is repeat calls or prosecution failures.

2.36 From the CPS file sample, there were a few examples of CCTV being used and statements from neighbours, admissions and 999 tapes were also used. There was also some evidence obtained from children where it was appropriate (see also Chapter 4). It is acknowledged that, on this issue, there are resource implications and that facilities and trained staff are not always readily available at police stations to undertake video

interviews with children. There were, however, no examples of consideration of similar fact evidence and *res gestae* by police officers who attended incidents, and so this would appear to be a particular training issue.

2.37 Evidence-gathering is covered within the Centrex domestic violence training programme. It will also be addressed in the forthcoming Domestic Violence Guidance which has been commissioned by ACPO from the National Centre for Policing Excellence. The project will be completed in April 2004.

RECOMMENDATION

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.

Background information

2.38 HMCPSI's earlier thematic report also highlighted the need to provide background information in cases of domestic violence, in particular:

- the ability and willingness of the complainant to testify;
- the history of the relationship, and any details or previous incidents;
- details of any civil proceedings and orders made and, if applicable, any breaches;
- the composition of the family and the effect of the proceedings on any children;
- information about the likely future of the relationship; and,
- information from or any view expressed by social services.

2.39 Full, timely and reliable information is required to enable prosecutors to carry out proper and continuous review. They need to consider not just the incident in question, but the totality and long-term aspect of any domestic violence suffered by the victim and any children of the family. For example, some defendants will have committed domestic violence in more than one relationship. Information of this nature will always be relevant to the prosecutor reviewing the case and, in some instances, may be admissible evidence.

2.40 Much of this information is either contained in police records/databases or could be obtained during investigations or through liaison with DVOs, but it is clear from both the HMIC and HMCPSI file reads that it is not routinely being collated as part of case file preparation. Indeed, there was little evidence of effective, routine liaison between investigating officers and DVOs during case preparation. Given the role that these officers have in maintaining records and liaising with victims, together with the knowledge that they undoubtedly build up about individual cases, this is considered to be a waste of a valuable resource. In addition, in one of the forces where risk assessments are carried out, this information was omitted from the files sent to the CPS. This too is considered to be a waste of a valuable resource.

GOOD PRACTICE

A case file information document was used in West Yorkshire. This addressed all 'potential' evidence and if it was not obtained, there was an explanation as to why. It was invaluable to prosecutors when reviewing the file.

In Northumbria, the police used an 'aide memoire' which highlights what evidence and material the officer in the case should include with the file, this is used in conjunction with a protocol on special measures.

2.41 In the CPS Area position statements provided in 2002, 24 Areas indicated there to be some agreement with the police that background information should be provided. However, some indicated that whether there was compliance depends on whether the local police Domestic Violence Unit (DVU) investigated the offence. In some Areas, the agreement was verbal. Other Areas were, at the time of the position statement, working on local service level agreements, or protocols, with the police. CPS Policy Directorate has distributed a template for SLAs and has urged Areas to enter into an agreement. Progress on the implementation of these will need to be monitored.

GOOD PRACTICE

In Hampshire a standard form from the Manual of Guidance has been adapted to highlight the required information – MG6 Dom.

RECOMMENDATION

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

2.42 It should be remembered that there is no such thing as a victimless prosecution in cases of domestic violence. Whether or not the victim's evidence is relied on for a criminal prosecution, there is always a victim for whom decisions have consequences. Cases may be constructed based on evidence other than that of the victim, but prosecutors must always give careful consideration to what the consequences of this may be for the victim and family in the short and long-term.

File quality

2.43 Within the CPS file sample of 405 relevant files received from police, the quality of 317 (78.3%) was satisfactory, but none was significantly above average; 88 (21.7%) were below average and a small proportion of these were significantly below average.

2.44 In particular, the general quality of witness statements was deficient (for example, descriptions of incident scenes and injuries were missing) and this reflects the findings of similar inspections in recent years. It was significant that the majority of the files failed to include a victim personal statement (VPS) (see also paragraphs 8.12). The inclusion of such information is entirely voluntary on the part of victims, but the widespread absence of VPSs is indicative of a lack of awareness on the part of officers taking statements. This view was confirmed in interviews with officers, very few of whom fully understood the concept or how to apply it. In one force, officers commented that they were very supportive of taking VPSs, but lacked guidance on what to include and had no system to ensure that they were updated pre-trial.

2.45 Another area of concern relates to those situations where victims decide to withdraw their support for a prosecution. The CPS has detailed guidance for these circumstances which takes account of the factors that may contribute to the victim's request, including the possibility of duress and intimidation. Obtaining a statement from victims in such circumstances should be exercised within the guidance, whether a prosecution has commenced or not. Little evidence was found that the guidance had been disseminated in the forces inspected and, as a result, most of the withdrawal

statements examined fell considerably short of the required standards. In particular, the quality of the overall investigation was found to be critical in relation to the decision as to whether to continue proceedings without the victim's support. This underscores the need for thorough investigations at the outset of domestic violence cases.

2.46 During interviews, officers indicated that if model files, and particularly model statements, were made available to them, the situation could be improved. This suggestion has much merit and would undoubtedly assist in providing practical guidance and setting standards.

Advice

2.47 Both the police and the CPS file samples showed that it was rare for the police to submit domestic violence cases for advice prior to charge. In fact, only two advice files were received from the six Areas for the month of March.

2.48 It was apparent that much of the advice was given informally over the telephone, which should be recorded on an Advice Form. It was noted, however, that this did not always happen and therefore the advice could not be linked to any prosecution file that followed. Advice was also given at police stations. In two CPS Areas, advice on cases involving domestic violence formed part of the general advice surgeries but, again, there are concerns about proper recording.

GOOD PRACTICE

In South Wales there were specific domestic violence advice surgeries for the police, involving a specialist lawyer.

2.49 In other types of cases, where there is a doubt about the sufficiency of evidence, or about whether a prosecution is in the public interest, it is fairly common for suspects to be released by the police while a file is submitted to the CPS for advice. Where the police choose not to charge immediately, they have the power to release a suspect unconditionally or on bail (section 47(3), Police and Criminal Evidence Act 1984). If the suspect is bailed, the only requirement that currently may be imposed is to return to the police station on a specified future date, but the Criminal Justice Act 2003 when

implemented will empower police to impose conditions. Where the police decide to charge, they are often able to bail with restrictive conditions, such as prohibiting the suspect from approaching the alleged victim or the victim's home.

2.50 Domestic violence in the home is one of the types of crime where to release the suspect unconditionally creates a real risk that the suspect will return to the environment in which the offence took place. In most cases, the police wish to take immediate and effective action following a domestic violence incident, to prevent recurrence.

2.51 There were several cases in the file sample that would have benefited from an earlier reference to the CPS. This was not only with regard to the sufficiency of the evidence, but also concerning the type of evidence that was required and what was the most appropriate charge.

2.52 In some cases it might have been practicable and appropriate for such advice to have been sought, either through contact with prosecutors at the police stations, the submission of a file, or, by telephone. It is important that such advice is sought and provided expeditiously to minimise the risk of delay increasing the likelihood that the complaint will be withdrawn. This issue will be addressed by the new charging initiative being developed in response to the report of the Review of Criminal Courts by Sir Robin Auld.

Charging

2.53 Currently, the police decide on whether and, if so, what charges are to be made against people suspected of committing offences. The Criminal Justice Act 2003 introduces reforms aimed at improving case management by amending the Police and Criminal Evidence Act 1984 so that CPS prosecutors will be responsible for determining the charge in all but minor or routine matters. As a consequence, prosecutors may advise on a case before the defendant is charged. All Areas now have shadow charging schemes in operation in some charging centres, and roll out will continue in 2004, with a planned implementation date of April 2004.

2.54 Offences with a domestic violence background are often investigated in the evenings when on-the-spot advice is not readily available. Under the proposed arrangements, a custody officer must then determine whether the suspect should be released without charge, but on bail pending the CPS advice, or whether the defendant

should be charged without CPS advice. In exercising this function, the custody officer must have regard to guidance to be issued by the Director of Public Prosecutions (DPP).

2.55 At the time of this inspection, the DPP's guidance was still being prepared. It is important that the guidance should take into account the fact that victims of domestic violence tend to be vulnerable so that a decision to release the suspect on bail, even with conditions (which the Criminal Justice Act 2003 when implemented will empower police to impose), should not be taken lightly. Domestic violence is a category of case that must be submitted no matter how minor. The CPS is piloting an innovative service which will ensure that police officers have access to charging advice at any time of the day or night. CPS Direct, under which a prosecutor is available on the telephone and has fax facilities, is being piloted with roll out planned for 2004. As many instances of domestic violence take place outside normal office hours, these will be dealt with by lawyers on the CPS Direct Scheme. It will be important, therefore, that they have appropriate expertise or training in domestic violence issues.

Counter-allegations

2.56 There are occasions during attendance at a domestic violence incident when counter-allegations are made and, given the dynamics of domestic violence, these can add a particular dimension to the investigation. None of the force policies examined contained guidance on how to deal with counter-allegations and it was left to the professional judgement of officers as to how to proceed.

2.57 There were varying responses from officers as to the action they would take and much depended on the evidence available to support either party's allegation. The consensus during the interviews was that both allegations would be investigated and, where evidence was found, charges would be made. Whilst some officers suggested that they would submit an 'advice' file to the CPS, none had ever done so in practice. Significantly, no reference was made to using previous history information to assist in setting allegations into context. There were also differences of opinion as to whether counter-allegations would be recorded on crime recording systems.

2.58 It is clear that counter-allegations present an area of uncertainty for officers, both in relation to how they are expected to respond and how they should be recorded. Consequently, there is a need for this to be addressed within force policies to ensure that counter-allegations are investigated in a consistent and effective manner and that the NCRS is applied.

Supervision

2.59 In four of the forces visited, validation processes had been put in place, with clear lines of accountability through supervisors, to ensure that incidents were completed in line with force policy. In general, these were found to have been followed. These processes, however, related primarily to the completion and submission of forms such as child protection notifications and information for domestic violence records. Of equal importance is the need to ensure that scene attendance, investigations, and evidence-gathering also meet the required standard. While all of those interviewed were clear that this responsibility lay with the first-line supervisor, ie sergeant, there was little evidence of proactive monitoring in practice.

2.60 Given the numbers of calls received by the police on a daily basis, and the range of duties and responsibilities that line managers now undertake, it would be unrealistic to expect them personally to supervise every incident attended. On the other hand, some monitoring needs to take place if forces are to be satisfied that policy is both understood and being applied. Doing nothing sets the standard – if decisions and actions are not questioned when necessary and at the time, officers may believe, by default, that they are following procedures correctly and meeting the standards required of them.

2.61 In some forces, Domestic Violence Officers are being relied upon to act as ‘gatekeepers’ and monitor compliance with force policy. The role of the DVO is discussed in detail at paragraphs 3.1 to 3.8 and, whilst ‘quality control’ appears to be part of many DVO roles, there were examples of this having evolved to the extent that, in practice, it replaced the supervisory function. In one force, for example, the DVO made specific reference to “checking whether the incident has been properly investigated and resolved” as part of their duties; in another, the DVO commented that they try to “resolve any problems direct with the officer concerned” but that this was not always easy because they were “only a PC”. Given that these officers are constables, it is considered inappropriate that they should be undertaking what is effectively a supervisory role.

2.62 The findings of the inspection reinforce the need to meet and maintain investigation standards together with the need to ensure that effective supervision takes place. Wider concerns regarding the standard of investigations have already been acknowledged and professionalising the investigation process is currently being addressed through a Home Office-commissioned project.

2.63 Led by the Association of Chief Police Officers, working in partnership with the National Centre for Policing Excellence within Centrex and the Police Skills and Standards Organisation, the aims of the project include:

- improved quality of evidence
- increased accountability in investigations
- improved attrition and detection rates

2.64 An accreditation process is being developed, linked to the National Occupational Standards and the National Competency Framework, which will cover all levels of investigators from front line officers, to those involved in complex or serious investigations and specialist officers. It is considered that the project will make a significant contribution to raising standards and ensuring that those with responsibility for carrying out and supervising investigations are effectively trained and equipped for their role.

RECOMMENDATION

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.**

Police personnel

2.65 The effects of domestic violence do not remain at home when people come to their work. Domestic violence can and does impact on health, performance and quality of working life; it can and does affect employees at all levels; domestic violence is, therefore, a workplace issue.

2.66 The police service in England and Wales currently employs over 200,000 police officers and police staff. Some of these members of staff will be victims of domestic

violence. Some will be abusers. Police officers and staff who are victims of domestic violence may feel especially vulnerable and isolated, as contacting the police for help also means involving their employer and, potentially, their colleagues. Where the perpetrator is a police employee, victims will almost certainly also be concerned about the integrity and effectiveness of the police response.

2.67 The revised Home Office Circular recommended that forces issue guidance for dealing with police officers and support staff who may themselves be victims or perpetrators of domestic violence, and the inspection found that two-thirds of forces have done so. During interview, however, staff, in general, demonstrated a low level of awareness of force procedures. Whilst front-line personnel, without exception, stated that they would inform a supervisor of any incident involving a police staff perpetrator, many of these supervisors were also unfamiliar with current policy and procedure. This situation was also reflected in the responses during interview to the issue of support available to police staff victims of domestic violence. Many interviewees made reference to the services of Force Occupational Health and Welfare departments, but there was little real understanding of the impact that domestic violence could have on individuals' professional lives or the specific support or assistance that might be required.

2.68 As already indicated, a policy in relation to police officers who commit domestic violence-related criminal offences is currently being developed by ACPO. In addition, Kent Police has produced a comprehensive guide for employers and is currently undertaking an extensive training programme within the force for supervisors at all levels. A Proactive Scanning Group has also been formed to ensure that information is shared and that the resources of the force work together to seek positive outcomes in the management of acutely vulnerable employees. Meeting monthly, the group is chaired by the Assistant Chief Constable (Personnel and Training) and consists of senior members from personnel, occupational health and professional standards departments with others being co-opted onto the group according to need.

RECOMMENDATION

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.

Supporting the Victim - What the Police Can Do

Specialist officers

3.1 Domestic violence units and specialist officers were first recommended in the Home Office Circular of 1990 and over 90% of forces now have Domestic Violence Officers/Co-ordinators within established units. As already indicated, the role of these officers varies, but the majority, including those within four of the six forces visited, currently undertake a support/liaison role, generally acting as a single point of contact with the police and signposting and liaising with other support services. That said, the range of duties undertaken by these officers has expanded over the years as force responses to domestic violence have developed and it was found that, in practice, these officers are also being called upon to:

- monitor incidents to ensure compliance with force policy;
- follow up instances of non-compliance;
- maintain and up-date domestic violence records/data bases;
- monitor child protection notifications/referrals and attend case conferences;
- carry out risk assessment and maintain contact with high risk victims;
- track cases through the court process and keep victims advised of case progress and bail conditions;
- take victim personal statements;
- send letters and information leaflets to victims and administer the process;
- take part in Domestic Violence Fora; and
- provide training and awareness raising internally and externally.

3.2 In only one of the four forces with support/liaison DVOs did the job description and person specification accurately reflect the role, although comment was made that administrative duties preclude the officer from effectively carrying out all of their appointed tasks. This situation was replicated in the other forces and it is clear that lack of administrative support is becoming a critical issue for many officers undertaking this role. In addition, in examining how staffing levels were determined, no evidence could be found of an assessment of workload or demand. In some cases, resourcing is determined at BCU level, resulting in varying staffing levels across individual forces and, consequently, varying workload and levels of service delivery. There was also found to be little resilience within units, with absence cover being provided on an ad hoc basis or not at all.

3.3 There was a mixed response from DVOs in terms of whether they felt supported and their role valued. It was found that line managers within some specialist units often have responsibility for a range of issues, such as child protection and sex offenders, as well as domestic violence and can, themselves, carry heavy operational caseloads. In other structures, line management responsibility for the DVOs was unclear. The impression gained, therefore, was that DVOs are invariably left to manage their own workloads with minimum supervision and, sometimes, limited understanding on the part of supervisors of the DVO role and duties.

3.4 Research suggests that domestic violence work tends to be marginalised from mainstream policing and has low status. Whilst the profile of domestic violence has, without doubt, been greatly raised at operational as well as strategic level, in general, there was found to be a poor awareness of the role of these specialist officers and the contribution they make to supporting front-line policing and operational goals. This was further evidenced by the fact that some forces indicated that they had difficulty in attracting applicants for DVO posts resulting in some being filled by appointment as opposed to a selection process.

3.5 Over the years, as the police response to domestic violence has evolved, the functions undertaken by DVOs have expanded. These officers now face considerable pressure in trying to balance a growing administrative commitment with the requirement to deliver an effective service to victims. In addition, they carry a significant level of responsibility as a result of the reliance placed on them to act as ‘gatekeepers’ to ensure compliance with force policy on incident response and in relation to their involvement in the formal and informal risk assessment of adults and children. The fact that, in some cases, these officers also receive little or no training for their role is unacceptable.

3.6 Given the pivotal role that DVOs play in forces’ response to domestic violence, it is considered vital that the demands now placed on these officers are both acknowledged and understood. For the majority of forces, the role and responsibilities of these specialist officers are outlined within force domestic violence policies, many of which have not been updated for some considerable time. It is considered essential that this is addressed.

RECOMMENDATION

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.**

3.7 At the present time, the police service and especially ACPO is considering the role of specialist officers in greater detail. This debate includes the question as to whether such officers should adopt a more proactive role by assuming responsibility for investigations as well as/instead of co-ordinating support. In relation to how the DVO role should be focused, the joint inspection team found insufficient evidence of evaluated good practice and an absence of consensus amongst practitioners to support a conclusive recommendation.

3.8 Although some Domestic Violence Officers felt that assuming responsibility for investigations would enhance the service provided to victims and improve consistency in the quality of investigations, all indicated that this would require a review of their role and, in particular, their administrative functions. This has already been recommended to ensure that the role continues to meet public needs and expectations and that administrative tasks are not detracting from the ability to deliver an effective service. However, this may also be an opportune time for forces to examine the extent to which their DVO role also requires the exercise of police powers and, where this is limited, the potential for civilianisation.

Risk assessment

3.9 Domestic violence is rarely a one-off event and tends to increase in frequency and severity over time if unchallenged. Most of the research relating to risk assessment within the context of domestic violence comes from the United States. Current knowledge about risk factors to identify domestic violence cases where there is a high risk of future harm is relatively weak and it is generally accepted that a scientific predictive formula is not possible.^I It has been suggested, however, that one advantage of a formal risk assessment model is that it imposes an accepted framework for decision-making that focuses on set criteria which have been shown to indicate risk. As a result, a number of risk assessment models have been developed and some forces have now introduced formal systems or processes for assessing and managing risk within the context of domestic violence.

3.10 These range from an aide memoire of risk factors for first-response officers, to multi-agency tools to assess risk, to those which utilise a ‘standard, medium and high’ assessment for use by specialist officers and custody officers. Their use has raised a number of issues relating to the training required to implement such processes; systems for updating assessments; the validity of categorising risk according to police data only; the inappropriate use of these processes, for example, to screen or prioritise resource deployment; the absence of sensitive information-sharing mechanisms/protocols with other agencies; questions of how decisions are communicated to victims and how they affect decisions relating to perpetrators, including bail. The issue of discretion has also been raised, as the exercise of discretion introduces subjectivity into the decision-making process which can alter the outcome of the assessment.^{II}

3.11 Some of the forces visited during the inspection have introduced formal risk assessment processes for domestic violence, primarily aimed at identifying those at risk of future serious harm. Examination of these processes and their implementation raised a number of concerns and has highlighted a need for effective monitoring and evaluation. Areas of common concern include:

- lack of awareness on the part of front-line staff as to the purpose of the risk assessment and how it should inform their response and investigation;

I Page 20 of the literature review

II Page 65 of the literature review

- the absence/lack of training for those carrying out the risk assessment;
- lack of access to risk assessment information for call handlers and responding officers;
- inconsistent use of risk assessment processes despite being prescribed in policy;
- selectiveness in asking for certain personal information required for the risk assessment where officers felt it would be insensitive or intrusive to do so;
- the ability and resources to monitor and continually re-evaluate individual risk assessments on a case-by-case basis;
- the effective resourcing and delivery of interventions generated by the risk assessment;
- lack of processes for identifying and dealing with repeat offenders; and
- the absence of monitoring and evaluation of effectiveness in reducing risk.

3.12 Many of these difficulties were acknowledged by the forces concerned and it is to their credit that they have sought to develop further their response to domestic violence and meet the challenge of risk assessment. Northumbria Police is currently preparing to evaluate the effectiveness of its risk assessment process whilst South Wales has piloted a risk assessment model which is now being rolled out within the force and will be subject to independent evaluation.

3.13 The experience of these forces is now helping to inform the development by ACPO of risk assessment and management guidance which will provide forces with principles of risk assessment and management together with a list of established risk factors. In addition, the Police Standards Unit (PSU) is currently piloting a risk assessment toolkit with West Yorkshire Police which will address the issues raised through an improvement in structures, systems, processes and training. The risk assessment process will be managed through VIVID (Vulnerable Victims Database), an 'in-house' IT application. An independent evaluation of this work will be available in 2004.

3.14 It is acknowledged that risk assessment is still in its infancy in England and Wales and models and processes are still being informed by research. It may be unrealistic, therefore, to presume more than rudimentary information gathering by patrol officers attending the scene of an incident. Clearly there are immediate risks associated with such incidents and the duty of response officers to protect victims of domestic violence and any children remains. However, the assessment of longer-term risks is fast

developing into a complex business which will require skills and time not readily available at the coal-face of policing. Furthermore, risk in the context of domestic violence is dynamic, changing over time, sometimes rapidly. Addressing these issues presents a substantial challenge for the police service as well as partner agencies. It is considered that the work of ACPO and the PSU will assist in providing forces with focus and direction on this issue.

3.15 Another issue relates to how disclosure of historical crimes are dealt with during the process of gathering information for the risk assessment, given research that indicates that victims may have been assaulted several, and possibly numerous, times before contacting the police. Under the National Crime Recording Standard, these should be recorded as crimes and forces are understandably cautious about inflating their recorded crime statistics with historical data. Similarly, there are arrangements by which such incidents can be recorded as detected without recourse to interviewing an offender. This could significantly skew the statistical returns provided by forces to the extent that they would be rendered meaningless in terms of an assessment of force performance. Such disclosures should be recorded and made available as a source of intelligence to support risk assessment and investigations. How this is carried out is a matter for dialogue between ACPO and the Home Office.

Safety planning

3.16 The term ‘safety planning’ is generally used to describe a structured method used by agencies to enable adults and children to make use of their existing and other available resources and sometimes to shift from reactive to proactive strategies. The safety plan which is developed belongs to the victim and/or child.¹

3.17 A number of forces indicated that safety planning formed part of their response to domestic violence. However, the term was used to define a variety of approaches and measures aimed at increasing the safety of victims and their children as opposed to a structured process as described in paragraph 3.16 above. As a result, in practice, force responses to ‘safety planning’ ranged from the provision of leaflets describing the steps that victims might take, to technical measures (such as mobile phones, safelink phones, alarms and crime prevention advice), to the development of multi-agency case conferencing for high risk victims.

¹ Page 43 of the literature review

3.18 The comparative lack of familiarity with formal risk assessments was reflected in the safety planning used by forces; in general, it was not well developed.

GOOD PRACTICE

In Cardiff Division of South Wales Police, Women's Safety Unit has been established, staffed by the police, NSPCC/Probation and voluntary sector groups with expertise in the area of domestic violence and housing. This unit provides a range of support services, including one-to-one interviews with victims in which risk is assessed and safety plans thereafter devised. South Wales has also established a Multi Agency Risk Assessment Committee (MARAC) to engage with a number of different agencies including probation, social services, health, housing and voluntary sector organisations to formulate action plans in high risk cases.

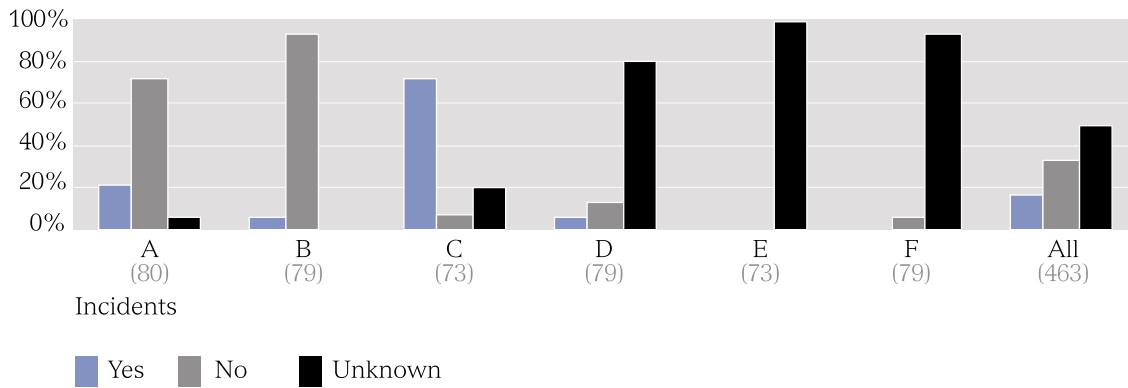
Intelligence gathering

3.19 The revised Home Office Circular states that the police have two duties when attending domestic incidents. The first is to protect victims and children from further violence and the second is to hold offenders accountable. Within the context of domestic violence, it was found that, in relation to information gathering, there was a strong focus on the victim and the victim's circumstances. However, in attending domestic incidents, police officers will also gather important information and intelligence about offenders.

3.20 As already highlighted, only half of the force policies examined made links between information-gathering and intelligence/problem solving. The gathering of intelligence is an intrinsic part of any investigation process and, with domestic violence, is an area where opportunities are being lost.

3.21 This was borne out during the inspection visits when an examination was made of the extent to which intelligence was being gathered and used. The table below shows the percentage of incidents where it was established that intelligence reports were being submitted by attending officers:

Percentage of incidents which led to an intelligence report being submitted



3.22 In force C, the submission of intelligence reports is mandatory. It should be noted that, prior to the inspection, the force had identified that there were gaps in compliance and had already addressed this by amending their incident logs to show the intelligence report reference number, thus allowing supervisors a definitive means of checking adherence to policy. This is important as, in the other five forces, either submission of intelligence reports was discretionary or the level of compliance could not be audited.

3.23 In relation to the use of intelligence, domestic violence was found to be a neglected area in terms of forces' implementation of the National Intelligence Model (NIM). In some of the forces visited, the NIM is beginning to be used to target high profile offenders, but there were few examples of this occurring in practice as part of Tasking and Co-ordinating Group Meetings. As one officer commented:

"In theory it (the NIM) fits very well because we should make use of products around offenders and meet target profiles, but we could be doing much more, especially on repeat offenders"

3.24 Part of the solution to meeting the needs of victims must lie in addressing the behaviour of offenders. Whilst not every incident will involve a crime being committed, most, if not all, will provide information which, over time, will allow for patterns of behaviour to be identified. As highlighted in the above comment, the NIM can provide a framework for thereafter targeting repeat offenders, but only if there is effective intelligence gathering in the first instance.

3.25 Effective intelligence gathering and recording is also important in relation to disclosures under Part V of the Police Act 1997. Part V introduced a new system of disclosing criminal history information to individuals and organisations for employment and other purposes. In England and Wales, the service is provided by the Criminal Records Bureau and there are three types of disclosure available through this service. One of these, the Enhanced Disclosure, is available to those who apply for work that “regularly involves caring for, training, supervision or being in sole charge of those aged under 18 or vulnerable adults” and “applicants for registration for child minding, day care and to act as foster parents or carers”. As well as details of criminal convictions, this type of disclosure “may contain information which a Chief Constable may choose to disclose, which he feels is relevant to the job or voluntary work sought”. Such information can include intelligence held on local records and databases. The importance of ensuring that intelligence relating to domestic violence is recorded is clear, particularly where forces are reliant on their criminal intelligence systems for obtaining relevant background information on those seeking employment or voluntary posts which involve positions of trust such as working with children or vulnerable adults.

Meeting victims’ information needs

3.26 A number of studies have shown that, when contacting the police, many victims, regardless of other wishes, want advice and information. There are a number of voluntary sector domestic violence services providing specialist support and advice at local and national levels and there is much to be gained from providing victims with information on these services at the outset. In all of the forces visited, mechanisms were found to be in place to provide information to victims. These range from letters and ‘packs’ sent out by specialist officers, to leaflets and cards which are handed discreetly to victims on attending calls, to direct referral to Victim Support with victims’ consent (see the agreement between ACPO and Victim Support made in May 2003 at Annex 5). Although it could not be established how widespread the actual distribution of the information to victims is within individual forces, it is considered to be helpful practice, provided it is done sensitively and, where necessary, discreetly.

CASE STUDY

“[The police] were very, very supportive and kind. They gave me all kinds of advice and information and offered to help me. They offered to take me to the refuge. I couldn’t go straight away because the house was all smashed and the door was hanging off, ...then the police came back and took me to the refuge.” (Rose)

3.27 As well as wanting general information and advice, victims also want to be provided with information specific to their case and to be kept informed of significant developments such as the release of the perpetrator after arrest and granting of bail conditions. In the past, this responsibility has rested primarily with the police. However, the direct communication with victims initiative (see paragraph 8.7) now places responsibility on the CPS for providing information direct on any decisions to drop or significantly alter charges.

3.28 Overall, this is an area of weakness. In none of the forces visited were personnel, including those within Criminal Justice/Administration Support Units, aware of the initiative nor was responsibility for the process for updating victims on case progress clearly defined. As a result, in practice it appears to fall to either the officer in charge of the case (OIC) or the DVO, depending on who receives or has access to the information at the time. As officers themselves commented when asked who was responsible in their force for this task:

“This varies. DVOs will inform victims of bail or amended bail conditions. Custody bail should be notified by the OIC or custody staff, but it is hit and miss and on occasions not timely”

“I don’t know, if it isn’t the DVO, it might be the OIC”

“The OIC should maintain contact with the victim but, in practice, it’s unlikely they would re-contact more than once”

“There are no formal processes for informing us (DVOs) of this information – we have to dig for it”

“The police are very poor at going back to victims with results”

3.29 A major difficulty appears to lie in the fact that the information any one victim might need about their case is likely to come from a variety of sources and over a period of time. Another difficulty lies in the fact that victims’ information needs may also change over time or if their circumstances change. A potential solution was

identified by staff within one police Criminal Justice/Administration Support Unit who stated that they had the time, resources, technology and working relationships with other criminal justice staff to undertake this role. Indeed, this had been their responsibility in relation to domestic violence until it had been transferred to another unit. They also felt that they would be more readily accessible to victims as a single point of contact for any enquiries about their case.

3.30 In other forces, however, criminal justice/administration support unit staff, commenting on the enquiries they received from victims and witnesses said:

“Witnesses – I think they’re left behind because we don’t have the time or manpower to give them what they want. The information we give them is very sparse. We can say ‘this is going to happen and that’s going to happen’ (in relation to attending court) but we can’t always give them what they need – and they’re scared and we can’t give them enough support”.

“She’d (a victim in a harassment case) been palmed off by different departments when she’d been trying to find out if he’d been released on bail. She’d had no communication from anyone. Training (of unit staff) would help in dealing with people in these situations”.

3.31 It is clear, therefore, that there is a need for forces to ensure that there are effective mechanisms in place for the routine provision of case-specific information to victims. In addition, training in handling enquiries was also raised during a number of interviews with Criminal Justice/Administration Support Unit staff, particularly where victims were concerned about going to court. As staff commented:

“There’s a gap in helping to support witnesses who are scared of going to court because they know the suspect or the suspect knows where they’re staying”.

“One person looked for advice and I did feel a bit helpless”.

RECOMMENDATION

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.

Police bail

3.32 The powers of the police to release on bail are discussed fully in paragraph 2.49. As already indicated, with a domestic violence crime, releasing a suspect unconditionally often creates a real risk that the suspect will return to the environment in which the offence took place. The police, at present, can only attach restrictive bail conditions where a suspect has been charged, but this will change when the provisions in the Criminal Justice Act 2003 are implemented.

3.33 In the CPS file sample, of the 324 relevant cases, there was a high level of agreement by the inspection team with the decisions taken by Custody Officers in relation to bail, with 285 (88%) of cases having appropriate bail conditions attached. In the remaining cases, there were 22 (6.8%) where the decision was considered to be inappropriate and a further 17 (5.2%) in which it was not known from the information available on the file.

3.34 The instances where it was considered that the police did not attach appropriate bail conditions were usually circumstances where the defendant was granted unconditional police bail. In these cases, there should have been a condition to prevent contact with the victim. There were also some instances where a condition of residence was attached, but no consideration was given to preventing contact with the victim. These are clearly unsafe practices.

Cautions

3.35 Cautions will rarely be appropriate because most cases are not the first instance of domestic violence. However, cautions may be considered where there are no children, or serious injuries to consider and it is the first instance of reported domestic violence.

3.36 No cases in the sample were the subject of cautions, but in two of the CPS Areas visited, comment was made about using cautions proactively. It has already been highlighted where they might be appropriate, but the need is added to exercise care. If there is reliable evidence which is sufficient to caution, the case would pass the evidential test under the Code for Crown Prosecutors, and the use of the caution would therefore have to be based on public interest grounds.

Anti-social behaviour orders

3.37 Anti-social behaviour orders (ASBOs) were introduced by section 1 of the Crime and Disorder Act 1998 and have been available since April 1999. ASBOs are civil orders that exist to protect the public from behaviour that causes or is likely to cause harassment, alarm or distress. An order contains conditions prohibiting the offender from specific anti-social acts or entering defined areas and is effective for a minimum of two years. The purpose of an ASBO is not to punish the defendant but to prevent further harassment, alarm or distress being caused to the community. ASBOs are not intended to replace existing criminal remedies or decriminalise activities that amount to criminal offences.

3.38 An application for an ASBO can be made by the police, the Local Authority or a Registered Social Landlord. Stand-alone applications for ASBOs are made to the magistrate's court acting in its civil capacity. The order can be applied for during related proceedings in the county court and requested (without the need for a formal application) if a defendant is convicted of an offence in the criminal courts. It remains a civil order irrespective of the issuing court. The civil status of ASBOs has implications for the type of court proceedings at which applications are heard. The civil nature of the order also means that hearsay and professional witness evidence can be heard. This is an extremely important feature of ASBOs because those subjected to the anti-social behaviour or those reporting the behaviour can be protected. Breach of an order is a criminal offence which is arrestable and recordable.

3.39 ASBOs will often not be an appropriate way to protect victims of domestic violence. They were not originally intended to be used in domestic violence cases – and legislation specifically excludes the use of an ASBO where the perpetrator is of the same household as the victim. That said, ASBOs are intended to give the police and Local Authorities the ability to deal creatively with behaviour likely to cause harassment, alarm or distress and officers may find them a useful option where:

- The victim and perpetrator are not of the same household.
- The victim is not intending to seek a non-molestation order or a restraining order.
- The violence is of a kind where a community response is appropriate – for example, where a public nuisance is being caused as well as specific harassment of the victim.

3.40 In most areas visited, ASBOs were not considered by the police as an option in cases of domestic violence, and in some instances, there was a misconception that they would result in penalising both parties. The use of ASBOs, however, can, in appropriate circumstances, present a useful option where evidence is available of adverse impact on neighbours and the victim is reluctant to make a complaint.

Police training

3.41 Reference has already been made to the Centrex training programme which was developed to address the need for a coherent, national domestic violence training programme. It is disappointing that only three of the six forces visited had examined the programme and/or had piloted specific modules. One of these forces was actively engaged at the time of the inspection in the development of a force training programme, based on the Centrex modules.

GOOD PRACTICE

South Wales Police had piloted Module One of the Centrex training programme in partnership with Women’s Aid and, at the time of the inspection, was awaiting validation prior to further development.

3.42 The action taken by these forces is considered to be both necessary and timely, as the following are typical responses on the issue of training:

“I don’t know about the Centrex training package. It doesn’t surprise me that one exists and the force haven’t told me about it”

“Training is often a reaction to policy change. The last policy change for domestic violence was 4-5 years ago – hence training then, none since”

“I’ve never had any domestic violence training in 28 years”

“Probationers receive a 2 hour input at 18 weeks, primarily on policy ... this is inadequate as there are gaps in training provision, such as domestic violence in black and minority ethnic communities”

“Training days are scheduled to take place every 10 weeks and domestic violence has been included on these training days ... however, approximately 25% are cancelled due to operational needs”

3.43 In addition, in one focus group of supervisors with a cumulative total of 70 years service, none had received any specific training on domestic violence. The situation is, perhaps, best summarised in the words of one trainer:

“A learning culture is not encouraged – it is seen as an abstraction”

3.44 In relation to specialist officers, three of the six forces had made provision for specific training to equip them for their role; however, instances were found where officers were either unaware of the training available or were not allowed to take up the opportunity. Comment has already been made regarding the appropriateness of officers undertaking such a role without relevant training, particularly in view of the level of responsibility these officers were found to carry. Given the potential that officers in these specialist roles may also have received little or no formal domestic violence training during their service, this is an issue which requires to be urgently addressed.

GOOD PRACTICE

Hertfordshire reviewed its domestic violence training, looking at performance, effectiveness and service delivery. As a result, specialist officers attend an external two-week accredited course. This is further supported by core training in problem solving, family liaison, sexual offences and ‘achieving best evidence’.

RECOMMENDATION

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.

Safeguarding Children in Domestic Violence

Police action to safeguard children

4.1 Domestic violence impacts both directly and indirectly on the lives of children and young people, and the links between domestic violence and child protection are now well established. It was encouraging to note that these links are acknowledged in the majority of force policies. At the very least, arrangements are in place whereby the local Child Protection Unit/Team (CPU) should be notified of incidents of domestic violence in households where there are children present or normally resident. In addition, a significant proportion of front-line personnel during interview demonstrated an awareness of domestic violence as a potential child protection issue.

4.2 Of concern, however, was the potential for non-compliance with policy in practice. Within the six forces visited, submission of child protection notifications (where the fact that there were child members of a household could be identified from incident logs) varied between 12% and 88%. These figures were based on the number of incidents notified to CPUs and not the numbers of children involved. In many instances there was more than one child in the family. The average notification rate for the six forces was 50%. At best, the figures show that at least half of the children known by the police to be living in families where domestic violence is a feature have no opportunity to have the impact of that violence on their lives acknowledged. At worst, valuable information that could assist in informing decisions in individual child protection cases could be lost.

4.3 In the forces with the highest rate of notifications to CPUs (88% and 81%), it was found that this issue had been mainstreamed into domestic violence procedures. In practice, attending officers are required to record on the incident log or crime report whether or not there are child members of the household and, if so, the fact that a notification has been completed. Importantly, supervisors are thereafter required to satisfy themselves that this procedure, amongst others, has been followed prior to the incident log or crime report being closed.

4.4 Whilst not infallible, such a process appears to make a significant difference in ensuring that required notifications are completed. This was borne out during interviews with front line officers who, in the two forces concerned, were clear that force policy did not allow discretion on this issue. Officers were less clear, however, about the fact that their policy required a notification whenever there were children

normally resident in the household, with some believing that it was only necessary if the children were physically present during an incident. This was reflected in the other four forces visited and raises the issue of how well both policy and the links between domestic violence and child protection are understood in practice. In addition, officers' knowledge of what happened once a notification was submitted was limited. In other words, even where officers are clear about what they should be doing, they are not necessarily clear as to why.

4.5 It was found that force procedures following notifications to CPUs varied, although further action generally involved some form of notification, or referral, to social services. There was, however, often a lack of specific guidance to officers with this responsibility as to when further action should be taken and the criteria they should be applying in reaching a decision. In addition, there was a lack of clarity as to whether families were being made aware of possible social services involvement and whether notifications or referrals were being made because children were considered at risk of 'significant harm' or 'in need' within the meanings of the Children Act 1989. This was compounded by a lack of clear protocols or agreements with social services, particularly as to the action that such notifications should trigger.

4.6 It is acknowledged that some adult victims of domestic violence might be reluctant to report incidents if they believe that social services could become involved in relation to their children. However, within the context of domestic violence, the risk to children and the effective identification and meeting of their needs also has to be considered a priority. If this is to be achieved, it is essential that there is clarity over the purpose of notifications and referrals to social services and that these are made in accordance with agreed protocols.

RECOMMENDATION

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.

Children as witnesses

4.7 It was found that the police and prosecutors were reluctant to involve children in cases. The reasons given were:

- ‘traumatised enough already’;
- ‘they need to get on with their lives’;
- ‘you don’t want to set children against their parents’;
- ‘you can’t expect them to chose who to support’;
- ‘they weren’t actually assaulted’;
- ‘they were asleep in bed’;
- ‘you don’t want to put them through the hassle of setting up a video interview and going through it all again’;
- ‘mother would not give permission’; and
- ‘the child was so young, he/she won’t remember’.

4.8 In addition, the review also found examples of poor practice in that children are sometimes used as interpreters, as observed in one Area.

4.9 Children may be able to give vital evidence; prosecutors should always consider whether children should be called as witnesses. There are instances in which a child who witnessed the incident wishes to give evidence but the victim will not permit the police to take a statement from the child. In such cases, prosecutors will need to consider the implications of the Human Rights Act 1998 and the child’s rights (see paragraph 7.20), as well as the evidential and public interest factors that arise.

4.10 If social services are already involved, then access to a child’s views could be sought from them though a case conference. In other appropriate cases, a member of social services could be recommended as the appropriate adult in a ‘memorandum interview’.

4.11 The CPS file should be clearly endorsed about whether or not a child is to be used as a witness and the reason for that decision. Prosecutors should take into account any appropriate special measures for child witnesses, set out in section 16, Youth Justice and Criminal Evidence Act, 1999.

Safeguarding children and the decision to prosecute

4.12 In all cases, prosecutors should consider the impact of domestic violence upon any children. Research has shown children can suffer long-term psychological harm from witnessing violence. Prosecutors should therefore seek information from the police specifically regarding the extent to which the children have been exposed to domestic violence, any known effects and whether the children are the subject of any orders, e.g. child protection register, contact, non-molestation orders. There were no examples in the CPS file sample of requests by prosecutors for information from the police regarding the level and extent of a child's exposure to domestic violence.

4.13 Files should be clearly endorsed to show that the child's interests have been considered. A small number of files were appropriately endorsed indicating the presence of children as an aggravating feature. One Area in which the practice was not to involve children in domestic violence cases had the highest percentage of cases failing to consider the child's safety (91%).

4.14 In 199 relevant files, there were 67 cases (36.7%) where the prosecutor considered the safeguarding of the children of the household, 103 cases (51.8%) where it was not considered and a further 29 cases (14.5%) where it was not possible to ascertain this information due to the poor quality of file endorsements.

4.15 When a victim withdraws, prosecutors particularly need to consider human rights principles in respect of both the adult victim and any children. Prosecutors may find it easier to intervene to help children than 'repeat victims' who retract.

GOOD PRACTICE

In one case the victim made a withdrawal statement and the prosecutor decided to proceed against the victim's wishes because the victim was unable to protect the children involved. The file endorsement provided full details of the decision-making.

4.16 Examples were found of the risk to children not being appropriately considered. In one case, no charge was brought in respect of the 20-month-old boy who was dropped by his father so that he could use both hands to attempt to strangle the child's mother.

4.17 In another case, the Asian mother of four daughters gave an account of 14 years of sustained physical and emotional abuse, including rape, and described the difficulties of reporting to the police because of potential community reaction. The daughters (the oldest was 14) had witnessed many vicious attacks upon their mother throughout their childhood. After she did eventually report an assault, the father threatened the mother to withdraw whilst he was in custody and this was captured on closed-circuit television (CCTV). The mother later retracted on the basis that her community was supporting her and the CPS discontinued the case. There was no sign on the file that the children were ever spoken to or their needs considered.

4.18 Prosecutors need to be more robust and more proactive. Where the file contains nothing from the police in respect of a child victim or witness to the incident then the police must be asked for the information about that witness. The prosecutor must also ensure that they take children's interests into account at all stages of the review process.

RECOMMENDATION

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.

Diversity and Domestic Violence

5.1 Levels of reporting of domestic violence are low and many barriers may have to be overcome before victims feel able to seek help. Victims of domestic violence who have experienced discrimination or cultural or geographical isolation face additional difficulties.

5.2 The joint inspection team was mindful of the messages of the Stephen Lawrence Inquiry and Victoria Climbié Inquiry Reports and acknowledge, for example, the significant work that has been undertaken by police forces to address the recommendations of both. Whilst much has been learned about the experiences of people from minority groups, knowledge and understanding remain incomplete. It is essential that this is acknowledged and that assumptions about individuals and their circumstances are avoided which might impede or compromise an effective response. As advised in the Victoria Climbié Inquiry Report, “The wisest course is to be humble when considering the extent of one’s own knowledge about different ‘cultures’ and to take advice whenever it is available”. This applies to all diversity issues.

5.3 Three quarters of the domestic violence policies examined featured information about minority group issues. It was reassuring during interviews to find that police officers had no hesitation in identifying the need to respond professionally to all incidents regardless of race, religion, ethnicity, social class, gender or sexual orientation. Much of the guidance provided within policy, however, was found to be very generalised and, in the main, tended to be restricted to minority ethnic and lesbian, gay, bisexual and transgender issues. Issues about disability, asylum seekers and refugees or travelling people, for example, were rarely addressed. This was reflected during interviews, with people demonstrating limited knowledge of both the particular complexities which diversity can add to a domestic violence incident and the wider issues that diversity encompasses.

5.4 It was also evident, primarily from the interviews, that language remains an area of difficulty. Many forces have formal interpreting arrangements in place, including access to interpreters by phone, and personnel in the forces visited showed a good awareness of how to access these services. However, it was not possible to gauge their level of use in practice or their effectiveness from the information recorded on the incident logs examined during the attrition study. It is possible, therefore, that poor practice continues, such as using children to interpret on initial scene attendance, or that existing interpreting services will not meet the specific needs of victims of domestic violence.

CASE STUDY

Geeta, a Bangladeshi woman: “When I called the police out they came here and had a Pakistani interpreter on the phone to talk to me. I did not understand what she was saying and of course she must not have understood what I was saying.”

5.5 In addition, comment was made by some specialist officers about the lack of availability of support material – such as information leaflets and follow-up contact letters – in languages relevant to the area. The result is, therefore, that victims whose first language is not English may be receiving a poorer service.

5.6 These findings were supported by the prosecution file examination which quantifies the issues in more detail. The CPS file sample produced quite small numbers of recorded minority group issues; accordingly any statistical conclusions are of limited application. The exception was in one Area, where 73% of the files were identified as highlighting minority group issues, particularly minority ethnic issues.

5.7 Only 36 out of 414 (8.7%) of files in the sample appeared to have any minority group issues. From this small base, only three cases clearly dealt with the issue appropriately, and a further twelve did not.

5.8 It is clear that victims in minority groups face additional difficulties which bring with them particular sensitivities for the victim. Insight into individual difficulties is essential throughout the progress of a case, including the initial review, decisions regarding bail and the need for a witness summons, and in considering need for support.

5.9 Where appropriate, background information or expert advice should be sought on religious, cultural, or other issues from relevant agencies and particularly from specialist minority ethnic women’s groups that deal with domestic violence. In some cases, these agencies may already be involved with the victim and playing an important role as advocates and supporters.

5.10 Some case examples demonstrated a reluctance to confront issues such as language difficulties or cultural expectations. The decision to prosecute should not be influenced by minority issues, but it is incumbent on the reviewing lawyer to take account of the particular circumstances individuals may experience as a result of contact with the criminal justice system.

5.11 As one voluntary agency co-ordinator pointed out:

“Communities are not aware of what the CPS is, or how it operates until they have contact with them. Information needs to be in different languages.”

5.12 Account must be taken of sensitivities such as the effect a witness summons might have. Prosecutors need to consider language, pressure from the family or community, fear of coming out in same sex relationships, disabled people who may lose their carers, or youngsters with divided loyalties.

5.13 It is difficult for any victim to come forward and support a prosecution in the first place, but often harder still for those in minority groups. Thought should be given on a case-by-case basis to how the prosecution can assist in addressing these difficulties

CASE STUDY

A case involving a Bangladeshi woman: “The police came and charged him and took him to court. I didn’t charge him but the police did, they took him to court because he hit me again ... Even though he hit me I still did not want to press charges but they said that they would press them anyway, even though I didn’t want them to they still charged him ... I still didn’t want him charged ... Because my mother-in-law was asking me for forgiveness on behalf of my husband saying that he didn’t mean to hit me. She also said that I have children and I should forgive him for their sake. We are Muslims, we need to find it in our heart to forgive the wrong doings of people, how could I ask them to send him to prison?” (Geeta)

5.14 Some examples in the CPS file sample showed a lack of diversity awareness. In one case the victim’s seven-year-old child was used as interpreter for the initial five-page complaint, detailing a vicious assault upon his mother, who spoke no English. Just prior to trial, her retraction statement was provided by an ‘interpreter’ who claimed to have interpreted for the victim for seven years. The retraction was on the basis that the community elders were supporting the couple. There was no attempt by the police, or the CPS, to verify the independence of the interpreter, and the letter communicating the CPS decision to discontinue the case was sent to the complainant in English.

5.15 In another case there was no indication that appropriate consideration had been given to the fact the complainant was a Macedonian refugee, living in refuge, with an issue regarding her mental health, having been allegedly gang-raped in her home country. The case against her husband still went to the trial date, despite an acceptable plea being offered on an earlier occasion.

5.16 It is recognised that such victims may need additional practical support to pursue a prosecution. Of equal importance, is the demonstration of diversity awareness on the part of the police and prosecutors.

RECOMMENDATION

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

Cases terminated during the investigation stage

6.1 For the attrition study, 80 incidents were examined from each of the 6 police forces (480 incidents), of which 17 were found to have been wrongly classified as domestic violence. A total sample of 463 incidents was, therefore, examined in detail.

6.2 Not every incident to which the police get called involves a crime. For example, emotional or even verbal abuse whilst unacceptable is not necessarily criminal. This behaviour, however, may form one strand in a pattern of violence and abuse or a course of conduct for the purposes of proving an offence under the Protection From Harassment Act 1997 and it is important, therefore, that all incidents are recorded. The police definition takes into account both criminal and non-criminal behaviour. As a result, the number of domestic violence crimes recorded will never equate to the number of domestic violence incidents attended.

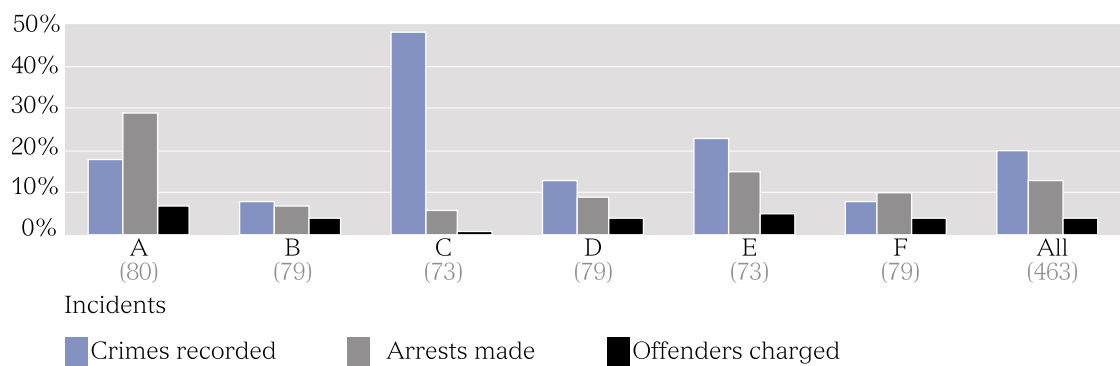
6.3 Overall, of the 463 incidents examined, 118 (25%) resulted in a crime being recorded. The attrition study revealed significant differences in levels of crime recording between forces – from 10% to 66% – and it is clear, therefore, that there is an under-recording of crime. An attempt was made to establish the level of under-recording through an examination of the information contained in the incident logs. It is important to note that the detail within the logs did not allow for a completely accurate assessment to be made. However, this study revealed that, potentially, a further 142 crimes were committed which were not recorded. Had these crimes been recorded, this would have raised the level of crime recording from 25% of incidents to 56%.

6.4 Within these potentially unrecorded crimes, it was found that, in a significant number of cases, the victim alleged that they had been assaulted at the time of the initial call but either withdrew the allegation on police attendance or refused subsequently to provide a statement. The difficulties in investigating any incident without the co-operation of the victim have already been acknowledged, particularly where the victim may also be the only witness. This does not, however, justify the non-submission of a crime report. It was also found that potential crimes of harassment were being missed by attending officers, and it became apparent during the interviews that there is an incomplete understanding of the legislation in this area. This was also identified during the examination of CPS files (see paragraph 7.55) where it was found that there were a number of instances where an offence under the Protection from Harassment Act could have been charged. In these instances, the victims' statements

included a history of violence which might have allowed a course of conduct to have been established; but these opportunities were being missed.

6.5 In order for an offender to be charged, a crime has to take place. If crimes are being missed or are not being acknowledged and recorded, then opportunities are also being missed to bring offenders to justice. This has to be the starting point in addressing attrition. The study shows, however, that this is not the complete story.

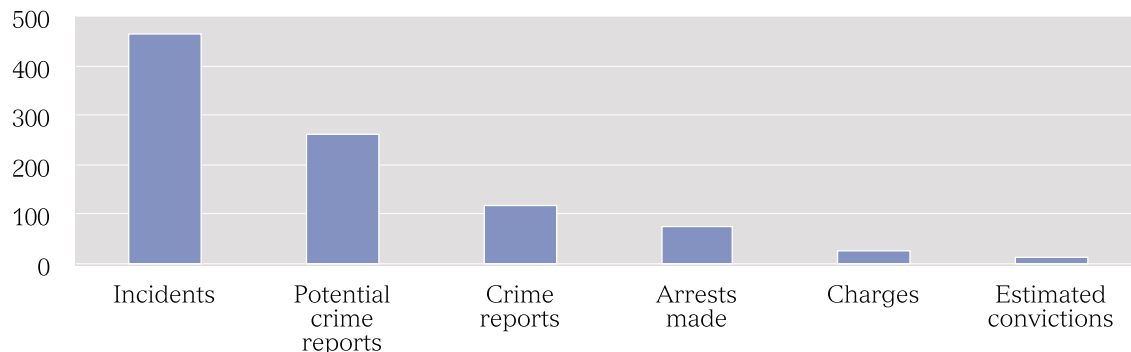
6.6 Of the 118 crimes which were recorded, 25 offenders were charged (21% of all crimes recorded). High levels of crime recording, however, do not necessarily lead to high levels of charging as shown in the table below:



6.7 Forces B, D, E and F show similar levels of charging. However, force E shows a significantly higher level of crime recording than the other three forces. Even more significant are the results obtained from force C, which reveal the highest level of crime recording of all six forces, but the lowest level of charging.

6.8 The full results of the attrition study are summarised in the table:

Attrition of incidents of domestic violence



6.9 As already stated, charges were made in 21% of recorded crimes, but this figure drops to 10% when potential ‘missed’ and ‘unrecorded’ crimes are taken into consideration. Further qualitative study of incident logs and crime reports revealed that, more often than not, the views of the victim and their willingness to co-operate with and support the investigation were the deciding factors in determining whether or not both a crime report would be submitted and whether charges would be made. This appears to be the single biggest contributing factor in relation to attrition and begins with scene attendance and the initial investigation and evidence-gathering. Consequently, if attrition is to be addressed, not only does the thinking in terms of crime recording have to change, but so too does the thinking in terms of first response.

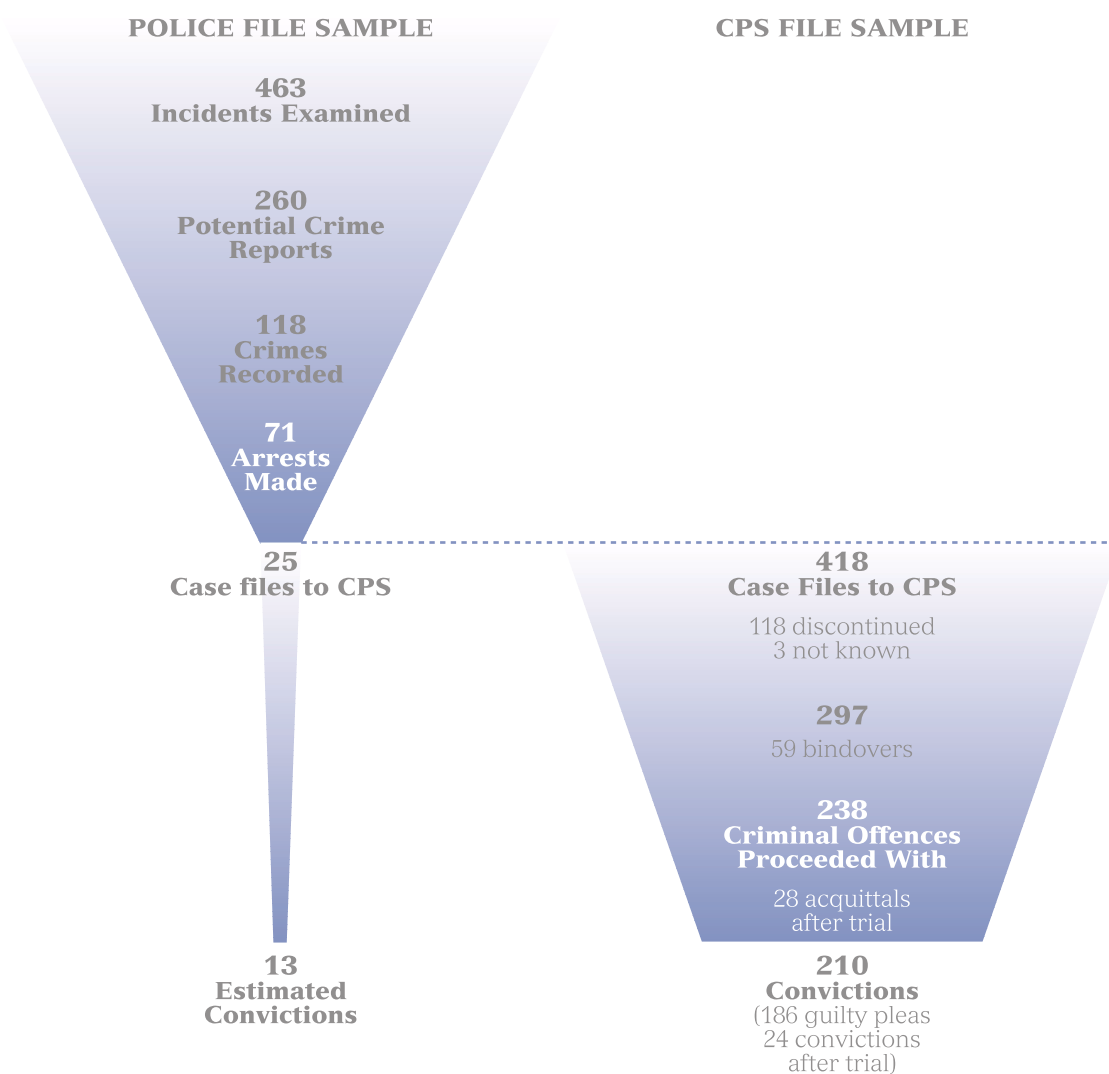
6.10 Police officers need to understand the dynamics of domestic violence in order to understand the particular difficulties that victims face in reporting incidents, let alone supporting investigations and prosecutions. This will require training. It also has to be understood that there will be many occasions when the only witness will be the victim and investigations need to be carried out on that basis. Finally, even where there is clear evidence of a crime, unlike other investigations that the police may encounter, the victim may be reluctant, for a variety of reasons, to support a prosecution, and evidence-gathering needs to take account of this fact.

6.11 The file samples for HMIC and HMCPSI were unrelated (see Annex 1); however, the tables illustrate the various points of attrition which need to be addressed by the police and CPS and also highlight the high levels of attrition in the investigation and prosecution stages of offences of domestic violence. If these figures are typical of police and CPS casework, then of the 463 incidents recorded by the police 13 (2.8%) would result in conviction. However, it may be more realistic to take the 260 potential and actual crime reports as the starting point, in which case the 13 estimated convictions equates to 5% of the potential offenders being brought to justice.

6.12 As one Domestic Violence Forum Co-ordinator told us:

“So few cases proceed, it appears that victims have little confidence in the system, but sentencing is also an issue. If victims do not see the criminal justice process as providing resolution, what motivation is there to go through this process?”

The points of attrition



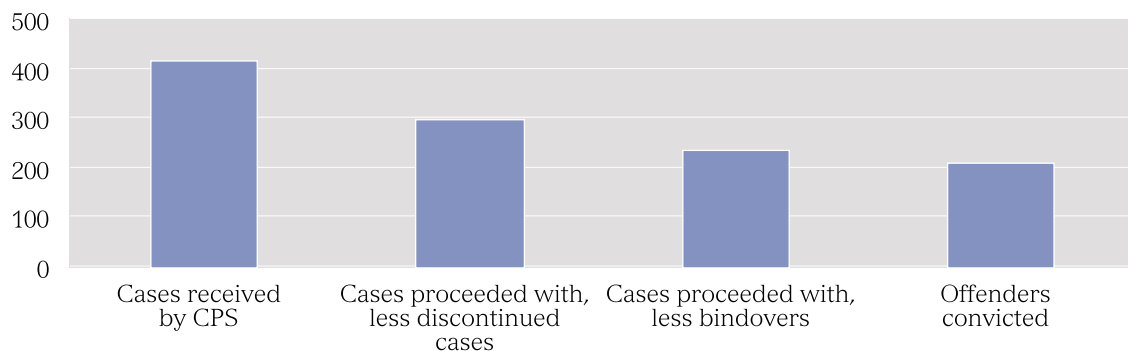
Cases terminated during the court process

6.13 Only a small proportion of the incidents notified to the police resulted in criminal proceedings. Thereafter, charges did not always result in conviction. A number of cases were dropped by the CPS because of insufficient evidence or, on rare occasions, because it was not in the public interest to proceed. Some defendants were bound over

to keep the peace. Of the cases that proceeded a large proportion pleaded guilty and of the remainder nearly half were convicted after evidence was heard. Therefore, of the cases brought into the judicial process, just over 50% were brought to justice (convicted), and a further 14.1% were bound over.

6.14 418 concluded cases were considered in the CPS file sample in this inspection. These cases were all the cases concluded in a one-month period from six Areas visited. The prosecution discontinued proceedings in 118 cases. This means that the discontinuance rate, excluding cases where the defendants were bound over, was 28.2%. The national average of discontinuance for all crime type is between 12 and 13%.

Attrition of cases received by CPS



6.15 The CPS received withdrawal statements in 184 (44%) of the 418 in the CPS file sample. The CPS decided to summons the victim to attend court, or pursue the case on evidence other than the victim, on 57 occasions, 31% of the withdrawal cases. The remaining cases were discontinued or dropped when a bind-over was ordered. (See paragraph 7.21 onwards for further detail about the CPS decision-making in these cases).

6.16 In 59 cases the defendant (or in some cases the person brought before the court on complaint rather than criminal charge) was bound-over to keep the peace. In those cases in which there was a criminal charge this was withdrawn or no evidence was offered.

Acquittal after evidence is called

6.17 Of the 238 cases that were proceeded with by the CPS, the defendants pleaded guilty in 186 cases; 52 defendants pleaded not guilty; 8 cases were dropped pre-trial (Judge ordered acquittals); and of the remaining 44 cases 24 were convicted.

6.18 The defendants contested the charge in seven Crown Court cases and were acquitted in four cases. This represented 11.1% of the Crown Court finalised cases, and is above the national average for Crown Court acquittal rate of 6%. The defendants contested the charge in 37 magistrates' court cases and were acquitted in 16 cases. This represented 4.2% of the finalised cases, and is significantly above the national average for magistrates' courts acquittal rate of 1.5%. The acquittal rate in contested trials was lower in the magistrates' court than the Crown Court, but the small numbers in the Crown Court make meaningful comparison difficult. The plea rate in the magistrates' court was high, and to that extent supports the good sense in avoiding delay whenever appropriate in this type of case.

6.19 Of the 418 cases received by the CPS, 210 defendants (50.2%) were therefore brought to justice upon conviction.

Charge attrition

6.20 An examination was made of cases in the earlier Thematic Inspection on the Justice Gap where the defendant was not brought to justice for all the offences charged. There were a significant number of domestic violence cases in the sample (i.e. 85 – 7.8%). That percentage is greater than the proportion of domestic violence cases in the general Area inspection random sample taken from the cycle to date (6.7%), confirming that cases of domestic violence are more susceptible than other types of case to charge attrition. The concern that victims may withdraw support should the cases proceed further, might be a factor in the prosecutors' readiness to accept lesser charges or bind over.

An Effective Prosecution

Overview

7.1 Domestic violence is a mainstream issue for the CPS due to the range and volume of cases. To ensure it attracts the appropriate priority in the Areas it requires both strategic and operational leadership so that it is not sidelined to a few dedicated and committed specialists. Joint working with the police is vital and necessitates an awareness of the Policy throughout the local forces. Where the Code and the Policy are applied appropriately, the quality of casework is enhanced significantly. This increases the likelihood of a successful outcome for the case. These should also be a positive impact on the treatment of victims and witnesses, and as a consequence, public confidence.

7.2 Success in bringing offenders to justice depends upon a quality police investigation, effective evidence gathering, and a quality file upon which prosecutors can undertake a meaningful review. Greater liaison between the police and the CPS, facilitated by a local service level agreement would help progress towards improved file quality. However, not all Areas had such agreements.

7.3 Lawyers at initial review need to focus on evidence apart from that of the victim, either as an alternative to, or to support, the victim. Too frequently the reviews in the file sample focused on the evidence provided by the victim, which limited options if the victim subsequently withdrew support for the prosecution. In 184 cases in the CPS file sample, the victim sought to withdraw and in just over half of these cases there was a clear formal statement on which an informed decision could be made about the way forward. Prosecutors considered the often limited options available when a victim withdrew support in the majority of relevant cases. However, in only a third of those cases were these options used, or viable because of earlier police / prosecutorial action or decision-making. Section 23 Criminal Justice Act 1988 (which in limited circumstances provides that the statement can be admitted when the witness does not appear, for instance, through fear) was an option that was seldom used.

7.4 A witness summons is sometimes essential to ensure the attendance of the victim at court, or to emphasise that the onus of the decision-making does not lie with the victim. In a number of cases the use of a witness summons, combined with a good flow of information between the CPS and support agencies, helped to ensure a positive outcome. This underlined the importance of multi-agency joint working. Most prosecutors were reluctant to consider the use of a witness warrant, but each case should be considered on its merits.

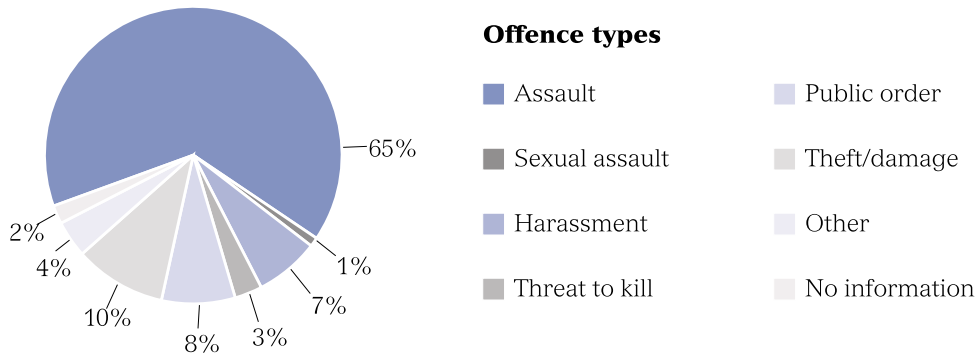
7.5 The correct approach to bail is often vital to ensuring the continued support of the victim. However, there were instances of unconditional police bail where there should have been a condition to prevent contact with the victim. There were also cases where no action was taken in relation to breaches of bail, by the police or the CPS, even where the defendant's actions constituted a further offence as well as a breach of bail.

7.6 When a trial is fixed the victim has to attend court and appropriate and sensitive treatment is essential. The CPS is an essential link to ensuring that witnesses are referred to the Witness Service which is available in every criminal court. On the whole the quality of witness care at court was good. Although there were variations, most cases were conducted with appropriate professionalism. Four specialist 'cluster' courts were visited; here, the standard of professionalism and preparation was consistently good and these courts appeared to have a very positive impact on domestic violence cases. Local evaluation may have been undertaken already, and independent evaluation has now been commissioned by CPS and DCA. It is important to ascertain whether the positive impression is supported by hard evidence.

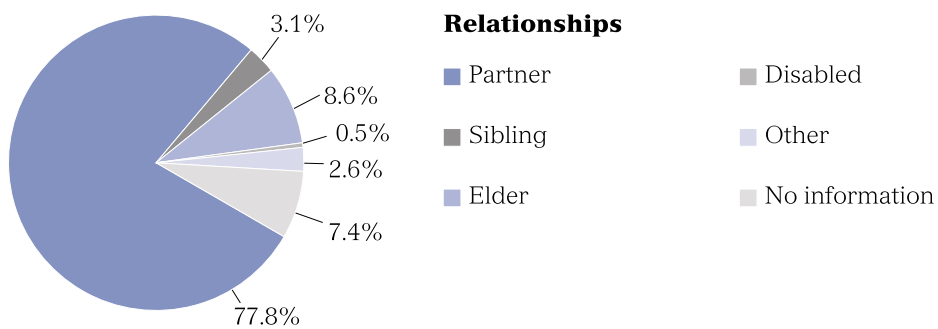
7.7 In 1998 HMCPSI published a Report on Cases Involving Domestic Violence (Thematic Report No. 2/98). A short commentary on the progress made by the CPS in relation to the recommendations in that report is included at Annex 6.

Nature of the CPS file sample

7.8 In the CPS file sample of 418 cases, 272 (65%) were assaults, 3 (0.7%) were sexual assaults, 28 (6.8%) were charges of harassment or breaches of a restraining order, 41 (9.8%) were charges of theft or criminal damage, 35 (8.4%) were public order offences, 12 (2.9%) were offences of threats to kill, 17 (4%) were other offences including breach of the peace. Information was missing in 10 cases (2.4%).



7.9 There were 325 cases of partner abuse (77.8%), 13 cases of abuse between siblings (3.1%), 36 cases of parental or elder abuse (8.6%), two cases of abuse against a disabled victim (0.5%) and 11 cases which captured other relationships (2.6%); these were child abuse cases or involved extended members of the family. In a further 31 cases (7.4%), the information was missing from the data collated. Of the 325 cases involving partner abuse, only five (1.5%) involved assaults upon men by their female partners. However, there were numerous instances where counter allegations were made by male defendants against female partners either at the time of reporting the incident or later during interview.



Identification of cases

7.10 The purpose of identifying and flagging domestic violence cases is to ensure the most appropriate case handling. This should mean that cases proceed without delay, victims receive good quality service and cases are listed in specialist domestic violence courts, where they exist. The police usually identified cases by deleting case type alternatives on the file front sheet. This was seldom attached to the small number of cases started by way of summons. Cases in the CPS file sample were usually identified by writing 'Domestic Violence' or using the abbreviation 'DV' on the file jacket.

GOOD PRACTICE

In Northumbria a multi-stamp was used to assist in identification. The stamp also highlighted other aspects of a case, in particular: that there was an identifiable victim; so that the direct communication with victims initiative (DCV) applied; and whether special measures applied.

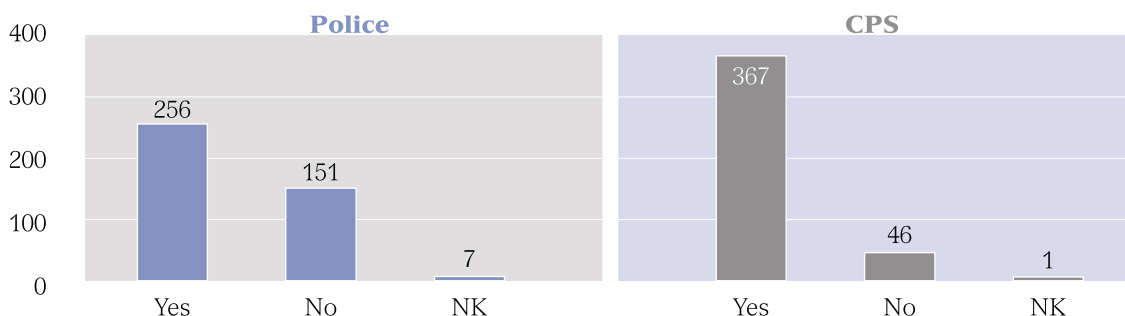
In South Wales and parts of West Yorkshire, the police clearly flagged cases sent to the CPS by attaching a specific domestic violence cover sheet to the file, as well as correctly noting the standard file sheet.

7.11 In one Area a specific colour of file jackets was used. This had the benefit of easily identifying the domestic violence cases and enabled them to be prioritised. However, this does not capture all the other relevant policy issues, for example, where special measures might apply or the DCV initiative applies. In addition, the colour coding used was not always clear to agents (prosecuting advocates who are not CPS staff). The use of a multi-stamp would enable all the relevant policy applications to be noted on the file jacket, and be apparent to all advocates.

7.12 Child abuse cases were not always identified as domestic violence, albeit falling within the CPS definition. It was another indication that there is some confusion about the definition. As these cases are dealt with by child abuse specialists there is a blurred responsibility.

7.13 In the CPS file sample of the 407 relevant cases, 256 (62.9%) were correctly flagged by the police and 151 (37.1%) were not identified as domestic violence cases. The CPS identified many of the files so that in the end 367 (88.9%) were correctly identified, 46 (11.1%) were not and so a significant number of omissions remained.

File Marked by Police and CPS as Domestic Violence Case



7.14 As discussed at paragraphs 1.9 to 1.11, agencies apply different definitions, which may impede an effective interface. The CPS definition includes abuse of children and other relatives within the family. In three of the Areas visited, the police exclude any defendant under the age of 18 in their definition, and a fourth excludes such cases in practice. In the 2002 Area position statements only nine of the 42 Areas indicated that their local police force area had adopted the CPS definition. In 30 of the other 33 Areas, the police either use their own locally produced definition, or had adopted the Home Office definition. In one Area the police and the CPS agreed their own local definition, one Area was using the old CPS definition, and one Area did not indicate what definition the police used.

7.15 The variations in definitions causes practical difficulties in accurately identifying and highlighting cases, and also means that monitoring systems capture different cases and in the end statistics are different. This weakens any system of joint performance management. A recommendation has been made at paragraph 1.12.

RECOMMENDATION

Chief Crown Prosecutors review systems for identifying and highlighting cases of domestic violence.

The decision to prosecute

Is there enough evidence to prosecute? Is the prosecution in the public interest?

7.16 Crown prosecutors must first be satisfied that there is enough evidence to provide a *“realistic prospect of a conviction against each defendant on each charge”*. This means that a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. If the case does not pass the first test (the evidential test), it must not go ahead, no matter how important or serious it may be. If the case does pass the evidential test, crown prosecutors must then decide if a prosecution is needed in the public interest. A prosecution will usually take place unless *“there are public interest factors tending against prosecution which clearly outweigh those tending in favour”*. When considering the public interest test, one of the factors crown prosecutors should always take into account is *“the consequences for the victim of the decision whether or not to prosecute, and any views expressed by the victim or the victim’s family”*.

7.17 File examination revealed that a few prosecutors blurred the distinction between the evidential and public interest grounds. Occasionally prosecutors proceeded with the case as it was strongly in the public interest to do so, but there was weak evidence. This approach is in practice unlikely to assist the victim whose expectation may have been raised because the case will almost certainly fail. It was apparent that in a very few instances there is an assumption that it is inevitably in the public interest to proceed if it is a domestic violence case. Some interviews reinforced this. Greater awareness and understanding of the Policy, and its application in the right sequence at an early stage would clarify the situation.

7.18 Public interest considerations should be recorded, but in many cases they were not and there was little to show which factors had been considered, or the weight given to them, during decision making.

7.19 The quality of police files is dealt with at paragraph 2.43. Clearly, close liaison with the police is vital. Local service level agreements (SLAs) or protocols between the CPS and the police would be helpful to improve the quality of evidence sought and information provided by police to the CPS. Across the Areas visited there was a wide divergence on whether SLAs were being used. CPS Policy Directorate has distributed a template for SLAs and has urged Areas to enter into an agreement.

The European Convention on Human Rights

7.20 The Human Rights Act 1998 came into force in October 2000 implementing the European Convention on Human Rights (ECHR). A victim of domestic violence has rights under articles 2 (right to life), 3 (prohibits torture, inhuman and degrading treatment), 6 (right to a fair trial) and 8 (right to respect for a private and family life), as does a victim's children or any other person affected by the defendant's abusive behaviour. The rights of the victim, any children, other people affected by the violence, the public and the defendant have to be balanced. These issues affect the conduct of an investigation and decisions whether or not to proceed with a case, particularly where the victim has withdrawn support. Police and prosecutors should consider ECHR issues and have regard to the defendant's and the victim's rights, and those of any children affected by domestic violence. Such points are not infrequently prayed in aid by the defence, when arguing that the prosecution is not justified, or an abuse of process. Others maintain that discontinuance may ignore the rights of children.

What happens when the victim withdraws support for the prosecution or no longer wishes to give evidence?

7.21 In 184 cases (44%) the victim sought to withdraw the complaint in the CPS file sample of 418 cases. The significant number of domestic violence cases failing because of victims withdrawal has encouraged the CPS to require prosecutors to ascertain why victims of domestic violence withdraw support and to consider whether they could proceed in the absence of the victims or whether the victims should be summonsed to give evidence. Prosecutors need to consider all admissible evidence, thereby reducing the emphasis placed on the victim and reliance on the victim's appearance in person. Indeed, it is helpful if at the outset the prosecutor reviews the case firstly including the victim's evidence, and secondly on the basis that the victim does not give evidence and determines if a case can be constructed without this. Sometimes, due to the nature of cases of domestic violence, there is no evidence other than the victim. Good medical evidence of injury from an independent source, whether forensic medical examiner or other medical practitioner, may be very valuable.

CASE STUDY

“He was being charged with three things... with criminal damage... with theft, and ...assault.

The only thing that I’ve been confused about is when I did the statement afterwards. They asked me if I wanted to press charges and I said if it would help somebody else further down the line ...And I was under the understanding that it was the court that was prosecuting him, not me. And then when I eventually saw this through and we ended up in court last Friday, I felt like it was me that was prosecuting him and I wasn’t prepared for that switch over.” (Susie)

7.22 If there is an indication of withdrawal by the victim, there should be confirmation from the victim that this is the case, and whether the original complaint was true. A statement and a separate report about the police officer’s views on the case, and the risks, should be obtained. The provision of reasons for withdrawal without a withdrawal statement is not sufficient. Although the Policy clearly sets out the correct approach for the prosecution to adopt the withdrawal statement conformed with the Policy in only 63.6% of relevant cases.

7.23 In one Area, the police frequently sent in a background report instead of obtaining a withdrawal statement. In another Area, a pro-forma withdrawal form was used, which was not designed specifically for domestic violence cases and there were instances where there was only a pocket-book entry that the victim no longer wished to proceed, but no formal statement.

7.24 In the 2002 Area position statements, 23 Areas said there was agreement with the police about what should be contained in a victim’s withdrawal statement; 27 Areas said the statements included information recommended in the revised Policy. Some indicated that the quality depended, on whether the local police domestic violence unit (DVU) was involved. The main deficiency identified was that statements did not address whether the original complaint was true or whether the withdrawal was made under duress.

7.25 Police must send a withdrawal statement in the proper format, as there cannot be an informed decision about the next steps without it. In practice where there was an inadequate (or no) withdrawal statement, prosecutors often went on to consider whether to apply for a witness summons without requesting further information. This has obvious potential dangers, and means that proper weight is not given to the views of the victim.

GOOD PRACTICE

In West Yorkshire an advice pro-forma was used. Prosecutors sent this to the police detailing the source of the information about the withdrawal and requested what type of information that was required, to make an informed decision. In particular: whether the case should proceed despite the victim's reluctance; the likely reaction if the victim was compelled; what support was being given; background information including civil proceedings, children and any social services involvement; and that an explanation be given to the victim that the decision lay with the CPS, and why.

In Derbyshire consistently good police reports accompanied most withdrawal statements. These enabled reasoned judgments to be made about how the case should be progressed, and were invaluable in some of the decision-making undertaken.

7.26 Victims should be able to give their views to the police, in a supportive environment, away from the defendant. On occasions where a victim attends court to make a withdrawal statement, an adjournment should be sought, to ensure the circumstances are such that the victim can express views freely, and the victim is not put into a position where it looks as though s/he is responsible for the decision. If there is no adjournment the prosecutor has to make an uninformed decision to proceed or drop the case.

7.27 The previous policy meant that sometimes victims would be asked to explain to the court why they did not wish to proceed. The Inspectorate's thematic report in 1998 recommended that this approach should cease as it did not add to the quality of the decision-making process. The matter should be adjourned or resolved with the assistance of the police officer at court. Although the revised Policy did incorporate the recommended change some prosecutors continue the old practice.

7.28 If the defendant is the source of information about withdrawal, the prosecutor should ask the police to find out from the victim whether this is true. Again, this should be done in a supportive environment and handled sensitively. In one Area some clear indications from the defence were ignored; elsewhere adjournments were sought for this purpose.

7.29 Conversely, prosecutors should not routinely ask the police to contact victims of domestic violence, merely to check that they wish to continue. This may undermine their confidence and cause some to decide not to continue, where they might not otherwise have contemplated that course. In one Area, there appeared to be an inbuilt expectation of retraction, so a routine request was sent to the police prior to trial

7.30 If the police have maintained regular contact throughout the proceedings, and are therefore aware of the victim's current wishes, they will not have to make an additional visit to enquire about the victim's continued support. Good practice may be far better to be sent to the victim at certain points confirming action taken and detailing future events. This would both reassure and minimise opportunities for the victim to withdraw.

RECOMMENDATION

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.

7.31 It was particularly troubling to discover that there is a growing culture of victims stating the original complaint was untrue in order to undermine the prosecution case. A representative from Victim Support expanded on a similar theme:

"There seems little evidence that prosecutions are going ahead. Where they do proceed, specialist support should be given to the victim. In the few cases where victims have been compelled to attend, women have attempted to be certified 'unfit to attend'. We need to consider an integrated approach to supporting these women, to avoid the agencies designed to assist, from becoming the 'enemy' and alienating victims".

Whilst this report deals essentially with what the police and CPS can do to bring more offenders to justice, this is one of several indicators that an early joined up approach with support agencies is needed to achieve CJS objectives.

Continuing with a prosecution against the victim’s wishes

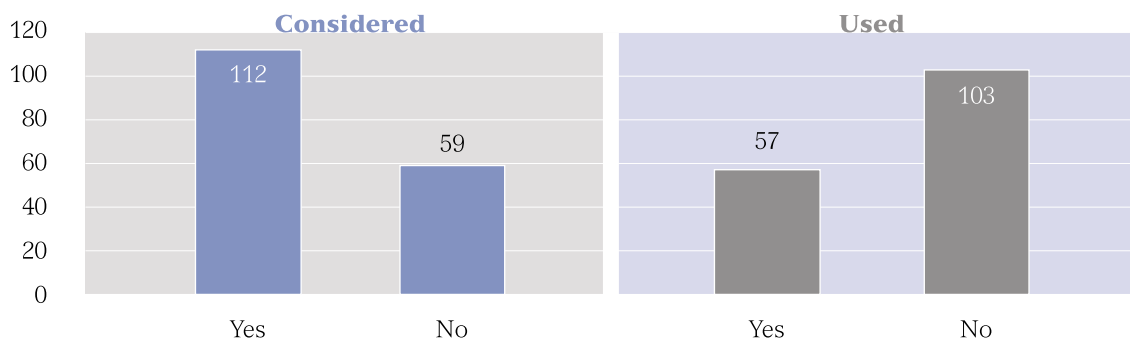
7.32 Prosecutors should consider at an early stage whether there is sufficient evidence without the victim. If there is and the victim subsequently withdraws, so long as the public interest test continues to be met, the case can proceed and a witness summons is not needed. There were many instances in the CPS file sample where cases proceeded without the victim’s evidence. A few proceeded where the police had charged the defendant after the victim had withdrawn support at a very early stage.

CASE STUDY

“I only called the police when I really needed them.... He went to court, but I did not have to go. I just went to the station and signed some document. I told them to release him, that he hadn’t meant to hit me. He is still my husband, we are not divorced as yet, he did not mean to hit me it was just out of anger, and it is not appropriate as a wife to put a husband through this. The police said that regardless of my feelings they would still have to press charges as he had hurt me quite seriously, it was their duty to do so.”
 (Geeta)

7.33 Where there was a victim withdrawal statement, all relevant options were considered before deciding whether the case should continue in 112 cases (60.8%) of the 184 in which there were withdrawal statements. Alternative means of proceeding without the victim were used in 57 cases. These decisions were considered by inspectors to be generally appropriate, but there was clearly scope for more positive decision-making in the 72 cases in which all options were not apparently considered.

Alternatives Considered and Used after withdrawal Statement Received



7.34 Prosecutors should consider relevant human rights issues in deciding whether to continue against the victim's wishes. The rights of any children or others affected by the defendant's abusive behaviour, must be considered and the issues recorded on the file. In the small number of cases where prosecutors overtly considered ECHR issues, the focus was on the defendant's rights rather than balancing the right, of the defendant, the victim and any children.

Witness summons to compel a victim to attend court

7.35 Some victims say they wish to withdraw, but in reality welcome being compelled by the prosecution to give evidence. They do not want the defendant to know that they support the prosecution. In the CPS file sample there was an example of a victim withdrawal statement but the accompanying police report showed that the victim desperately wanted to the case to continue, whilst not being seen to support the prosecution.

7.36 As a Justices' Chief Executive pointed out:

"Witness summons applications are used in some courts more than others. The Bench are aware that this device is to assure and reassure rather than as a prelude to a warrant. The 'must attend', 'no choice' does sometimes work to assist the victim. It is unlikely that the Bench would grant a warrant."

7.37 Summonses should be used in appropriate cases and decisions should be carefully considered. It may be unnecessary to use the victim's evidence if the case can be proved without it, although there is always a risk inherent in proceeding on less than the strongest case possible. The views of the victim should be sought via a police officer before the decision is made to apply for a witness summons. In each case prosecutors should consider as a minimum:

- the gravity of the offence;
- any prior history of incidents;
- the level of support available to the victim; and
- the likely effect of a witness summons on the victim.

In addition, some thought should be given to future possible steps, for example whether a warrant, with or without bail, might be the next stage of the process.

7.38 In all the Areas visited prosecutors considered, and used, witness summonses to varying degrees. However, in one Area prosecutors were generally reluctant to consider the option of using a summons, because they did not want to proceed to the next stage of obtaining a witness warrant.

CASE STUDY

“... they asked me to make a statement and I did. They were going to charge him for. ... I think it was assault. But I thought about it and I was afraid of how he would behave to me afterwards – if it would make him even more angry. Also, I was worried about the children: they love their Dad and he is really good with him, ... and what would they think of me if I had gone to court to speak against him? What would they say to me if he had gone to prison? So I rang up the police and explained to them that I couldn’t do it... They were okay. Really okay. They understood my feelings and said it had to be my decision... They still went ahead, and he was convicted and told a certain amount of money that he had to pay.” (Rose)

7.39 Where witness summonses were used, to ensure the attendance of victims, there were mixed results. On many occasions, the outcome was a guilty plea. However, some victims were too distressed to give evidence, some were hostile and prosecutors did not know how to deal with this, or some victims simply did not attend court. In one Area when this happened the prosecutors would routinely offer no evidence and not even consider a witness warrant.

7.40 In one Area the good flow of information between the CPS and the supporting voluntary agency which attends the cluster court, helps to ensure a positive outcome when a witness summons is used. Similarly in another Area, witness summonses were obtained more frequently because of the specialist support available.

7.41 In general, prosecutors are very reluctant to obtain a witness warrant, believing that it is inappropriate to have the victim arrested. Three Areas obtained warrants in appropriate cases, but in one Area visited, there has been an example of the victim being imprisoned, which has deterred the consideration of warrants by prosecutors. Prosecutors should be careful to ensure that warrants with bail are applied for. Warrants without bail would only be appropriate in grave cases as a last resort.

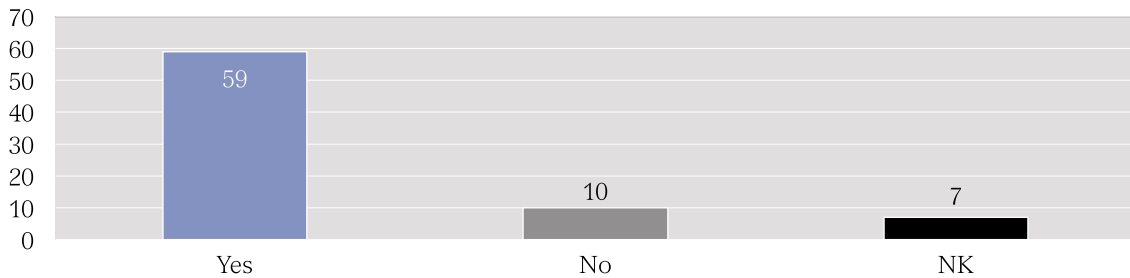
7.42 When a victim whose evidence is necessary refuses to attend the trial the prosecutor should always consider whether a warrant might be appropriate in the circumstances of the case. It is a difficult decision, but the option needs to be addressed.

Compelling a victim to give evidence

7.43 A witness before the court can be compelled to give evidence under threat of being in contempt of court, and subject to imprisonment. Prosecutors should judge each case on its merits before deciding whether to require, or force, a relevant witness to give evidence. The individual circumstances of the victim should be considered as well as the wider public interest. Only a very few victims are imprisoned as a consequence, but it highlights the importance of an experienced prosecutor (ie one with appropriate training) being consulted about the decision-making, in accordance with the Policy guidance, to help ensure the right decision is made.

7.44 In the CPS file sample, in 78 of the 200 relevant cases (55.5%) there was involvement of an apparently experienced prosecutor, but in 33 cases (16.5%) there was not, and in the remainder, the position could not be established. The decision to continue against the victim’s wishes was in accordance with the Policy guidance in the large majority of relevant cases (85.5%). This leaves a significant number in which policy was not followed, with potentially dangerous consequences for the victim, whether the decision was to continue with the prosecution or not.

Decision to Continue Against Wishes of Victim In Line with CPS Policy?



RECOMMENDATION

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.

Using the victim's statement as evidence under section 23 of the Criminal Justice Act 1988 so that the victim does not have to give evidence in person at court

7.45 Section 23 Criminal Justice Act 1988 (which will be replaced by new provisions in the Criminal Justice Act 2003, but this will probably not take place until 2005) allows the admission of the victim's statement as evidence. In order to do so, the prosecution must prove beyond reasonable doubt that the maker of the statement does not give oral evidence through fear or is being kept away. Where a court finds that either criterion has been satisfied, it must go on to decide whether the statement ought to be used in the interests of justice (section 26). It must consider the general fairness of the trial and any other relevant circumstances.

7.46 External agencies expressed concern that section 23 was not used sufficiently, sometimes without appreciating the legal constraints. Prosecutors tended to believe that it is less likely that a court would allow an application under section 23 to succeed in a case of domestic violence than it would in other types of case. This is because there is often only one witness to the offence, the victim. They consider it is more difficult to argue successfully that it is in the interests of justice to deny a defendant the right to cross-examine the only prosecution witness.

7.47 It seems likely from the low proportion of withdrawal cases in the CPS file sample in which section 23 was considered, and the very few cases in which an application was made, that prosecutors were substantially influenced by the likely attitude of the courts. There was only one example of a successful application. Notwithstanding the approach taken by the courts, prosecutors could have been more pro active in seeking material to establish the statutory requirements to support applications under section 23.

7.48 If a victim does not attend a trial to give evidence it would normally be appropriate for the prosecutor to apply for a summons for the victim to attend court. An application under section 23 can only be considered where the prosecution can prove that the victim is in fear. Most of the withdrawal statements in the CPS file sample stated that the victim was not pressured, so section 23 would not be available without other evidence. The review was unable to determine or estimate the reliability of these assertions. Some practitioners believe that victims say this to avoid attending court and that some victims' state their evidence was untrue to ensure this because of pressure on them. If the situation was explained fully they might truthfully refer to the pressure. Effective evidence gathering in domestic violence cases may assist the

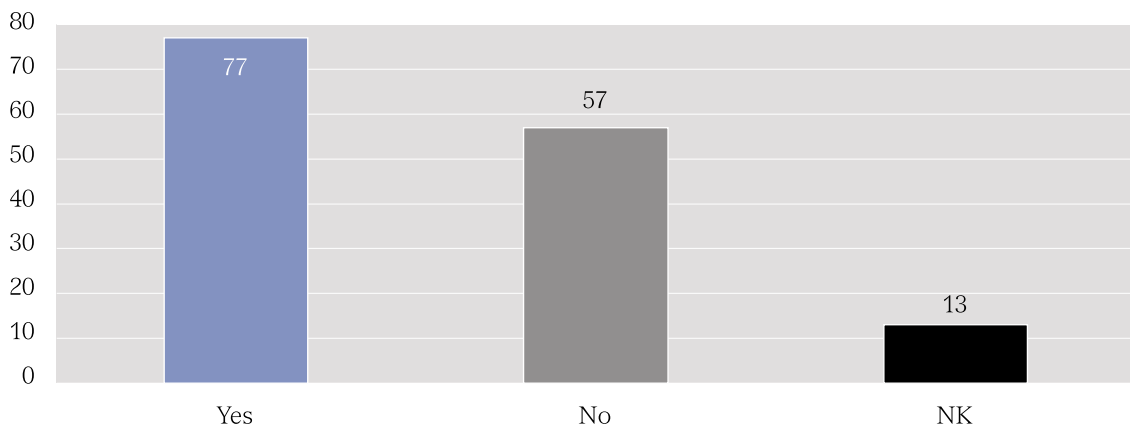
prosecution application in some cases, by providing support for the victim’s evidence. Probation officers, doctors, or voluntary agency representatives may be able to provide such information, or may be able to give evidence of the victim’s fear, subject to issues of confidentiality.

7.49 Section 17 Youth Justice and Criminal Evidence Act 1999 is designed for intimidated witnesses the admissibility of whose evidence might otherwise be considered under section 23, but it has not yet been implemented.

Decisions to discontinue

7.50 In the CPS file sample where it was possible to tell, the decision to discontinue was in accordance with the Policy in 77 (57.5%) of the 134 relevant cases which had been discontinued or dropped when the defendant was bound over. The remaining cases were not necessarily wrong in principle or out with the Code for Crown Prosecutors, but the appropriate steps under the Policy had not been followed. Inspectors considered a number of cases could have proceeded either without the victim’s evidence, or by using section 23, or by compelling the victim. An example from the files demonstrates this point. The police file was submitted and assault occasioning actual bodily harm (section 47 Offences Against the Person Act 1861) was appropriately charged. The police report correctly noted that there were limited admissions to the lesser offence of common assault . No additional charge was laid. When a withdrawal statement was received from the victim, no evidence was offered instead of proceeding on the alternative lesser offence.

Discontinuance in Accordance with CPS Code and Policy



7.51 There was some lack of clarity in relation to the reasons why cases were discontinued. If a prosecutor decides not to use a witness summons, because the victim would be hostile, or attends court and becomes so, it is an evidential decision. Where a prosecutor could compel a victim, and therefore have sufficient evidence, but decides against this course, the public interest is the basis for the outcome.

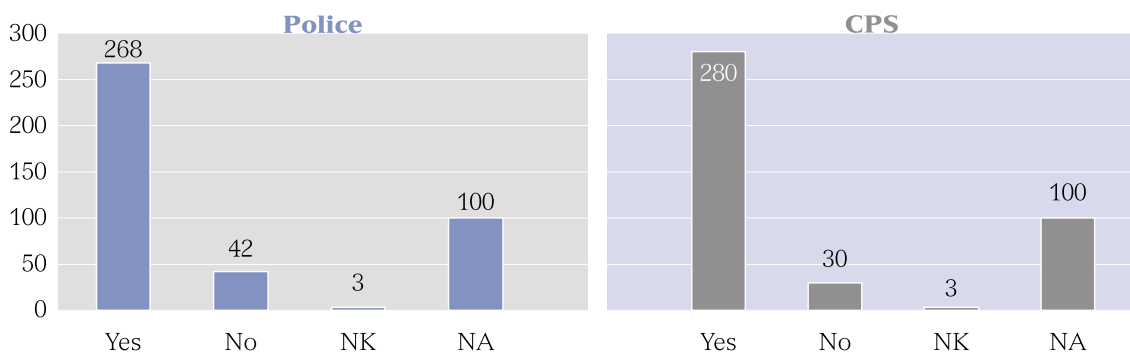
ACTION POINT

CPS Policy Directorate provide guidance about the reason to be determined for discontinuance when the victim declines to attend court.

Determining the correct charges

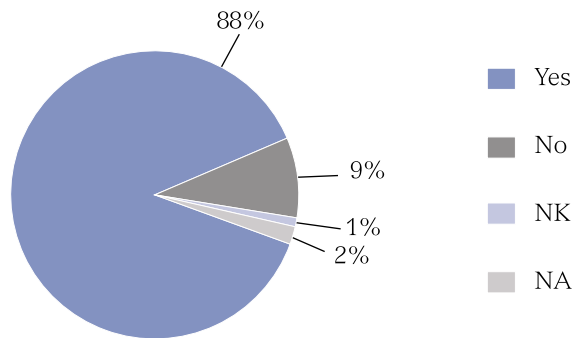
7.52 Charging standards apply to the more common offences of assault and public order which apply to domestic violence. In 268 cases (85.7%) of the 313 relevant files examined, the charging standards applied by the police were correct. Following review, the CPS applied the charging standards correctly to 280 (98.5%) of those 313 cases.

Charging Standards Applied Correctly by Police and CPS



7.53 Of the 398 cases where information was available, in 362 files (91%), the case proceeded on the correct charges but not in the remaining 36 cases (9%). Late submission of medical evidence can cause problems for the police and CPS, when trying to assess the correct charging level for assaults.

Cases Proceeding on Correct Charges



7.54 Overcharging by the police, and no action by the CPS to address it in the early stages of the case, can raise the expectations of victims unnecessarily. It can have a particularly negative effect if the charge is reduced at a later stage, in terms of retaining the commitment of the victim to the prosecution. The new charging initiative is designed to overcome this problem.

7.55 In some instances, an offence under the Protection from Harassment Act 1997 could have been charged. This would have been a good alternative in order to get background material into evidence, and so provide a whole context for the case. It also has the practical benefit of providing an outcome that protects the victim in terms of a restraining order. In the majority of cases the victim’s statements included the history of violence, and it therefore may have been possible to establish a course of conduct, and add further offences. Unfortunately there were many occasions when this possibility was not pursued.

CASE STUDY

Zeneda obtained what appeared to her to be conflicting information from the police:

“I had my ex partner banging on the front door in the middle of the night and I had to call the police out... Well, I thought they would be able to charge him and when they said they couldn’t I just had to let it drop. When it happened again though, I got a different police officer and he said if it kept happening I would be able to make a harassment complaint against him.” (Zeneda)

7.56 The acceptance of pleas, to some of the charges or to lesser offences, was relevant in 87 cases in the file sample. In 69 of these cases (79.3%) the decision on the acceptance of pleas was appropriate. In 13 cases (14.9%) it was not, and in a further five cases (5.7%) there was insufficient information on the file. In 49 relevant cases, the downgrading of the charges was appropriate in 41 cases (83.7%), but not in eight (16.3%).

Bail

7.57 In the CPS file sample of the 333 relevant cases, in 226 (67.9%) the CPS made appropriate representations about custody or bail, in 17 (5.1%) they did not and in a further 90 cases (27%) it was not known due to inadequate file endorsements. Additionally, of the 326 relevant cases, in 261 (80%) the court imposed bail conditions were appropriate, in 21 (6.5%) they were not as a consequence of CPS action, and in a further 41 cases (12.8%) it was not known. (Police bail is dealt with at paragraph 3.32 above).

7.58 Throughout the whole of the CPS file sample, it was disappointing to observe inadequate file endorsements with no record of bail representations and conditions. The need for this is not just good administration or for the benefit of inspectors! Files are handled by a number of people during the course of their life. It is essential that whoever may be involved can readily ascertain what has been done at what stage, and why. Keeping victims and witnesses properly informed is also difficult in the absence of a clear record.

7.59 Where the defendant was on bail with a condition not to contact the victim, it was common, where there was reconciliation, for the victim to come to court to support an application to remove that condition. In some instances prosecutors accepted the victim's views at court; when the prosecutor opposed the application, the defence then called the victim to give evidence on oath in support of the bail variation, which was invariably granted.

7.60 The prime concern should be the safety of the victim and ideally the victim should be removed from the situation to express their views freely to police.

7.61 There are circumstances where it may be possible at court to remove the victim to see the voluntary supporter, or a domestic violence officer at court, in order to canvass views. If not, the appropriate course is to seek an adjournment so the prosecution can be satisfied that the victim has an opportunity to speak freely. The case can still progress, but not the immediate bail issue. This can be brought back as a separate application prior to the next substantive hearing. Where a prosecution application for an adjournment has been refused, the prosecutor will have a difficult decision whether to cross-examine the victim.

7.62 The mere fact of withdrawal should not be an automatic trigger to relax bail conditions. The parties may be reconciled, but a criminal case is pending, so the victim should not be placed in a position of interference. However, there are some cases where it would be appropriate to remove or relax bail conditions whilst still continuing with the prosecution. For example, where there has been a withdrawal before charge, but the case is proceeding in any event, as there is evidence other than from the victim.

7.63 If the court wishes to vary bail for child access, the prosecutor and the court should ask whether any other orders, particularly from the family court, are in existence and whether the victim has said anything about contact, to ensure magistrates are making fully informed decisions. The victim does not necessarily need to be involved in contact between the defendant and any children of the relationship, nor does contact have to take place at the child's home. Prosecutors should remember that establishing conditions, to make child contact permissible, could dilute the power of bail conditions.

7.64 Across the Areas there was inconsistency in the arrangements to contact victims to expedite notification of bail conditions and variations. Only a few systems were in place, under local SLAs, to ensure that victims were kept informed.

7.65 In Areas where no system is in place, prosecutors should be proactive to ensure information that a defendant is no longer in custody is communicated to the victim. Even where a system is in place, this sometimes breaks down at the Saturday courts, as there are no means of passing the information on.

GOOD PRACTICE

Ideally arrangements need to be in place to allow for the instant flow of information about bail decisions.

- **At the specialist courts, there was a domestic violence officer present, and a record was made of all the results, to notify the victims.**
- **Some individual prosecutors were proactive and informed the officer in the case where there was a change of circumstance and bail had been granted.**

Breaching bail conditions

7.66 If bail conditions are breached, the police can arrest the defendant and the court can remand the defendant in custody. Sometimes, despite bail conditions that a defendant must not contact the victim or return home, the victim contacts the defendant, or invites or allows the defendant to return home. If the defendant responds in such a way as to continue the contact, then the defendant is breaching the bail conditions. It does not matter that the victim has agreed to the contact. The defendant is responsible for complying with any conditions imposed by the police or the court, until released from those conditions by the court.

7.67 It was concerning to see cases in the file sample where breaches of bail were not always considered by the police or the CPS. In two of the Areas, police submitted files containing breaches of bail for the purposes of information only. There were many instances where there was no action taken in relation to the breach and no consideration that the breach itself amounted to the commission of a further offence. Such an approach may be viewed as justified pragmatism in the circumstances; but the ability of the police and courts to protect individuals is dependent on the authority of the court being upheld.

ACTION POINT

Police officers and prosecutors ensure that action is taken in relation to breaches of bail and consider whether additional charges are appropriate.

Binding over to keep the peace^I

7.68 Before the new Policy, there was almost a presumption that rather than a criminal prosecution proceeding, domestic violence offenders would be routinely bound over to keep the peace and be of good behaviour for a fixed period, under the restraint to pay all or some of the money set if they misbehaved. There were some examples of bind overs being accepted rather than criminal offences being pursued in the file sample. For example, prosecutors justified the use of a bind over because the defendant had no previous convictions whilst not overtly considering other important features, such as the presence of children or a history of abuse.

7.69 Conversely, we noted in our court observations that some prosecutors did not consider seeking a bind over, either as a positive last resort or in addition to an immediate penalty. There should not be automatic cases for binding over, but it should be considered as an option in appropriate circumstances. In one Area where binding over was used, the sanction hanging over the “offender” lacked teeth because there was reluctance by the magistrates’ courts to order the money to be paid if it was breached. In another Area, the practice was to prosecute cases where binding over was appropriate.

7.70 In the CPS file sample of the 418 cases, 59 (14.1%) resulted in a bind over. However, many of these were complaints following a breach of the peace, and not criminal charges.

I See Annex 3 section 9

Civil proceedings

7.71 The needs of individual victims vary and to ensure their safety, civil proceedings may be used in conjunction with the criminal law. Prosecutors should be aware of the options open to victims or other agencies, under civil procedures so that a holistic approach can be taken to safeguard and support victims. The police should always provide information about any relevant civil proceedings past, current or pending. The availability of civil proceedings does not diminish a defendant's criminal behaviour and is not generally a reason to discontinue.

7.72 Many police forces collect information about civil proceedings on their databases or maintain registers containing copies of civil orders at police stations (paragraph 2.24). This information was not consistently included in the files sent to the CPS to inform decision-making. However, where information about civil proceedings was included in the file, it was not always considered by prosecutors.

GOOD PRACTICE

We saw individual examples where a domestic violence officer advised the prosecutor about the ongoing civil proceedings, and others where the civil orders were copied on the police files submitted to the CPS.

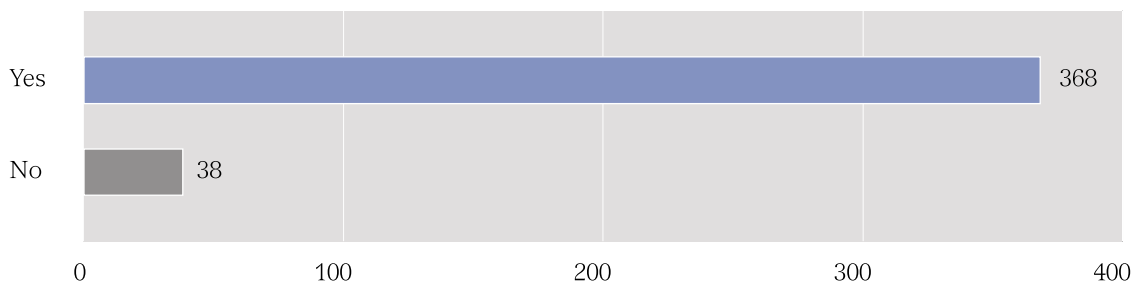
7.73 In 52 cases in the CPS file sample, police provided information about relevant civil proceedings. In 16 cases (30.8%) the reviewer considered civil proceedings, in 28 (53.8%) the reviewer did not, and in eight cases (15.4%) it was not known whether the reviewer considered the proceedings or not due to the lack of file endorsements. There were 361 cases where police provided no information about any civil proceedings. It was impossible for inspectors to determine if this was an omission or the accurate situation. It would be helpful if police, as part of the background information supplied in each case, had to confirm positively whether or not there were any relevant civil proceedings (see paragraph 2.40). There were a few instances where the civil aspect should have been considered, in view of child contact issues at the heart of the case, and this was not done.

File management

Avoiding delay

7.74 In the CPS file sample, in 368 (95.1%) of the relevant files the CPS dealt with the case expeditiously, but the remaining 38 cases (4.9%) were not as timely as they could have been.

Cases Dealt with Expeditiously



7.75 Account was taken of the fact that obtaining information and withdrawal statements necessarily take time. Issues included delay prior to the first review; requests for material that was not required; medical evidence which was not necessary to prove offences of common assault; and pursuing statements from the medical practitioner who examined the victim, when a colleague could have completed the relevant statement. Some cases were discontinued at a late stage when the statements upon which decisions were made had been available much earlier.

GOOD PRACTICE

In Cardiff there is a ‘fast track’ system for cases of domestic violence. Expediting cases can reduce the risk of victims withdrawing support for the prosecution prior to trial. When requesting information from police, the Area set target dates for responses and police complied.

7.76 In the 2002 position statements, only three Areas had local agreements to expedite domestic violence cases and four had agreements to expedite the provision of medical evidence in domestic violence cases.

File endorsements

7.77 File endorsements were of inconsistent quality and in many cases inadequate. It was often difficult to ascertain the factors taken into account at various stages of the process, whether there had been compliance with the Code and the Policy, and sometimes the actual decision made.

7.78 Initial and continuing review endorsements ranged from being extremely detailed to nothing on the file at all. The good examples tended to be where the file had been reviewed and endorsed by a specialist. This supports the practice of all domestic violence cases being dealt with by DVCs or specialists.

7.79 Court endorsements were equally variable and there was a paucity of endorsements about bail hearings. In one Area, it was impossible to find an audit trail of court events. In striking contrast to some of our Area reports, where agents had been instructed, the quality of endorsements tended to be good.

7.80 Unless records are made of decisions and actions, and factors taken into account, it is impossible to provide assurance that either the Code or the Policy has been implemented. Equally it means that the advocate will have no instructions, and work may be duplicated (see the comment at paragraph 7.58).

ACTION POINT

Chief Crown Prosecutors ensure that:

- **prosecutors make proper file endorsements are made 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.**

Prosecution duties of disclosure of unused material

7.81 The prosecution's duty of disclosure was dealt with reasonably, in line with that found in Area inspections. However, there was variable performance in relation to sensitive material (confidential material which might cause harm to an individual, often a child, or the public interest, if disclosed to the defendant). In the 79 relevant cases, sensitive material was properly dealt with in just under half the cases.

7.82 Third party material required consideration in only seven cases in the CPS file sample. In three of these it was properly considered but there were instances where it may have been relevant and was not followed up.

7.83 There were differing views about the standing of risk assessments. There are different types of risk assessment and the police are reluctant to allow the prosecutors to view them in case they are disclosed to the defence. Most of the material contained would not be disclosable, and the opportunity is lost to inform the prosecutor fully.

Quality of magistrates' court preparation

7.84 The quality and timeliness of summary trial preparation varied but good case management was evidenced on the file in three quarters of the relevant cases in the magistrates' court and youth court sample. In one Area, domestic violence cases were prioritised.

GOOD PRACTICE

Hampshire used the checklist in the Policy guidance to assist in the preparation of cases.

7.85 There was a problem in obtaining timely full files from police in several Areas. This was sometimes compounded by the absence of trial readiness checks by the CPS, and of pre-trial reviews by the court. In one of the cluster courts, cases were repeatedly adjourned to obtain full files. In another Area, prosecutors did not consider pleas at an early stage leading to cracked trials. One Area operated a separate gateway team that prepares cases for pre-trial reviews; there were no domestic violence specialists within the team, and this reduced the quality of file preparation as well as cutting across case ownership.

7.86 On the whole, external sources were positive about the CPS contribution to the efficiency of business in the magistrates' courts and joined-up working had contributed to this.

Quality of Crown Court preparation and instructions to counsel

7.87 Evidence bundles for the Crown Court were generally well prepared. In one Area the Crown Court work was highly praised in relation to domestic violence cases.

7.88 The overall quality of instructions to counsel was satisfactory; and there were examples of good quality instructions to counsel, including about the application of the Policy. One Area identified domestic violence as an aggravating feature to counsel, and another fully addressed witness issues, as well as providing full instructions on acceptability of pleas.

7.89 There was proper case management in the Crown Court file sample in the large majority of cases. External sources told us that, on the whole, the CPS made an effective contribution to the efficient running of the Crown Court and scored positively in relation to readiness for plea and direction hearings. However, in one Area, some written directions were not always complied with and often decisions were taken late in the day on whether a case should proceed.

ACTION POINT

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.

Presenting cases in court

The role of the CPS in the magistrates' courts

7.90 Apart from one Area, the representatives of other criminal justice agencies considered that prosecutors dealt with victims with sympathy and understanding and that the quality of witness care provided by prosecutors was very good. In one Area, there were general concerns about the quality of agents used.

CASE STUDY

Interviewer: Regarding the court case that is coming up, have you had any information about attending court or meeting the prosecutor?

Nancy: Yes, I have spoken to [the prosecutor]. I feel much better, you know.

Interviewer: You have got some idea of what to expect when you go to court?

Nancy: Yes. I have seen the [witness support service]. They explained everything. I have been once to the court, I got a train there.

7.91 In all the Areas visited, the victim's chosen agency, whether Victim Support/Witness Service or an organisation specialising in domestic violence issues, can be in attendance at court to provide support and guidance. The standard of victim care provided by some of the domestic violence officers (DVOs) observed was impressive. After one trial, the victim told us about the positive support she had received from the police in the four months leading up to the trial and the Witness Service on the day. The opportunity to visit the court in advance of the trial had been taken up and she had been consulted prior to bail conditions being imposed.

7.92 In another instance, the domestic violence officer accompanied the victim throughout the two-day trial. Although the Witness Service was available to her, she had chosen to receive support from the officer instead, having built a rapport through regular visits, help in securing her home, and support for her request to move as a priority by the housing body.

7.93 One Area is considering having early meetings with victims, two weeks after charge. This would involve the CPS, the police domestic violence unit (DVU) and the voluntary support agency. If this were followed through, it would be helpful to evaluate its success and to use the domestic violence co-ordinators network to disseminate the findings.

7.94 Generally, specialist or experienced prosecutors were not used for domestic violence trials, nor were they considered necessary in the cases where a witness summons was used. In two of the cluster courts visited the CPS used specialist lawyers. They were significantly better prepared and more professional than the norm.

GOOD PRACTICE

South Wales used agents trained on endorsements and conduct at court, in cases of domestic violence.

Derbyshire and Northumbria were in the process of training agents.

7.95 Conversely, we observed in another Area the untimely arrival of agents at court and lack of awareness of the Policy and issues relating to victims, when presenting cases. In the same Area, we were told that agents frequently put a reluctant victim into the witness box to explain their reason for withdrawal, prior to the case being discontinued.

7.96 In the 2002 Area position statements, only three Areas had local agreements to expedite domestic violence cases. A representative from Victim Support expanded on this theme:

“The CPS should consider ‘fast tracking’ of domestic violence cases, to reduce the time a victim is exposed to pressure and threats to discontinuance.”

GOOD PRACTICE

At one court in South Wales and parts of Hampshire, where there is multiple listing of trials, cases of domestic violence take priority where more than one trial is ready to proceed. The protocol is known and adhered to by all the agencies involved.

The role of the CPS in the Crown Court

CASE STUDY

“It is being heard at the Crown Court, but I don’t know if there is any support system. But [person] from Victim Support came and took me to see around the court and explained everything... The police have kept in touch with me all along as well, which was nice.” (Beatrice)

7.97 Where a case has been committed to the Crown Court and counsel is to be instructed, selection should focus on suitably experienced counsel prepared to play their part in witness care.

7.98 In the 2002 Area position statements, a high proportion of Areas (37) stated that the quality of counsel in domestic violence cases was satisfactory. In one Area visited, the quality of counsel in domestic violence cases was variable, but overall there was a greater use of dedicated, or suitably experienced counsel, to represent the prosecution in cases of domestic violence since the last thematic report.

GOOD PRACTICE

In West Yorkshire and South Wales specialist counsel are instructed and training sessions have been held on Policy awareness, in an effort to reduce the number of returned cases.

In Northumbria training has taken place with three sets of chambers. In South Wales some training sessions have been undertaken with magistrates and counsel.

7.99 Where briefs are returned due to the original counsel becoming unavailable at a late stage, the choice can then be severely restricted. This may result in the CPS having to accept counsel who are under-prepared and not aware of the dynamics of, or issues relating to, victims in cases of domestic violence.

7.100 In the CPS file sample of the 33 relevant Crown Court cases, in 13 cases (51.5%) the same counsel attended all significant hearings, in ten cases (30.3%) there was no consistency of counsel and in a further ten cases (30.3%) it was not possible to make a judgement from the information on the file. There were examples of the same counsel attending throughout the case, and conversely, a case where three different counsel attended over five hearings and a trial listed twice with different counsel. It is important for CCPs to keep under review the extent to which briefs in cases of domestic violence are being returned, and at what stage of the proceedings.

GOOD PRACTICE

Cardiff Crown Court does not list domestic violence cases as floating trials, with the potential benefit of reducing the number of returned briefs and enabling greater victim and witness care.

7.101 CCPs may wish to consider how to use higher court advocates (HCAs) effectively in dealing with cases of domestic violence to maximise in-house expertise.

RECOMMENDATION

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.

Specialist ‘cluster’ courts

7.102 Specialist domestic violence courts – sometimes known as “cluster courts” because they cluster domestic violence cases together – are growing in number. The first specialist court was set up in 1999. There is no statutory basis for these courts and they owe their existence to agencies working together. They facilitate the use of specialist prosecutors, and a domestic violence officer and support agency are in attendance. The Government White Paper ‘Safety & Justice’ accepts the need for the focused attention that specialist courts give to domestic violence. Inspectors observed three specialist courts in the Areas inspected and a fourth specialist court elsewhere in order to compare a wide range of models. Inspectors considered that the professionalism of prosecutors, efficient flow of information, and the support available to victims were benefits of the specialist courts. Additionally, a police constable is present at court. This is a significant positive factor as it protects and supports victims and improves the efficiency of prosecutions

7.103 Advantages cited by court users were: a specialist court focused on domestic violence as an issue instead of those cases being diluted throughout the system; cases were treated seriously with commensurate sentences; and the specialist court was used as a model for training magistrates and other agencies. In one Area it appeared that the specialist court was having a positive impact on outcomes of domestic violence cases. More information is needed for a full assessment of the advantages of these courts.

7.104 The CPS file examination, enabled comparison of the outcomes of cases going through the specialist court in one of the Areas with the outcomes of domestic violence cases for the Area as a whole. The size of the sample was small, but the information may be useful, given that very little research has been done on specialist courts. Fewer cases in the specialist court resulted in discontinuances and bind overs. There were a greater proportion of not guilty pleas in the cluster court as compared with the Area as a whole. However, a higher proportion of those not guilty pleas resulted in convictions than in the rest of the Area. From these figures, it appears that the specialist court is having a positive impact on outcomes of domestic violence cases. More information is needed for a full assessment of the advantages of these courts.

7.105 Cluster courts have been the subject of local evaluation, but no clear good/best practice has been distilled. The CPS and the Department of Constitutional Affairs have now jointly commissioned an independent review of these courts, and the findings should inform national consideration of the setting up of those courts more widely.

7.106 Developments in some States of America point to the benefits of integrated courts which combine criminal and civil jurisdiction. The same judge deals separately with both aspects of the case. Some higher courts in England and Wales have done this in individual cases, and the potential benefits and overall cost savings might merit research.

Supporting the Victim - What the CPS Can Do

8.1 The Policy is potentially a strong tool for increasing public confidence in the work of both the CPS and the CJS as a whole. CPS Policy Directorate provides national guidance, and the national network of domestic violence coordinators carry forward particular issues and themes at a local level. Nevertheless, as one Domestic Violence Project Development Officer pointed out:

“I think the CPS Policy is excellent, as with the special measures for vulnerable and intimidated witnesses. However, they must be applied to work. Also, their successful application needs to be published, and promoted. If the CPS is to be seen to be including, and inclusive, of the local community, the local community will be more trusting of the processes it uses.”

8.2 The Policy had a public launch, which was attended by key national support agencies, many of whom had been involved in the consultation process. Inform and CPS News each carry regular articles on domestic violence. Some, CCPs and Area coordinators have given interviews to local media about the national Policy and local initiatives. One Area coordinator had given an interview to the local police newsletter, but greater use could be made of tapping into regional police publications.

8.3 Publicising success in bringing domestic violence offenders to justice could improve public confidence in the CJS in general, and encourage more victims of domestic violence to come forward. Overall, local initiatives are making headway, but progress is inconsistent, as it is driven by individuals and is not coordinated, and at present the only data on outcomes is based on short term monitoring.

Keeping victims informed

8.4 A representative from a City Council said:

“Keeping victims and witnesses informed is critical to maintaining confidence in the system, and ensuring effective co-operation. Any mechanisms that can increase this level of understanding would be of value.”

8.5 The Policy is focused on the victim’s priorities: safety, support and information. From the responses given to us by specialist workers and agencies, the provision of information is indeed a victim’s priority.

8.6 The provision of information is crucial to a victim's safety: victims want information about bail conditions, and what to do if bail conditions are breached, or are no longer in place because the case has ended. The Policy includes a commitment to work with the police and the courts "to ensure that the victim/witness is kept informed, either by the police or by us, of any change to the bail conditions or custody status of a defendant." Some Areas' service level agreements provide for the notification of bail conditions to victims, but timeliness is an issue. In other Areas, domestic violence officers or support agencies at the specialist courts update victims about their cases.

8.7 Victims also want information about the progress of a case – for example, why a trial was ineffective – and case decisions. The DCV scheme builds on the CPS commitment to explain decisions to alter a charge "substantially". However, it was concerning to find that victims in cases where the CPS considers the sentence unduly lenient are not automatically informed of the action by the CPS. Instead, they are only contacted after the Attorney General has confirmed that he will make an application about the sentence.

CASE STUDY

Following a series of attendances by the police the perpetrator was arrested and remanded in custody, bailed to a hostel and after a couple of weeks returned to his home to await trial. Agnes was informed verbally of the conditions by the police, but was unclear about these. It would have been better to have the information in writing.

***"I don't know. The officer came out three weeks ago ..and I'm pretty sure she said he wasn't on bail conditions. But he obviously thinks he is. So I really don't know whether he is or not."* (Agnes)**

8.8 Another common concern expressed on behalf of victims was the lack of information about the CPS in general and the Policy in particular. Many agencies suggested that the CPS should raise its profile in local communities and that the Policy itself should be available in libraries and community centres. It was also suggested that information about the CPS be available in different languages. Great care was taken to write the Policy in plain English so that it would be accessible to victims. It is already available on the CPS website, but should be distributed more widely amongst local communities so that it is available to the victims for whose benefit it was written.

Victim personal statements

8.9 The provision of information by victims is also important. The victim personal statement (VPS) scheme was introduced to allow victims to describe how the crime has affected them, and it can include the victim's views on the defendant being granted bail. The scheme should bring victims into the 'loop' at the start of a case, but it was troubling to see the low number of victim personal statements on the files.

8.10 The guidance note for practitioners from the Home Office states that:

'The CPS will receive the victim personal statement with case papers from the police ... (it) will be used in connection with cases where prosecutors make representations to the court in relation to bail; should be considered when the prosecutor reviews the case papers in accordance with the Code for Crown Prosecutors; inform decisions about the strength and credibility of evidence and the suitability of charge'

8.11 It is the duty of the police to obtain the VPS. It was clear from the CPS file sample that this information was rarely sought from the victim, and neither were prosecutors requesting statements where relevant. Therefore, the benefits of using the VPS to inform bail decisions or the need for special measures are not maximised. There was only one good example of a VPS being used to address the issue of bail for the first hearing.

8.12 For the most part, information about the VPS was not included with the file. Prosecutors could not tell if the scheme had been offered to victims or whether it had been declined. This information was usually put on the back of the original statement which was not copied for the CPS and it was not highlighted in the police report (MG6). Of the 414 relevant cases 108 (26.1%) had VPS's of reasonable quality but all the rest were of no benefit, being either of poor quality or non-existent.

8.13 The absence of VPSs is compounded by the poor quality of file endorsements and the lack of understanding of how the statements should be used. Of the 62 convicted cases where there was a VPS, in only 18 (29%) were the statements put before the court. In eight cases (12.9%) they were not used, and in 36 cases (58.1%) it was not possible to discern whether they were used or not.

ACTION POINT

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.

Direct communication with victims

8.14 The Victim’s Charter (June 1996) commits the police to keep victims informed of significant developments in the case. In particular, the police should inform the victim if someone has been caught, cautioned or charged; about any decision to drop or alter the charge substantially; the date of the trial; and the final result. Under the direct communication with victims initiative (DCV) the CPS now informs the victim directly of any decision to drop or alter the charges substantially.

8.15 Different systems range from a victim information bureau (VIB) run by caseworkers and support staff to individual lawyers sending out letters in their own cases. Some DCV co-ordinators tracked cases and chase outstanding letters. In one Area, there was reliance on the commitment of an untrained member of staff to ensure letters were sent to victims.

8.16 There were many good examples of letters where the scheme was used correctly. Some letters, although written in a standard format, were carefully worded, explanations were easily understandable by the recipients, and specific details about why the case was dropped were added, making the letter more relevant to the recipient. Most cases where a DCV letter might be required were identified, but the quality of the letter sent, and indeed whether a letter was sent were more problematic. Of the 216 relevant cases in the CPS file sample, in only 94 (43.5%) was it clear that the scheme had been used correctly.

CASE STUDY

“They decided to drop it the last time... I don’t know why they decided to drop it... I don’t know who dropped it. ... I didn’t get told.” (Zoe)

8.17 There were instances where letters were sent after a charge was amended, but no further letter was sent when the case was subsequently discontinued. There were several instances where the file was endorsed 'no victim letter necessary – I have spoken to the victim personally'. It is not adequate to explain to the victim at court when lesser pleas are accepted, but a letter may not need to go into great detail if the victim has instigated a discontinuance.

8.18 Quality was not assured through management checks. This was apparent from some of the letters seen. There were some frequent mistakes, for example:

- consistently not endorsing 'private and confidential';
- poor construction, grammar and punctuation;
- repeatedly 'cutting and pasting' the same errors;
- use of jargon-laden language which was unlikely to be understood by the lay recipient;
- lack of reasons for decisions so that letters seemingly informed complainants of arbitrary decisions;
- an impersonal approach;
- a standard form approach if written by VIB staff and not the lawyers in the case;
- long recitations of the facts, without providing an adequate explanation of the decision;
- little mention of support groups, or enclosure of leaflets that would assist; and
- no advice to contact the police in case of any further problems, where victims needed reassurance that they would not get a bad reception having retracted on this occasion; and
- letters not retained on the files.

8.19 Individual poor examples included the following:

- a letter sent to a 14 year old girl which failed to communicate in a clear understandable style;
- use of brusque tone, in effect reprimanding the victim for failing to attend one trial, and giving this as the reason for not proceeding on another and not making any reference to support groups or the police; and

- the victim wrote to CPS requesting that proceedings be discontinued; the CPS did not reply, and made no reference to this five weeks later when notifying the victim of the upgrade of the charge.

8.20 Writing to victims who are not fluent in English is a problem that the CPS may need to address. Individual cases may be resolved by police assistance.

8.21 The domestic violence leaflets produced by Policy Directorate have been distributed to the Areas and were being used, or about to be introduced, at the time of the inspection visits. These should be sent out as an addition to a good letter not in place of it. Some Areas were already sending out other leaflets with the letters, detailing sources for support and help.

GOOD PRACTICE

In Derbyshire and Northumbria there was a direct line for victims and details were sent out with the DCV letter. This enabled victims to raise queries and to get an immediate response.

CPS Northumbria intends to expand the VIB after the introduction of the charging scheme, to include greater witness care aspects; including contacting victims where they retract and the case is to proceed against their wishes and notifying victims in all cases of the charges on the Crown Court indictment.

Special measures

8.22 Special measures to help vulnerable and intimidated witnesses give their best evidence were implemented by the Youth Justice and Criminal Evidence Act 1999. These include video-taped evidence in chief, videotaped cross-examination, evidence by television link, evidence in private, screens, removal of wigs and gowns, intermediaries and aids to communication. Not all these measures are yet available – the implementation of special measures has been staggered, although courts may use inherent powers to provide, for instance, for the use of screens.

8.23 There are currently no special measures for intimidated witnesses in the magistrates' courts. In the Crown Court, intimidated witnesses may use screens, give evidence by video link, give evidence in private and request the removal of wigs and gowns. The lack of special measures for intimidated witnesses in the magistrates' courts is a lost opportunity to help victims of domestic violence.

8.24 For vulnerable witnesses in the magistrates' courts, the only special measures available are video-recorded evidence-in-chief and evidence by video link. But these are only for child witnesses in cases involving sexual offences, offences of violence, including threats of injury and cruelty. For all vulnerable witnesses in the Crown Court, the special measures available are screens, video link, evidence in private, video-taped evidence-in-chief, aids to communication and removal of wigs and gowns.

8.25 There are plans to pilot use of intermediaries in the near future.

8.26 The revised CPS Policy paragraph 4.3 states:

"If it is necessary to call the victim, we will consider all options available to us to help victims give their best evidence in court."

8.27 In the CPS file sample, of the 38 cases where special measures would be applicable, on only eight occasions, (21.1%) were they considered and/or used, and in 26 instances (68.4%) they were not. In a further four cases (10.5%) it was not possible to tell due to the poor quality of file endorsements. Of the full sample of 415 cases, there were 377 cases (90.8%) where the measures were not applicable; a significant proportion of these were cases in the magistrates' courts where they simply are not available.

8.28 Prosecutors are responsible for identifying that a witness may be eligible for special measures. However, on many occasions information about vulnerable and intimidated witnesses was not passed to the police, who in turn did not inform the CPS. Consequently, opportunities to apply for special measures in appropriate cases were missed. In one Area, 'vulnerable' witnesses were identified but only in a general sense. One Area did not appear to be using special measures at all, and another not for child witnesses at the magistrates' courts, albeit there were very few such cases.

GOOD PRACTICE

One Area has a special measures protocol with the police whereby victims/ witnesses who may require special measures are identified at an early stage by the officer in the case. In all full files, a form CID3 is completed. This form has a section requiring the officer to carry out an early special measures assessment.

8.29 Special measures are being used more frequently in the Crown Court. In some Areas, special measures are not being used enough; elsewhere there is a ‘blanket’ approach, with an application for special measures in every case where there is a qualifying witness. (This observation relates to all casework, not specifically to domestic violence).

8.30 There were no examples of special measures meetings attended by vulnerable or intimidated witnesses, the CPS lawyer, caseworker and counsel.

ACTION POINT

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.**

Support for victims and witnesses

8.31 The CPS can ensure that victims are aware of Victim Support, and that witnesses are referred to the Witness Service (see Chapter 10).

Learning to Improve

Governance in the CPS

The domestic violence co-ordinators' network

9.1 A national network of CPS domestic violence co-ordinators (DVCs) was set up in November 2001, to help implementation of the revised CPS Policy, to address problems, and to identify and share good practice across the 42 CPS Areas. The DVCs keep in regular contact with each other through e-mails, the CPS intranet Bulletin Board, and local meetings. The full network has met three times since formation and has been a source of information exchange on domestic violence issues including training, inter-agency protocols, and live case issues. The network facilitates a bridge between CPS Headquarters and the Areas and raises Area initiatives to national and ministerial level.

The role of the domestic violence co-ordinator

9.2 The Area DVC should have a strategic role and, in one Area, the DVC was part of the senior management team. The DVC should assist CCPs to implement the Policy effectively and provide regular input to Area business planning and performance management.

9.3 To be fully effective, DVCs' tasks should include strategy; acting as a conduit for information to the management team, external agencies and specialists; raising awareness in the Area; encouraging greater engagement in the community; and ensuring a higher public profile for the CPS. It may assist the Areas if the DVC job description was available on a national template. The position of DVC should be rotated on a regular basis to relieve the burden on some individuals, provide opportunities for others, and facilitate sharing of skills and knowledge.

9.4 The co-ordinator should inform joint performance management with police through monitoring, and take responsibility for bringing this to the attention of local and Area managers, so they may act on the results. To be effective, there has to be recognition of the strategic value of the DVC, who in turn requires a degree of authority and access to management information.

9.5 The Area management team needs to ensure that performance information is up-to-date and that any external consultation is acted upon. To achieve this, Areas may wish to consider placing domestic violence as a standing item at the management team meeting, and inviting the co-ordinator to attend as a co-optee as often as is necessary.

GOOD PRACTICE

In Derbyshire the domestic violence co-ordinator was allotted half a day each week to undertake domestic violence duties, was credited for additional out of hours domestic violence work, and the allocation of court files was accordingly reduced.

The role of the 'specialist'

9.6 CPS Areas also have domestic violence specialists with local responsibility for cascading the Policy and information, providing assistance to teams and units and attending local inter-agency meetings. In the Areas visited, the roles varied greatly. Numbers will vary depending on the size of the Area. In one Area, the whole burden fell on the DVC whilst, in another, the DVC had a very light role as the specialists had taken on the commitment at local level.

9.7 Every lawyer should have access to advice from the domestic violence specialist. Specialists should be experienced lawyers with awareness of the dynamics of domestic violence issues, who have undertaken some formal training to develop expertise.

9.8 Various approaches were noted during the fieldwork visits. In one Area, domestic violence files were allocated and reviewed by all lawyers, regardless of experience and training, and this was reflected in the variable quality of review and case management. In another Area, at one time the DVC reviewed all files until it became apparent that this was overburdening one person and cases were then dispersed amongst the specialists.

9.9 Work needs to be appropriately apportioned so that specialists do not become over-burdened. In one Area, there was only one specialist, who was also the specialist for other key CPS initiatives. It was hard to see how one person could do justice to this myriad of roles.

9.10 The findings of the review are that domestic violence cases are handled significantly better by specialists than by generalists. Care needs to be taken to ensure that a specialist is responsible for handling a case from beginning to end, albeit this provides problems in relation to pre-charge advice or initial review.

9.11 There is no reason why, given proper training, every lawyer should not be fully competent in domestic violence cases. This could then be built upon and thereby truly mainstream domestic violence, because of the volume and range of offences. Specialists would still be needed to act as local co-ordinators linking in with the Area DVC.

The relationship between the area co-ordinator and the specialists

9.12 There should be strong links between the Area DVC and the specialists. Regular meetings or exchanges of information, both internally and externally, would improve consistency across the Areas and allow for dissemination of learning points.

9.13 In one Area, there were quarterly meetings between all the specialists who attend the local Domestic Violence Fora; in other Areas, there were no regular meetings; and, elsewhere, they had never met and so the specialists were unaware that an Area service level agreement was imminent.

RECOMMENDATION

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.**

Training of CPS prosecutors

9.14 There is no national training package available, although one has been proposed and is planned for delivery by 2005. Some Areas have designed their own domestic violence training package. These packages, and other material prepared by the Policy Directorate, has been made available to the Area co-ordinators through the network.

9.15 Lawyers' induction training includes a short section on domestic violence, which raises key points and draws attention to the Policy. Some Areas provide further training on domestic violence to lawyers and caseworkers, but elsewhere there is little formal training.

GOOD PRACTICE

Northumbria runs a one-day training course that is compulsory for all lawyers, and some caseworkers also attend. This is a comprehensive package produced by the Area co-ordinator. Support agencies, the police and the probation service are involved. The course raises awareness of domestic violence issues as well as the Policy and practice. This Area is also involved in taking training to external groups, including counsel and special measures training is given to the judiciary.

9.16 Domestic violence specialists in one Area had produced material for a local training event, but the training material had not been shared with other offices, nor had the event been repeated.

9.17 One Area had designed a training package and were about to pilot it. The training package is forward-looking and contains information covering the civil and criminal overlap, dealing with non-molestation and occupation orders. It makes good practical use of the Centrex police training materials on domestic violence.

GOOD PRACTICE

In Hampshire, one office holds a resource file which the domestic violence specialist continually updates, containing all relevant e-mails, Policy, case law, casework bulletins and media events. This ensures all staff have access to up to date information, even when the specialist is unavailable.

9.18 Area co-ordinators should be responsible for organising training perhaps across family groups of Areas. All staff would benefit from existing domestic violence awareness training. Joint training, with support agencies and the police, has already begun in some Areas.

RECOMMENDATION

- **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.**

Performance management

Criminal justice reforms

9.19 Over the past two years, the government has developed the agenda for reform of the criminal justice system. One of the recommendations flowing from Lord Justice Auld’s review of the criminal courts is that the CPS will become responsible for providing advice to police on charging. A main priority for the programme of reform is to “rebalance the CJS in favour of the victim and the community, so as to reduce crime and bring more offenders to justice”. The reports’ recommendations and the identified good practice are designed to support this priority in relation to domestic violence. It is envisaged that the recommendations will be taken forward by Chief Constables and Chief Crown Prosecutors in conjunction with other chief officers of local CJS agencies who make up membership of the Local Criminal Justice Boards in each of the 42 areas. Those boards are charged with the delivering of public service agreement targets in relation to narrowing the justice gap, by increasing the number of crimes for which an offender is brought to justice, and reducing the number of ineffective trials. Secondly, they have the broad aim of improving the level of public confidence in the CJS, including increasing that of ethnic minority communities, and increasing year on year the satisfaction of victims and witnesses, while respecting the rights of defendants. Domestic violence offences have a significant impact in relation to all these targets.

9.20 The scale of domestic violence means that it matters to many local people. In order to make real and sustainable improvements in public confidence, Local Criminal Justice Boards need to develop a strategic approach that links with other partnerships.

9.21 Whether it is the Local Criminal Justice Board, or the individual police force or CPS Area, there is a substantial challenge in improving the investigation and prosecution of offences of domestic violence. Whilst domestic violence issues were high on some agendas, there was a clear lack of performance management in relation to domestic violence offences. Managing performance is about practical ways to improve how things are done in order to deliver better quality services to local people and to improve accountability. Managing performance is not just about information systems, targets, indicators and plans; it is also about getting the right focus, leadership and culture in place. There are some key issues in developing effective performance management arrangements:

- focus and strategy;
- defining and measuring achievement;
- reviewing and learning to sustain improvement; and
- managing activities and resources.¹

9.22 At present, agencies lack clarity as to what they wished and needed to achieve in relation to domestic violence offences. There is also a lack of clarity as to performance measures in relation to offences of domestic violence; the different definitions of domestic violence do not assist in this respect. The current inability of the CPS to identify the number or outcome of offences involving domestic violence is to be remedied with the development of its integrated case management system (COMPASS). In the meantime, Areas and the CPS nationally are reliant upon monitoring exercises. However, the domestic violence monitoring exercise conducted in December has yet to be published. Furthermore, at the time of the inspection, Areas were making little use of information they had gathered. Performance measures that focus on outcomes are valuable, as they indicate whether objectives are actually being achieved. These should relate to reducing levels of attrition and increasing the numbers of offenders brought to justice. The purpose of measuring achievement is to help to manage and improve performance which goes back to identifying practical ways to improve how things are done in order to deliver better quality services. It also enables Areas to report on their performance to local stakeholders, thus enhancing accountability and improving public confidence. Achievement will also raise the sense of purpose and morale in staff and prosecutors who deal with these cases.

¹ We refer to the Audit Commission report 'Local Criminal Justice Boards – Supporting Change Management' published June 2002

RECOMMENDATION

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.

Performance management in the CPS and learning from experience

9.23 CPS managers measure performance and quality of casework through dip sampling of files and domestic violence cases are part of the CPS casework quality assurance system. Nevertheless, it is apparent from the CPS file sample that the Policy is not being enforced through the performance management systems in place and as a result, breaches of the Policy regularly occur.

9.24 In the Areas visited, not every member of staff has seen the Policy Guidance and some have not read the Policy, although it has been made available. In addition, managers failed to make links between breaches of the Policy and awareness and training. Coordinators are not compliance officers, but they can provide assistance and support for managers responsible for enforcement.

GOOD PRACTICE

In Hampshire some managers had taken a proactive approach by using the performance appraisal system to include objectives relating to awareness of the Policy.

CPS monitoring

9.25 The Policy contains a commitment to monitoring the way the CPS deals with cases of domestic violence and to publishing this information. In December 2002, CPS Policy Directorate coordinated a one-month monitoring snapshot in a new form, instead of an annual return covering a three-month period. The results have yet to be published, and indications are that they are unreliable. One Area co-ordinator

undertakes dip sampling of domestic violence files and has shared evaluation with other agencies under two local service level agreements. However, this was not linked to the dip sampling undertaken by managers for quality assurance purposes. There needs to be a dialogue between managers and co-ordinators to enable lessons learned to be put into practice.

9.26 The purpose of monitoring is to identify cases and to record outcomes and issues arising. This should enable an assessment and emphasis of performance and help identify any trends so that resources can be targeted appropriately. It can also be used as a multi-agency link where appropriate.

9.27 Ultimately, this information should be used to improve the service given to victims and thereby increase confidence in the criminal justice system. However, it was apparent that many lawyers and caseworkers did not appreciate why monitoring takes place; it was seen as 'just another' management exercise in monitoring for its own sake.

9.28 CPS Policy Directorate has encouraged Areas to monitor continuously and has offered a facility to collate and analyse findings. In the fieldwork visits, monitoring was patchy, with some encouraging aspects. However, some Areas were awaiting the implementation of COMPASS.

9.29 In one Area, monitoring has been rolled out and is used at one office to share information with the local domestic violence forum. The monitoring is very basic; however, it was encouraging to see. Also observed was a system whereby information collated at one office is used to share results with the main support agency – this agency attends the cluster court to provide support for victims. Another unit visited has a case progression officer who records where there is evidence other than the victim, which is a meaningful collation of data.

9.30 Most Areas have some form of adverse case analysis in order to learn from experience and feedback is given either to the team or to individual members of staff. However, some systems for adverse case analysis excluded cases where witnesses failed to attend court, whereas this is a common reason for failure of domestic violence cases and an aspect where lessons must be learned and action taken to reduce these failures.

9.31 Complaints are capable of providing a check on compliance with the Policy, but complaints were not flagged up as domestic violence cases, and a mechanism is required to provide lessons learned to the Area co-ordinators.

9.32 Areas indicated that the most common way of learning from experience was through team meetings and the analysis of failed cases. Additionally, there needs to be a strategic link to enable unit heads to feed domestic violence issues, arising from complaints and adverse findings, to the Area co-ordinators, so they can play a more effective role in disseminating learning points.

GOOD PRACTICE

- **One Area has a domestic violence notice board.**
- **One unit in CPS Hampshire has domestic violence as a standing item on the agenda for team meetings.**

9.33 Police keep domestic violence statistics and there is particular scope for joint analysis of this by police and CPS coordinators/specialists. This individual and joint analysis of statistics, adverse cases and complaints should be a part of the joint performance management we recommend at paragraph 9.22.

Getting the Best from Partnerships

Local partnerships

10.1 Criminal proceedings are just one element of a holistic approach to domestic violence. Apart from the police and CPS, other agencies including refuges, women’s support, advocacy and outreach projects, the wider voluntary sector, local authority departments (housing, social services, education), the health service and the Probation Service all have roles to play. A great deal of progress has been made in relation to partnership working in the area of domestic violence – but there is still a long way to go, particularly in terms of focus and effecting sustained change. As already highlighted, whilst the last review of strategies showed that 86% of partnerships prioritised domestic violence, only 7% had set measurable targets for reduction.

10.2 In addition, commitment needs to be followed through in practical ways. As one professional explained:

“We were astounded that the CPS have a large variety of leaflets, regarding various issues, which we were not even aware of, having worked with them for many years. I think the public have no idea who the CPS are, and what they do. They really should get out more and publicise. Even agencies that work alongside them are not informed about performance, this should be made more widely available.”

10.3 And, as one Domestic Violence Forum Chair pointed out:

“Half a dozen agencies are dealing with one family. If you put sticking plasters on it, then it doesn’t deal with the problem”.

The partnership between the police and the CPS

10.4 The police and CPS are committed to working nationally and locally within a multi-agency approach to address domestic violence both generally and case-specifically. A good partnership exists between the police forces and CPS Areas at higher strategic levels, but it was clear that the CPS Policy had not been disseminated to frontline officers. The impending joint inspection had prompted a mutual heightened awareness in one Area on the part of both CPS and police about the CPS domestic violence Policy and existing police guidance.

10.5 There were many examples of good working relationships, but no formal structure for these. In some Areas, details of specialist domestic violence contacts in the police and the CPS were not shared. Sometimes staff in the same building did not know there was a domestic violence specialist or officer on site; let alone who that person was.

10.6 Regular meetings between the police and CPS ‘specialists’ at operational level would provide an opportunity to note developments, learn lessons and deal with any processing issues as they arise. Where the police and CPS both attend the same domestic violence forum, there is an opportunity to meet beforehand, to deal exclusively with their domestic violence interface issues. A benefit of co-located operational units could be joint training of frontline officers and prosecutors. One police force runs a training day, but this opportunity has not been used to involve CPS on either general issues or domestic violence.

10.7 Some Areas had service level agreements with the police, which included evidence gathering and this practice is encouraged.

GOOD PRACTICE

There were some good examples of improved partnership at the administrative level:

- **In West Yorkshire, a case file information and pro-forma advice requests were used.**
- **In Northumbria, the TQ1 (a CPS response on file quality used within joint performance management), which was attached to the abbreviated file, had been adapted to produce a TQ2, and was immediately returned from court to the officer for action. This significantly reduced the delay in obtaining essential information or material for the case. It also provided an early quality control measure.**

ACTION POINT

Contact details for both police and CPS domestic violence specialists should be readily available to all police and CPS staff.

Domestic violence fora

10.8 A member of the National Probation Service pointed out:

“The CPS is to be congratulated in not only adopting a domestic violence Policy, but in some of the work it has already embarked upon. Like most agencies it needs to make considerably more progress across a wide range of fronts, for example, its contribution to Domestic Violence Fora, its inter-agency relationships and its performance in the courts, in order to build on the start it has made.”

10.9 All Areas have Domestic Violence Fora as part of the holistic approach to addressing domestic violence, to provide victims with the best possible service. The fora are attended by representatives of agencies whose work involves domestic violence. The fora have a membership of statutory, non-statutory and voluntary representatives, which usually include: Women’s Aid, housing departments, social services, the health service, Victim Support and others, as well as criminal justice agencies.

10.10 Overall, there was very positive comment in relation to police and CPS representation and involvement in Domestic Violence Fora. Any criticism related primarily to the level of representation, in that it was felt important that representatives should also have the authority to make decisions. This extended to all organisations involved.

10.11 In some Areas, the multi-agency approach to addressing domestic violence is somewhat hit and miss; the fora were dependent upon personalities and the level of participation of the agencies. In some Areas, real benefits were seen where multi-agency service level agreements had been created and put into practice. This achieved a practical benefit and distinguished effective groups from ‘talking shops’.

10.12 The CPS Area co-ordinator and other CPS domestic violence specialists should attend the various fora, at regional and local level. This could increase the expertise of specialists and raise the profile of the CPS. Many co-ordinators and specialists have given presentations on the Policy at the fora meetings. Given that support agencies attend the fora, there is an opportunity to communicate indirectly the Policy to victims of domestic violence.

Information sharing

10.13 The sharing of information between agencies working in the domestic violence field may often assist in the successful prosecution of an offender. It may also assist in the care and treatment of victims, witnesses and children in a family that experiences domestic violence. However, there are legal restrictions on the sharing of personal information.

10.14 The disclosure of the information is governed by several legal considerations: the existence of a lawful authority to make the disclosure, the common law duty of confidentiality, the Data Protection Act 1998 and the Human Rights Act 1998. These legal issues are complex and the police, CPS and voluntary agencies share concerns about the uncertainty surrounding the lawfulness of information sharing. As a result, different approaches have been taken. The safety of the victim ought to be the primary concern of all the agencies.

Support to victims

10.15 There were variations in practice between police forces in the referral of victims to Victim Support. A national protocol has now been agreed by ACPO and Victim Support (see Annex 6) for the referral of victims, and forces need to ensure that officers are aware of this and are implementing it.

10.16 Some prosecutors check that practical assistance or support for victims has been given, once they know that the case is to be contested. Others check with the police what support has been provided when a victim indicates an intention to withdraw the complaint.

Support to witnesses

10.17 For Crown Court trials, many CPS Areas provide the local Witness Service with a copy of the list of witnesses. This enables the Witness Service to anticipate the numbers attending and to provide appropriate support. A new protocol is being finalised, and this should help ensure more consistent passing of information.

10.18 For magistrates' courts trials, the CPS requests police to inform (warn) the witnesses whose attendance is required. Some CPS Areas provide the local Witness Service with a copy of the list of witnesses so that they can anticipate the numbers attending. This practice is not, however, universally endorsed.

10.19 Proper witness care is fundamental to ensuring the effectiveness of the trial process. The future appointment of a Victims and Witness Commissioner, with a Victims Code of Practice supervised by the Parliamentary Commissioner for Administration with a statutory powers to investigate complaints, signals the determination of the Government that a ‘first class’ service should be provided to victims and witnesses. In the meantime, an inter-agency protocol that clearly sets out the roles and responsibilities of each agency towards victim and witness care, should be agreed in each CJS Area. In addition, central guidance is needed on the provision of information to the Witness Service and it is understood that this is near agreement.

RECOMMENDATION

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.

Case conferences or discussions

10.20 Agencies involved in the handling of domestic violence issues increasingly work together. It is important that the CPS plays an appropriate part. Traditionally, the CPS has been perceived as not wanting to be involved, but their presence at Domestic Violence Fora is on the increase and welcomed by those concerned. The CPS will benefit from discussions with other agencies about its Policy and performance, but it will need to be cautious about use of resources and about discussing individual cases during such meetings.

Action Following This Report

11.1 The findings of this review and its conclusions of the joint inspection team have already been summarised in the executive summary. For this report to be effective, it is recognised that action points based upon the recommendations and good practice identified must be clear and practicable. A holistic approach is needed to tackling domestic violence and the Government's forthcoming legislation will add fresh impetus to addressing domestic violence.

11.2 In the meantime, police and CPS, acting individually, jointly and within the Local Criminal Justice Boards, can take action to improve the investigation and prosecution of cases involving domestic violence.

11.3 The individual recommendations and action points are, therefore, set out under general heading of responsibility. In addition, a version has been produced which it is hoped will help individuals focus their efforts and improve the performance of their organisation. A copy may be found at Annex 11. This summarises the necessary action identified.

11.4 The joint inspection team will ensure that issues are followed-up in individual and joint cross-cutting inspections. In addition, it may be appropriate for there to be an inter-agency/departmental group which can monitor progress and report formally to Ministers.

Methodology

1. The purpose of a thematic inspection is to paint a picture about how a given subject is dealt with throughout England and Wales. This inspection considered the practice and performance of both the police and the CPS, based on evidence drawn from a number of police forces/CPS Areas. (Police forces and CPS Areas are coterminous, save CPS London, which covers both the Metropolitan and City of London Police).
2. HMCPSI had considered domestic violence of casework in its report on Cases Involving Domestic Violence (Thematic report 2/98). That report contained a number of recommendations to improve performance throughout the CPS. Data in relation to cases involving domestic violence was also available from the HMCPSI Thematic Inspection on the Justice Gap (January 2003).

Position statements

3. In November 2001 the CPS published its revised Policy for prosecuting cases of domestic violence. In anticipation of the joint thematic inspection, and to provide a benchmark for arrangements in Areas for handling domestic violence cases, HMCPSI requested each CPS Area to provide a position statement on how it is taking forward the revised Policy and what progress has been made in implementing the recommendations contained in the thematic report.
4. Area responses were collated and analysed. The composite findings were sent to the Solicitor General on 12 April 2002. Where relevant the key findings will be referred to in the body of the report. HMCPSI invited each Area to update their position statements, as appropriate, prior to the fieldwork visits to the six Areas chosen as case studies.
5. A questionnaire was sent out to all forces for the purpose of developing a service – wide assessment of the response to domestic violence. This included scrutiny of force policies and supporting data relating to performance.

Selection of sites

6. Six police forces/CPS Areas assisted in the review work: Derbyshire; Hampshire; London (Metropolitan Police); Northumbria; South Wales; and West Yorkshire. These forces/CPS Areas represented a cross-section, and provided a mix of urban and rural

environments from which to draw evidence. Files from the sites were examined, and all six forces/CPS Areas were visited.

Scope of the inspection

7. The inspection involved a detailed analysis of police and CPS practice and procedures, as well as the manner in which cases are handle and presented at court.

The following approach was used to carry out the review:

- a research of literature;
- analysis of the position statements from all the CPS Area, and, updated position statements from the six CPS Areas visited;
- analysis of the questionnaires and policies from all the police forces;
- discussion about methodology and key issues with a project reference group;
- discussion with a multi-agency focus group (these organisations are listed at Annex 10);
- analysis by HMIC of 480 incidents from six police forces;
- examination and analysis by HMCPSI of 418 advice files and prosecution files;
- visits to six police forces/CPS Areas to carry out structured interviews with key personnel;
- interviews with, and questionnaires sent to, local representatives of criminal justice agencies;
- interviews with, and questionnaires sent to, special interest groups;
- observation of trials and checking of case files;
- discussion about the key issues, the revised CPS Policy and Guidance, and any available data with CPS Policy Directorate; and,
- briefing and debriefing formally built into each visit.

8. Two Area Domestic Violence coordinators from CPS Northumbria and CPS Thames Valley joined HMCPSI on secondment to assist with the review. The Chief Inspectors are grateful to the Chief Crown Prosecutors for facilitating the secondments, and for the effort and assistance provided by the secondees.

9. HMCPSI also invited suitably informed members of the public nominated by national organisations to join the process as lay inspectors, the Chief Inspectors are grateful for their contributions.

10. Material collected from victims as part of the Northern Rock project, 'Attrition in Domestic Violence Cases Entering the Criminal Justice System' (2003) was used as case studies, to illustrate issues arising during the review. The Chief Inspectors are grateful to the team of Marianne Hester, Jalna Hanmer, Susan Coulson, Maria Morahan and Amina Razak, for their contribution.

Project reference group

11. The inspection benefited from the advice of a project reference group (PRG) comprising individuals with particular expertise and knowledge in relation to the investigation and prosecution of offences involving domestic violence. The Chief Inspectors are grateful for their valuable contribution to the inspection. A list of individuals is set out at Annex 8.

12. The PRG assisted at key stages of the inspection and in the finalisation of the report.

Literature review

13. Centrex was commissioned by HMIC to undertake a review of previous research into the investigation and prosecution of offences involving domestic violence. The 'literature review' considered research undertaken in England and Wales as well as international research where appropriate.

14. The work is very informative and was considered by the team undertaking the formal inspection. It does not, however, form part of the formal findings. The results of the review have been published as a separate document, copies of which can be obtained from HMCPSI.

File examination

15. The six police forces were each asked to provide 80 domestic violence incidents that had been reported in October 2002. HMIC tracked the response, recording and investigation processes for each. This sample is referred to as the police file sample.

16. HMCPSI examined 418 CPS advice and prosecution files finalised in March 2003. The numbers were compared to the Area returns in the one-month snapshot monitoring carried out by CPS Policy Directorate in December 2002. The composition of the file sample is set out at Annex 5. This sample is referred to as the CPS file sample. Where the cases raised doubts about the police contribution, files were referred to HMIC for further scrutiny.
17. The analysis of records and file examination provided a comprehensive database as a resource to the inspection.

Interviews and questionnaires

18. Police and CPS staff at all levels were interviewed at the six sites visited, either individually or in small groups.
19. Local representatives of other criminal justice agencies and some representatives of special interest groups were interviewed in order to seek the victim's perspective. Representatives of some local community groups were interviewed in order to obtain the multi-agency perspective. In some instances questionnaires were sent out to the representatives shown above.

Workshop

20. Representatives of a number of local and national organisations involved in domestic violence issues were invited to attend a one-day workshop hosted by HMIC.

Court observation

21. Inspectors attended the magistrates' courts and/or the Crown Court in all six Areas visited to observe the handling of cases of domestic violence, the conduct of domestic violence trials and the operation of the specialist 'cluster' courts.
22. Where appropriate, victims at court were interviewed by lay inspectors after their case had concluded, to seek their views and experiences.

Structures

Local structures – police

1. Modern policing is driven both by operational demand and by prioritised targets determined both centrally and locally. In meeting what are often competing agendas, most Forces have devolved resources and accountability for delivery to local tiers of management, typically basic command units (BCUs). In doing so, Forces have struggled with the dilemma of how to best manage those functions which do not directly contribute to the delivery of accountable performance targets but which are, nonetheless, an essential part of a Force's response to its policing priorities. Domestic violence, like child protection, is typical of those functions that are caught in this organisational puzzle. For example, in some Forces, child protection units (CPU) are devolved to BCUs; in others, they remain centrally managed; in another scenario, they are centrally managed but locally distributed as "lodger" groups in BCUs. The inspection found echoes of these differing structures in the way that Force responses to domestic violence are managed.
2. In February 2003, a survey, comprising a questionnaire sent to all Chief Constables in England and Wales, was conducted by HMIC and ACPO. The purpose of the survey was to broadly establish the national position on domestic violence policies, procedures and structures. The return rate was 84%. Analysis of the responses showed that 92% of Forces have appointed dedicated 'Domestic Violence Officers' (DVO) with specific responsibilities locally for domestic violence. The role of these officers and their location, however, varies.
3. Of those Forces responding to the survey, 78% indicated that the role of their 'DVO' was primarily one of support for victims. 53% also indicated that involvement in the investigation process was not part of that officer's role. The analysis showed, however, that dual support/investigation functions, to a greater or lesser extent, are not uncommon, having been adopted by 39% of the responding Forces.

4. In relation to location, difficulties were experienced in analysing Force responses, primarily because it was found that Force practice was not always endemic across an individual Force area. This was found to be particularly the case where the level of devolvement was high. In general, however, the role of the 'Domestic Violence Officer' currently sits either within the community safety or CPU structure, with line management responsibility being undertaken (either directly or indirectly) through the Criminal Investigation Department (CID) in almost half of the responding Forces.
5. The inspection team visited Forces representing a diversity of structures and, in doing so, inspectors were mindful of the fact that, at both Force and BCU level, flexibility is required to allow local approaches to be developed and tailored to meet local need. Weighed against this, however, is the need to ensure that this does not result in local boundaries becoming local barriers to consistent and effective policy implementation.

Local structures – CPS

6. The CPS adopted a 42 Area structure on 1 April 1999. The Areas are co-terminus with police forces, save the CPS London includes both the Metropolitan Police and the City of London Police. The CPS remains a national service but operating on a decentralised basis with each Area managed by a Chief Crown Prosecutor (CCP) who enjoys substantial autonomy within the terms of a framework document governing relationships between CPS Headquarters and the Areas.
7. Since the move to the 42 Area structure the CPS has reorganised itself on a functional, rather than a geographical basis along the lines recommended in the Review of the CPS by Sir Iain Glidewell (the Glidewell Report). The structure is based on Criminal Justice Units (CJUs), which work in close co-operation with the police to support the majority of the casework in the magistrates' courts, and Trial Units (TUs), which concentrate on cases that are destined for, or have reached, the Crown Court.
8. In all the Areas visited these structures were in place and additionally some CJUs within the Areas were co-located with the police.

9. Lord Justice Auld's review of the Criminal Courts in England and Wales 2001 (the Auld Review) recommended that the CPS should take the initial charging decision, except in minor or routine cases, or where the circumstances were such that a holding charge might be necessary. Two of the Areas visited have established a shadow-charging scheme whereby lawyers, on a rota basis, are located in police stations close to investigators and are able to provide on the spot advice where possible as cases develop. The other Areas, in line with the CPS nationally, are required to prepare for the statutory scheme by planning for and commencing at least one shadow-charging scheme per Area this year.

10. Each CPS Area has a domestic violence co-ordinator (DVC). They form a network to help implement the CPS policy on domestic violence and to identify and share good practice. Most Areas nominate specialists – lawyers with additional training and experience in domestic violence issues. They are a point of reference for other prosecutors or the police; in some Areas they endeavour to review all domestic violence files.

CPS policy on domestic violence

Contents

Introduction

What is domestic violence?

The Code for Crown Prosecutors

Is there enough evidence to prosecute?

Is it in the public interest to prosecute?

Deciding the charges

Avoiding delay

Bail

“Binding over”

Conclusion

Annex A – examples of behaviour/possible offences

Annex B – bail

Annex C – where to go for help

Introduction

1.1 This document explains the way we, the Crown Prosecution Service (CPS), deal with cases involving domestic violence.

1.2 We regard domestic violence as particularly serious because there is often a continuing threat to the victim’s safety and, in the worst cases, the victim’s life and the lives of others (including children’s) may be at risk.

1.3 When we are deciding whether or not to prosecute, the safety of the victim, children and any other person involved will be a priority for us.

- 1.4** People have a right to feel safe and be safe in their personal relationships. We know that domestic violence can have a devastating effect not only upon the victim but also upon families and especially upon children who witness or are aware of the violence.
- 1.5** Stopping domestic violence and bringing perpetrators to justice must therefore be a priority for our society. We are determined to play our part by prosecuting cases effectively.
- 1.6** We will work and train with our colleagues in the criminal justice system and with Women's Aid, Refuge, Victim Support and similar groups both locally and nationally, to help us improve our understanding of domestic violence and make the right casework decisions.
- 1.7** It is the role of the police to investigate and to gather evidence. It is our job to consider the evidence and currently¹ to provide the police with advice, if they ask for it, as to whether to charge. We have many locally agreed protocols with the police to help us both handle domestic violence cases effectively.
- 1.8** Where the police have already charged, we have to decide whether or not to continue the prosecution. These are often difficult decisions to make but the responsibility is ours, not that of the victim or the police.
- 1.9** We realise that victims of domestic violence – particularly those who may have suffered over a considerable period of time – also have difficult decisions to make that will affect their lives and the lives of those close to them.
- 1.10** We know that barriers exist, which mean that some groups of people are less likely to report offences. This is true for minority ethnic groups, disabled people, lesbians and gay men and older people. Barriers can be due to institutional racism, homophobia and other prejudices. They can also be due to language, culture, religion, ethnic or national background.
- 1.11** It is sometimes suggested that certain types of behaviour are more acceptable within some communities than others. We believe that cultural difference is not a reason for failing to protect minority ethnic community victims of domestic violence.

I Current charging procedures may be changed in the future following recommendations made by Lord Justice Auld in his Review of Criminal Courts, published 8 October 2001.

1.12 We welcome national and local initiatives that support vulnerable or intimidated witnesses throughout the whole process of reporting crime to giving evidence in court. Whenever possible, we will ensure that victims of domestic violence benefit from these measures.

1.13 We know that domestic violence is likely to become more frequent and more serious the longer it continues and can result in death. Sometimes, therefore, we will take proceedings even if a victim asks us not to.

1.14 We will consider every case carefully and sensitively. Our decisions will be objective but made within a framework that promotes safety and support for the victim and the provision of information to the victim.

What is domestic violence?

2.1 There is no statutory offence of domestic violence, as such. “Domestic violence” is a general term to describe a range of behaviour often used by one person to control and dominate another with whom they have, or have had, a close or family relationship.

2.2 When prosecuting cases of domestic violence, and to help us apply our policy on dealing with such cases, we adopt the following definition:

“Any criminal offence arising out of physical, sexual, psychological, emotional or financial abuse by one person against a current or former partner in a close relationship, or against a current or former family member.”

2.3 This definition includes all forms of violent and controlling behaviour, for example assault, harassment or threats. Further examples are given at Annex A.

2.4 In most cases, the relationship will be between current or former partners; the abuser will be male and the victim female. But our definition also includes male victims abused by females, victims in same-sex relationships and victims of abusive family members.

2.5 We aim to respond appropriately to the needs of all victims of domestic violence regardless of their gender or that of the abuser.

2.6 We also hope that this definition will help with the reporting and monitoring of domestic violence cases.

The code for the Crown Prosecutors

3.1 The Code for Crown Prosecutors provides guidance on how Crown Prosecutors should make decisions about whether or not to prosecute. The Code is a public document. We review the cases referred to us in line with the two tests set out in the Code.

First test – the evidential test

3.2 Crown Prosecutors must first be satisfied that there is enough evidence to provide a *“realistic prospect of a conviction against each defendant on each charge”*. This means that a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged. For there to be a conviction in a criminal court, we have to prove the case so that the court is sure of guilt.

Second test – the public interest test

3.3 If the case does not pass the first test (the evidential test), it must not go ahead, no matter how important or serious it may be.

3.4 If the case does pass the evidential test, Crown Prosecutors must then decide if a prosecution is needed in the public interest. A prosecution will usually take place unless *“there are public interest factors tending against prosecution which clearly outweigh those tending in favour”*.

3.5 When considering the public interest test, one of the factors Crown Prosecutors should always take into account is *“the consequences for the victim of the decision whether or not to prosecute, and any views expressed by the victim or the victim’s family”*.

3.6 The public interest test is explained in further detail at paragraph 5 below.

Is there enough evidence to prosecute?

4.1 Domestic violence nearly always happens in private. The victim is often the only witness. This means that unless the defendant pleads guilty, or there is strong supporting evidence, it will usually be necessary for the victim to give evidence in court. We know that some victims will find this very difficult and may need practical and emotional support which agencies such as Women's Aid, Refuge, Victim Support or the Witness Service can give. Contact details for some of these agencies are given at Annex C.

4.2 We will not automatically assume that calling the victim is the only way to prove a case. We will actively consider what other evidence may be available, either to support the victim's evidence or as an alternative to the victim's evidence.

4.3 If it is necessary to call the victim, we will consider all options available to us to help victims give their best evidence in court.

What happens when the victim withdraws support for the prosecution or no longer wishes to give evidence?

4.4 Sometimes a victim will ask the police not to proceed any further with the case, or will ask to withdraw the complaint. This does not necessarily mean that the case will therefore be stopped – we will first consider what other evidence is available.

4.5 As a general rule we will prosecute all cases where there is sufficient evidence and there are no factors preventing us from doing so.

4.6 If the victim has decided to withdraw support, we have to find out why. This may involve delaying the court hearing to investigate the facts and decide the best course of action.

4.7 We will take the following steps:

- we will ensure that a prosecutor experienced in domestic violence matters supervises the case;
- if the information about the victim's decision to withdraw support has come from the defendant, we will ask the police to find out from the victim whether this information is true;

- if the victim confirms it is, we will ask the police to take a written statement from the victim explaining the reasons for withdrawing support, saying whether the original complaint was true and whether the victim has been put under pressure to withdraw
- support;
- we will ask the police what they think about the case and, in particular, what they feel about the risks to the victim, children and any other person's safety;
- we will also ask the police how they think the victim might react to being required to attend court.

4.8 If the victim's statement after withdrawing the complaint is not the same as the earlier statement, the police will ask the victim to explain why it has changed.

4.9 If we suspect that the victim has been pressured or frightened into withdrawing the complaint, we will ask the police to investigate further. If necessary, we will ask the court to delay any hearing so that a thorough investigation can take place before we decide about the future of the case.

4.10 If the victim confirms that the complaint is true but still wants to withdraw that complaint, we will consider first whether it is possible to continue with the prosecution without it (the evidential test) and then, if it is possible, whether we should continue with the case against the victim's wishes (the public interest test).

4.11 We will explore all of these options fully, before we decide whether or not to proceed with a prosecution. The safety of the victim, children or any other potentially vulnerable person will be a prime consideration in reaching our decision.

Continuing with a prosecution against the victim's wishes or requiring a witness to go to court against the witness's wishes.

4.12 In some cases the violence is so serious, or the previous history shows such a real and continuing danger to the victim or the children or other person, that the public interest in going ahead with a prosecution has to outweigh the victim's wishes.

4.13 If we feel that the case should continue and that it would be necessary to call the victim to prove the case, we have to decide:

- whether we should require the victim to give evidence in person in court; or
- whether we could use the victim's statement as evidence (under section 23 of the Criminal Justice Act 1988) without the victim having to give evidence in court.

4.14 We can require a husband or wife to give evidence about an assault or threat of injury by their partner (section 80 of the Police and Criminal Evidence Act 1984). In the same way, unmarried partners or members of the family can be required to give evidence under section 97 of the Magistrates' Courts Act 1980.

4.15 If we decide that the victim must go to court to give evidence against their wishes, that decision will only be taken by an experienced prosecutor after consultation with the police.

Using the victim's statement as evidence under Section 23 of the Criminal Justice Act 1988 so that the victim does not have to give evidence in person at court.

4.16 Section 23 of the Criminal Justice Act 1988 allows us to use the victim's statement as evidence without calling the victim to court, but only in very limited circumstances.

4.17 We have to prove beyond reasonable doubt that the person who made the statement is afraid to give evidence or is being kept out of the way.

4.18 The victim does not have to give evidence to prove that he or she is afraid. This proof can come from someone else, for example a police officer or doctor or sometimes it can be seen from the victim's behaviour in court.

4.19 If the court decides that the statement can be used under section 23, it must then decide whether, in the interests of justice, the statement should be used in this way.

4.20 If the victim is the only witness to the offence, it is very difficult to satisfy the court that justice is being served when the defence cannot cross-examine the only witness against them.

Is it in the public interest to prosecute?

5.1 We always think very carefully about the interests of the victim when we decide where the public interest lies. But we prosecute cases on behalf of the public at large and not just in the interests of any particular individual.

5.2 There are often difficulties in striking this balance. The views and interests of the victim are important but they cannot be the final word on the subject of prosecution. The acts of an individual have to be put into the context of the wider society.

5.3 In cases of domestic violence, if the evidential test is passed and the victim is willing to give evidence, we will almost always prosecute.

5.4 If the victim withdraws support for the prosecution but we have enough evidence to proceed, we have to decide whether or not to prosecute.

5.5 Some examples of what helps us to decide this are:

- the seriousness of the offence;
- the victim's injuries – whether physical or psychological;
- if the defendant used a weapon;
- if the defendant has made any threats since the attack;
- if the defendant planned the attack;
- the effect (including psychological) on any children living in the household;
- the chances of the defendant offending again;
- the continuing threat to the health and safety of the victim or anyone else who is, or may become, involved;
- the current state of the victim's relationship with the defendant;
- the effect on that relationship of continuing with the prosecution against the victim's wishes;
- the history of the relationship, particularly if there has been any other violence in the past;
- the defendant's criminal history, particularly any previous violence.

5.6 Crown Prosecutors will want the police to provide information about family circumstances and the likely effect of prosecuting on members of the family. If social services, housing or voluntary agencies (e.g. Women's Aid) are, or have been, involved, they may also be able to help by providing the police with this type of information.

5.7 Generally, provided we have sufficient evidence, the more serious the offence or the greater the risk of further offences, the more likely we are to prosecute in the public interest – even if victims say they do not wish us to do so.

Deciding the charges

6.1 The charges in domestic violence cases should reflect the seriousness and persistence of the defendant's behaviour, the provable intent of the defendant and the severity of the injury suffered by the victim. They must give the court the power to impose a suitable sentence and must help us to present the case clearly and simply.

6.2 We and the police have agreed what are called "charging standards" for certain types of offence including assaults. These are guidelines that help us to make consistent decisions about the right charges. We use them when considering domestic violence cases.

6.3 Whenever we substantially change the charge originally put by the police we will explain why we have done this, either direct to the victim, or to the police so that they can pass the information on to the victim. Some cases, however, are dealt with very quickly so we may not always be able to give the explanation before the case is finished.

Avoiding delay

7.1 The longer the delay, the longer the victim will be at risk and under pressure. We will make sure that cases involving domestic violence are not delayed without very good reason. We will do our best to ensure that the victim is kept informed, either by us or by the police, of the reasons for any delay in the proceedings.

Bail

8.1 The police make the initial decision to bail a defendant to attend the next available court hearing (usually within two to five days of charge) or to keep the defendant in custody to appear before the magistrates the next day. Once a defendant appears before the court, the decision about bail is made by the magistrates and is governed by the provisions of the Bail Act 1976.

8.2 To protect the victim or witnesses from the risk of danger, threats, pressure or other acts by the defendant which might obstruct the course of justice, we may ask for the defendant to be kept in custody or we may ask the court to impose conditions on the bail. The court can only agree if we are able to show that there are substantial grounds for withholding bail as set out in the Bail Act. Examples of some typical bail conditions are shown at Annex B.

8.3 We will work with the police and the courts to ensure that the victim/witness is kept informed, either by the police or by us, of any change to the bail conditions or custody status of a defendant.

“Binding over”

9.1 A “bind over” is an order that the court can make when it considers that the defendant may offend again in the future. The defendant must agree to behave properly for a period of time. The courts can make a “binding over order” at the same time as they impose other penalties. But there must be enough evidence to justify making the order.

9.2 If we have information that shows there is a risk of the behaviour recurring, we may apply for a binding over order in cases where the victim withdraws support and we decide to stop the case. This may be the only option open to us to obtain some future protection for the victim in such cases, but we must still have sufficient evidence to support our application.

9.3 Sometimes a defendant may offer to be bound over if we will agree to drop the charges. We will not agree to this without carefully considering what might happen and whether it would be in the public interest to do so. We are less likely to accept such offers in cases involving serious violence.

Conclusion

10.1 We are determined to play our part in stopping domestic violence, but we need help from victims themselves and from other people if we are to do our job well.

10.2 Victim personal statements, for example, (introduced from 1 October 2001) will give victims an opportunity to say how they have been affected by the crime. They may wish to talk about their fears of intimidation, their concerns about bail and whether they would like help from any of the support agencies. We will take account of what the victim says when we are making our decisions on the case and will ensure that, where appropriate, the court is also aware of the contents of the personal statement.

10.3 We will encourage the police to provide us with the fullest evidence and background information to ensure that our decisions are properly informed at all stages of the proceedings.

10.4 We recognise and welcome the invaluable advice, emotional support and practical help and information that may be offered to victims and witnesses by Women’s Aid, Refuge, Victim Support, the Witness Service and similar agencies. Such support may help victims and witnesses to stay confident and determined to continue with the case.

10.5 We will continue to work with our colleagues in the criminal justice system and with others at national and local level to help us develop best practice and to make the right decisions when dealing with cases of domestic violence.

10.6 We will monitor the way in which we deal with cases of domestic violence and will publish this information.

10.7 We intend to review this public statement regularly so that it reflects current legislation and social perspectives. We welcome, therefore, observations that enable us to do this.

Annex A to CPS policy on domestic violence

Here are some examples of types of behaviour that can occur in cases of domestic violence and which **might** amount to a criminal offence. Whether any particular behaviour does amount to a criminal offence will always depend on the circumstances of the particular case. These examples should therefore be treated only as guidelines.

Examples of Behaviour	Possible Offences
Pressurising a victim/witness to 'drop the case' or not to give evidence.	Threats to kill, harassment.
Physical violence, with or without weapons, inc: punching, slapping, pushing, kicking, headbutting, hair pulling.	Common assault, affray, threatening behaviour.*
Violence resulting in death.	Murder, manslaughter.
Violence resulting in miscarriage.	Child destruction, procuring a miscarriage or abortion.
Choking, strangling, suffocating.	Common assault, actual/grievous bodily harm, attempting to choke, strangle or suffocate.
Spitting at a person.	Common assault.
Threatening with an article used as a weapon e.g. a knife, tool, telephone, chair.	Threats to kill, common assault, affray, threatening behaviour.
Throwing articles, e.g. crockery, even if they miss their target.	Common assault, actual/grievous bodily harm, wounding, criminal damage, affray, threatening behaviour.
Tying someone up.	Common assault, actual bodily harm, false imprisonment.
Threatening to kill someone.	Witness intimidation, obstructing the course of justice, conspiracy to pervert the course of justice.
Threats to cause injury.	Common assault, actual/grievous bodily harm, wounding, attempted murder.
Threats seriously to damage or undermine social status.	Harassment, blackmail.
Damaging or destroying property or threatening to damage or destroy property.	Criminal damage, threatening to cause criminal damage, harassment.
Harming or threatening to harm a pet.	Criminal damage, threatening to cause criminal damage, cruelty to animals, harassment.
Locking someone in a room or house or preventing them from leaving.	False imprisonment, harassment
Preventing someone from visiting relatives or friends.	False imprisonment, kidnapping, harassment.

Examples of Behaviour	Possible Offences
Preventing someone from seeking aid, e.g. medical attention.	False imprisonment, actual bodily harm.
Preventing someone from dressing as they choose or forcing them to wear a particular make-up, jewellery and hairstyles.	Actual bodily harm**, harassment.
Racial abuse.	Racially aggravated threatening behaviour*, disorderly conduct* or harassment.
“Outing”, e.g. sexual orientation or HIV status.	Harassment, actual bodily harm**, blackmail.
Enforced financial dependence or unreasonably depriving someone of money.	Harassment.
Dowry abuse.	Blackmail, harassment, common assault, actual/grievous bodily harm.
Unreasonable financial demands.	Blackmail, harassment.
Enforced sexual activity.	Rape, indecent assault, harassment.
Persistent verbal abuse, e.g. constant unreasonable criticism. Offensive/obscene/menacing telephone calls, text messages or letters.	Harassment, actual bodily harm.** Improper use of public telecommunication systems, malicious communications, actual/grievous bodily harm, harassment.
Excessive contact, e.g. numerous ‘phone calls to check someone’s whereabouts.	Harassment, false imprisonment.
Secret or enforced administration of drugs.	Common assault, actual bodily harm, grievous bodily harm, administering poison.
Neglecting, abandoning or ill-treating a child.	Child cruelty.
Forced marriage.	Kidnap, blackmail, false imprisonment, common assault, actual/grievous bodily harm, rape, indecent assault.

* If the threatening or disorderly words/behaviour are used in a dwelling house, the offence can only be committed if the other person is not inside that or another dwelling.

** Actual physical or mental harm must be proved to have resulted from the behaviour.

Annex B to CPS policy on domestic violence

Bail

1. A court can remand a defendant in custody or grant bail, with or without conditions attached. Before the first court hearing, the police can also retain a defendant in custody or grant bail, with or without conditions attached, but their powers to do so are more limited than the court's.
2. Conditions can only be imposed to ensure that the defendant attends the next court hearing, commits no new offences in the meantime, and does not interfere with any witnesses or obstruct the course of justice.

Examples of bail conditions imposed by courts

3. A court can impose any condition that seems appropriate in the circumstances of the particular case. Here are some examples of typical bail conditions imposed by courts:
 - **The defendant must not contact, either directly or indirectly, a named person or persons.**
This means no contact whatsoever, including by telephone, fax or letter or through another person, e.g. the defendant cannot get a relative to make contact on his behalf.
 - **The defendant must not go to a named place.**
This is usually a specific address, but may also be a street, a town, an area or even a whole county. Sometimes the court will say that the defendant must not go within a specified distance of a place, e.g. within half a mile of Victoria Road.
 - **The defendant must reside at a named address.**
This means live and sleep each night there.
 - **The defendant must report to a named police station on a given day or days at a given time.**
For example, every weekday morning at 8.30am.
 - **The defendant must abide by a curfew between certain specified hours.**
This means remain indoors, for example, from 9pm until 8am.

- **The defendant must provide a security to the court.**
If it is thought that the defendant might not attend the next court hearing, the court can order that a set sum of money be paid into the court. If the defendant does fail to attend the next hearing then the money can be forfeited.
- **The defendant must provide a surety.**
A friend or relative must agree to ensure that the defendant attends court, or the friend or relative could lose a specified sum of money.

Sometimes, for practical reasons, there are exceptions attached to the condition. For example:

- **The defendant must not go to a named place except:**
 - to attend court;
 - to see their solicitor by prior appointment;
 - to collect their belongings at an appointed time and accompanied by a police officer or other specified person;
 - to see the children, under supervision, at a specified time.

Breaching bail conditions

4. If the defendant breaches bail conditions, the police can arrest the defendant and the court can remand the defendant in custody.
5. Sometimes, despite bail conditions that say, for example, a defendant cannot contact the victim or return home, the victim contacts the defendant or invites or allows the defendant to return home.
6. There are all kinds of reasons why victims do this, but if the defendant responds in such a way as to continue the contact, then the defendant is breaching bail conditions because the police or the court have not released the defendant from the conditions of bail they imposed.
7. It does not matter that the victim has agreed to the contact; the victim is not subject to the bail conditions, the defendant is.
8. The defendant is responsible for complying with any conditions imposed by the police or the court until released from those conditions by the police or court.

Annex C to CPS policy on domestic violence

Listed below are contact details for some of the organisations that provide help or information to victims of domestic violence. They should be able to give contact details for local organisations.

Women's Aid Federation of England, PO
Box 391, Bristol BS99 7WS
Tel: 0117 944 4411

Victim Support, Cranmer House, 39
Brixton Road, London. SW9 6DZ
Tel: 0207 735 9166

Women's Aid National Domestic Violence
Helpline
Tel: 08457 023 468 (24 hr)

Victim Supportline
0845 3030900
9am – 9pm weekdays, 9am – 7pm
weekends, 9am – 5pm bank holidays

Welsh Women's Aid, 4 Pound Place,
Aberystwyth, Dyfed, SY23 1LX
Tel: 02920 390874

National Child Protection Helpline
Tel 0800 800500 (24 hr)

Refuge, 2-8 Maltravers Street, London,
WC2R 3EE
Tel: 0207 395 7700

ChildLine
0800 1111 (24 hr line for children to use)

Refuge National Domestic Violence
Helpline
Tel: 0870 5995443 (24 hr)

Other useful numbers

Freecall Message Home 0800 700 740
(confidential, non-traceable, free service
for those who want to pass on a message
to family and friends without
communicating directly and without
giving details of where they are).

Southall Black Sisters, 52 Norwood Road,
Middlesex, UB2 4DW
Tel: 0208 571 9595 (office closed Weds)

All the above details were correct as at November 2001

The Crown Prosecution Service is a public service for England and Wales, headed by the Director of Public Prosecutions. It is answerable to Parliament through the Attorney General. The Crown Prosecution Service is a national organization consisting of 42 Areas. Each Area is headed by a Chief Crown prosecutor, and corresponds to a single police force area, with one for London. It was set up in 1986 to prosecute cases instituted by the police. The police are responsible for the investigation of crime. Although the Crown Prosecution Service works closely with the police, it is independent of them.

Policy Directorate, November 2001
© Crown Copyright 2001

CPS policy guidance checklist

Checklist	Prosecuting Cases of Domestic Violence	
Issues to be Covered	Decision/Comment	Information Dated
Information Needed from the Police		
History of relationship		
Previous incidents		
Ability/Willingness of victim to give evidence		
Composition of family		
Effect of proceedings on my children		
Whereabouts of children during the incident		
Current domestic arrangement and information or police view on future relationship		
Likelihood of recurrence		
Views on safety of Victim and any children		
Information from other agencies, e.g. Social Services, Health Dept, etc		
Civil orders made or pending and any breaches		
Any Other Information		
Bail		
Police view on victim and childrens safety		
Victim's view on own and children's safety		
Method by which victim to be informed promptly of bail decision.		
Victim Personal Statement		
Retraction		
Statement from victim giving full reasons?		
Original complaint True or False?		
Duress?		
Any other relevant Information?		
Police officer's:		
View on veracity of reasons given		
View on how case should be dealt with		
View on how victim might react to being compelled		
View on victim's and children's safety		

Checklist	Prosecuting Cases of Domestic Violence	
Issues to be Covered	Decision/Comment	Information Dated
Retraction (cont.)		
Victim's:		
Views on case proceeding?		
Any other relevant Information?		
Consider:		
Seriousness of offence		
Victim's injuries (including psychological)		
Use of a weapon		
Any subsequent threats by defendant		
Whether attack planned		
Whether incident witnessed (seen or heard) by children		
Effect (including psychological on any children living in the household)		
Chances of recurrence		
Threat to health/safety of victim or any other person involved		
Current state of victim's relationship with defendant		
Effect on that relationship of continuing with the prosecution against the victim's wishes		
History of relationship (particularly in previous violence)		
Information from other agencies, e.g. Social Services, Housing, Health, Women's Aid, voluntary sector (including perpetrator services) etc		
Where victim's evidence is vital:		
Witness summons appropriate		
Arrest warrant appropriate		
S.23 CJA 88 procedure appropriate		
Any witness protection measures necessary		
Where victim's evidence is not vital:		
Sufficient other evidence AND in public interest to proceed		

Checklist	Prosecuting Cases of Domestic Violence	
Issues to be Covered	Decision/Comment	Information Dated
Enhanced Evidence		
Any photo's of scene/photo's of injuires/ medical/admission/resgestae/999 record/ independent witness/similar fact evidence		
Trial		
Defence invited to accept any s.10's		
Victim (or any witness) vulnerable and/ or intimidated?		
Witness Service or other supporting agency involved?		
Waiting arrangements?		
Pagers?		
Eligible for any special measures meeting		
Meeting with Prosecutor		
Screens		
Live TV link		
Video evidence		
Clear Public gallery		
Bindover		
Appropriate? Discussed with police/victim?		
Civil Proceedings and Orders		
Previous/current/pending		
FLA 96 non-molestation?		
FL A 96 Occupation?		
CA 89 interim care order?		
CA 89 undertaking?		
CA 89 emergency protection?		
CA 89 s.8 contact?		
CA 89 exclusion?		
HA96 injunction?		
PHA 97 s.3 Injunction?		
Child Protection Register?		
Any Breaches?		

Implementation of recommendations from CPSI thematic report published May 1998

Recommendations		Position in June 2003
R1	<p>The Role of the CPS in Domestic Violence Cases</p> <p>The Directorate of Casework Services in CPS headquarters (DCAS) should clarify the instructions given to Branches in respect of the monitoring of domestic violence cases, to ensure that all cases finalised within the prescribed period are captured in the data submitted by CPS Areas to headquarters (PARAGRAPH 6.15).</p>	<p>CPS Policy Directorate undertook snapshot monitoring during December 2002, the results have yet to be published. The snapshot monitoring will occur during December 2003, full guidance notes have been issued to all Areas.</p> <p>The Directorate has encouraged Areas to monitor continuously and offered a facility to collate and analyse findings.</p> <p><i>See Chapter 9 (9.25 – 9.29)</i></p>
R2	<p>Identifying Domestic Violence Cases</p> <p>DCAS should seek to agreed with the police a common definition of those cases to which their respective domestic violence policies should be applied (PARAGRAPH 6.4).</p>	<p>No common definition agreed.</p> <p>New Recommendation</p> <p><i>See Chapter 1 (1.8 – 1.12)</i></p>
R3	<p>BCPs should ensure that staff flag all domestic violence cases which have not been identified by the police, so that the CPS domestic violence policy can thereafter be applied to them (PARAGRAPH 6.15).</p>	<p>Some improvement from the earlier thematic review but still significant scope for improvement.</p> <p>Some good practice.</p> <p><i>See Chapter 7 (7.10 and 7.13)</i></p>
R4	<p>Providing Advice</p> <p>Branches should consult the police to ensure that cases of domestic violence are referred for pre-charge advice by telephone or by submission of a file, where appropriate (PARAGRAPH 7.12).</p>	<p>Very few cases of domestic violence sent to the CPS for advice. Some cases would have benefited from an earlier reference to the CPS.</p> <p>In future all cases, including domestic violence will be referred to a prosecutor under the Charging Scheme whereby CPS prosecutors will determine the charge. (Criminal Justice Act 2003)</p> <p>Some good practice.</p> <p><i>See Chapter 2 (2.47 – 2.52)</i></p>
R5	<p>BCPs should ensure that their local police force is fully aware of CPS policy guidance concerning domestic violence cases (PARAGRAPH 7.19).</p>	<p>Good partnerships exist between the Areas and local forces at strategic level but the revised CPS Policy has not been disseminated to frontline officers.</p> <p>Some good practice in relation to service level agreements.</p> <p><i>See Chapter 10 (10.4 and 10.7)</i></p>

Recommendations		Position in June 2003
R6	<p>Reviewing Cases BCPs should introduce, where appropriate, feedback mechanisms, so that lessons may be learned by Branch staff from all domestic violence cases, especially those in which the complainant withdraws her evidence (PARAGRAPH 8.23)</p>	<p>There are few formal systems in place, most feedback is by way of general adverse case analysis or team meetings. Some examples of good practice noted. See Chapter 9 (9.30 – 9.33)</p>
R7	<p>BCPs should discuss with the police ways of ensuring that all relevant background information is submitted, so that informed decisions can be made at all stages of the process. This information should include the following:</p> <ul style="list-style-type: none"> • the ability and willingness of the complainant to testify; • the history of the relationship and any details of any previous incidents; • details of any civil proceedings and orders made and, if applicable, any breaches; • the composition of the family and the effect of proceedings on any children; • information, or the police view, about the future of the relationship; and • information from, or any view expressed by, Social Services (PARAGRAPH 8.32). 	<p>Much of this information is available in police records or databases or could be obtained during the course of the investigation. However, it is not routinely collated as part of case file preparation. Some Areas had service level agreements with the police and some good practice was in evidence. See Chapter 2 (2.38 - 2.41) and Chapter 10 (10.7)</p>
R8	<p>BCPs should consult the police, where necessary, to seek the correct application of the relevant charging standards in domestic violence cases, and should also ensure that their prosecutors properly apply them (PARAGRAPH 8.51).</p>	<p>A considerable improvement from the earlier thematic review. See Chapter 7 (7.53 – 7.55)</p>
R9	<p>Prosecutors should, in appropriate cases, ensure that they request the police to update them on the complainant's continuing willingness to give evidence (PARAGRAPH 8.55).</p>	<p>There were few Areas in which regular contact was maintained with victims, based on keeping them informed of progress. In one Area victims were routinely contacted to check whether they wished to continue; this may undermine the confidence of the victim. See Chapter 7 (7.29 – 7.30)</p>
R10	<p>BCPs should consult the police to assure the quality of statements of withdrawal, so that they include:</p> <ul style="list-style-type: none"> • a full explanation of the reasons; • whether the original complaint was true or false; • whether there has been any element of duress; and • any other relevant information (PARAGRAPH 8.63) 	<p>The withdrawal statement complied with CPS Policy in only 57% of cases. 23 Areas stated that there was agreement with the police about what should be contained in a victim's withdrawal statement and 27 areas said the statements included information recommended in the revised Policy. Recommendation See Chapter 7 (7.22 and 7.24)</p>

Recommendations		Position in June 2003
R11	BCPs should consult the police to ensure that officers, when submitting a statement of withdrawal, also submit: <ul style="list-style-type: none"> • their comments on the veracity of the reasons given; • their view on how the case should be dealt with; and • any other relevant information, for example, in appropriate cases, how the complainant might react to being compelled to give evidence (PARAGRAPH 8.66). 	Although some good practice was in evidence, it was not widespread. New Recommendation. <i>See Chapter 7 (7.24)</i>
R12	In cases where the complainant expresses the wish to draw her evidence, full and appropriate consultation should take place with the police, so that informed consideration may be given to any alternatives to terminating the proceedings (PARAGRAPH 8.75).	When the victim withdrew alternative options were considered in 60.8% of cases and used in 44% of cases, leaving scope for improvement. As above (R11) appropriate consultation with the police was not commonplace. <i>See Chapter 7 (7.33 and 7.38)</i>
R13	BCPs should ensure that prosecutors and caseworkers dealing with domestic violence cases are aware of, and correctly apply, all aspects of CPS policy, particularly in cases in which the complainant withdraws her evidence (PARAGRAPH 8.95).	An experienced prosecutor was apparently involved in only 55.5% of cases in which the victim sought to withdraw. Domestic violence cases were handled significantly better by specialists than generalists. There are still considerable gaps in training staff on Policy awareness and the dynamics of domestic violence cases although some good practice was in evidence. New Recommendation <i>See Chapter 7 (7.45)Chapter 9 (9.10)</i>
R14	BCPs should ensure that a full explanation is provided to the police where the pre-charge advice is not to proceed, or where the case is to be discontinued (PARAGRAPH 8.108).	The implementation of the DCV initiative ensures that victims are informed by the CPS when a case is discontinued, a change since the thematic review in 1998. Some good practice in evidence. <i>See Chapter 8 (8. 14 – 8.23)</i>
R15	Preparing Cases BCPs should ensure that delay is kept to a minimum in domestic violence cases, and in particular should: <ul style="list-style-type: none"> • consult representatives of the police and courts to consider arrangement for expediting domestic violence cases; • discuss with the police ways of ensuring the timely delivery of medical evidence; and • discuss with the police ways of ensuring that, where there has been an indication that the victim wishes to withdraw, it is investigated in a timely fashion (PARAGRAPH 9.13). 	The CPS dealt with the case expeditiously in the large majority of cases. Three Areas had local agreements to expedite domestic violence cases and four had agreements to expedite the provision of medical evidence. (Position Statements 2002) Some good practice in evidence. <i>See Chapter 7 (7.75 - 7.77)</i>

	Recommendations	Position in June 2003
R16	<p>BCPs should ensure that full file endorsements are made in domestic violence cases, including:</p> <ul style="list-style-type: none"> • the prosecutor’s explanation of any decision to terminate; and • the reasons for not pursuing any of the recognised alternatives (PARAGRAPH 9.22). 	<p>File endorsements were of inconsistent quality and in many cases inadequate. Endorsements by specialists tended to be of better quality. Some improvement from the earlier thematic review.</p> <p>Action Point See Chapter 7 (7.78 – 7.81)</p>
R17	<p>The quality of instructions to counsel should be improved immediately, so that counsel is advised of the following as a matter of course:</p> <ul style="list-style-type: none"> • the facts of the case (not by reference to another document, such as a police summary); • plea acceptability; and • any other relevant information, including that listed in Recommendation 7 above (PARAGRAPH 9.40). 	<p>The overall quality of instructions to counsel were satisfactory, and in 78% of cases the instructions were average or above. A considerable improvement from the earlier thematic review.</p> <p>Action Point See Chapter 7 (7.91 – 7.92)</p>
R18	<p>Presenting Cases at Court BCPs should discuss with police ways of ensuring that information submitted regarding the impact of the offence on the victim, her domestic circumstances and whether the relationship has continued, is updated as the case progresses to trial and/or sentence (PARAGRAPH 10.5).</p>	<p>The victim personal statement scheme is now in place allowing victims to describe how the crime has affected them and it can include the victim’s views on the defendant being granted bail. There was a low number of such statements in the file sample (26.1%)</p> <p>Action Point See Chapter 8 (8.9 - 8.13)</p>
R19	<p>In all cases where the witness attends court and indicates, for the first time, that she does not want to give evidence, prosecutors should seek an adjournment in order to allow a formal statement to be taken, and consideration to be given to what court of action should be adopted (PARAGRAPH 10.23).</p>	<p>There were examples of information being provided at court and considered on-the-spot, leading to uninformed decision-making about whether to proceed or drop the case.</p> <p>See Chapter 7 (7.26)</p>
R20	<p>The guidance at paragraph 4.10 of the policy statement, indicating that it might help the CPS if the victim explains to the court why she is withdrawing support, should be removed (PARAGRAPH 10.29).</p>	<p>The practice was deleted from the revised Policy, but some prosecutors are still using it.</p> <p>See Chapter 7 (7.27)</p>

	Recommendations	Position in June 2003
R21	In preparing for contested domestic violence hearings, prosecutors should consider applying for screens as a means of preventing intimidation and should make such applications, wherever appropriate (PARAGRAPH 10.45).	Special measures were implemented by the Youth Justice and Criminal Evidence Act, 1999; not all the measures are yet available. They were only considered and/or used in 21.1% of cases. Some good practice in evidence. Action Point <i>See Chapter 8 (8.24 – 8.32)</i>
R22	Having regard to the sensitive nature of domestic violence cases and the rate of returned briefs, the suitability and performance of counsel who eventually prosecute should be regularly monitored in order to ensure that the CPS and the victims of domestic violence, in particular, may have confidence in the way in which such cases are handled (paragraph 10.54).	Overall there was a greater use of dedicated, or suitably experienced counsel, to represent the prosecution in cases of domestic violence. 37 Areas stated that the quality of counsel in domestic violence cases was satisfactory. (Position Statements 2002) Some good practice in evidence. <i>See Chapter 7 (7.101 – 7.103)</i>



ACPO – VICTIM SUPPORT Victim Referral Agreement

The basis for this agreement is Home Office Circular 44/2001.

The Police Service is committed to ensuring that victims of crime receive improved treatment from our staff and to this end we have set up agreements to ensure data sharing with our partners in the Criminal Justice System is timely and efficient.

ACPO recognises the importance of passing victim information to Victim Support to allow them to carry out their work of supporting victims both through the criminal justice system and for those whose cases do not reach the courts. For most victims, police referral is the first time they have heard of the range of services offered by Victim Support and the other support groups in the voluntary sector. Victim Support, as part of their role, will refer victims to other support networks where the needs of victims are best served by this.

Victim Support is the national organisation for crime victims, witnesses, their families and friends. The organisation offers a range of accessible services, whether or not a crime has been reported. These are delivered locally by staff and volunteers who are trained to help people recover from the effects of crime. Independent of the police and courts, Victim Support works alongside the criminal justice system, government and other organisations nationally and in local communities to promote the rights of victims and witnesses.

Following the introduction of the Data Protection Act 1998, many forces became concerned that their victim referral practices might not be in accordance with data protection principles and the number of referrals to Victim Support fell away.

These uncertainties were discussed between the Home Office, ACPO, the Crown Prosecution Service, Victim Support and the Information Commissioner, and procedures were devised to address them. The procedures have been agreed between all the parties involved as being data protection compliant when carried out as described. These make it clear that victims must have a genuine opportunity to say if they do not want their details passed on to Victim Support. The police should accordingly have effective mechanisms in place to ensure that such wishes are respected. Victim Support should themselves ensure that their service' arrangements for processing any data passed on to them are fully compliant with data protection principles.

Procedures

The following procedures will apply to 3 separate categories of offences;

- Those which the police routinely pass to Victim Support,
- Those more serious offences for which express consent is required and
- Those which become referable due to aggravating factors

1. The *Victims of Crime* leaflet has a key role to play in these procedures. The leaflet is given to victims of crime by the police. It explains what happens when a crime is reported, what happens next, and what other help and advice is available. The leaflet explains that victims' details will be passed to Victim Support unless the victim expresses a contrary wish (except in cases of domestic violence or sexual crime or bereaved families of victims of homicide where express consent is always required).
2. This right is spelt out clearly on the front cover of the leaflet, where the fourth bullet point says that:
"The police will pass information about you to Victim Support so that they can offer you help and support, unless you ask the police not to."
3. That message is reinforced in the 'Check List for Action' section of the leaflet, and in the section headed 'Help From Victim Support Schemes'.
4. While the leaflet is one way of helping to ensure that victims are aware that they can opt out of having their details passed on to Victim Support, it should not be relied upon as the only way. It is important that officers should make it clear to victims that their details will normally be passed on to Victim Support unless the victim says they don't want this to happen. This requirement could be met by officers using a standard form of words when recording details of the crime from the victim, along the following lines:

"Victim Support is an independent charity which can offer you help. We recommend their services, and it is force policy to refer your details to them unless you ask us not to."

If the victim then said that they did not want their details passed to Victim Support, the officer should/will record that fact as indicated by local force policy e.g. in his/her notebook, or on the computer system if recording the crime details over the phone, and ensure compliance. Unless such a response was formally recorded, it could be assumed that the victim was content for their details to be passed on. The Information Commissioner believes that where information systems are used to record the reporting of a crime, then a mechanism for recording that the notification to the victim had taken place would also be valuable. If a victim were subsequently to complain to the Commissioner that their details had been passed on to Victim Support without their knowledge, then any Chief Officer having such a record available would be well placed to rebut such an assertion.
5. The force policy with regard to referral of victims' details to Victim Support should be emphasised in other ways, for example, on force websites, in force leaflets and on posters in police stations etc.
6. Express consent must still be sought from victims of domestic violence, sexual crime or the bereaved relatives of victims of homicide. Such victims, following a recommendation as to Victim Support services, should continue to be asked specifically if they want their details to be passed on to Victim Support, and onward referral should only be made if they positively opt in.

7. Where an FLO is involved, the availability of Victim Support services should be offered and recommended at the earliest appropriate moment and the consent sought.
8. Information to be routinely passed to Victim Support will include
 - i. Name
 - ii. Address
 - iii. Contact telephone number
 - iv. Gender
 - v. Age
 - vi. Ethnicity
 - vii. Brief crime details
9. Other information may be passed on a case by case basis where the additional information will be required by Victim Support to assess the type and level of support required.
10. There are crimes, which due to their volume, cannot always be handled by Victim Support and the police may not routinely refer these offences unless there are aggravating factors involved. The offences this will relate to are:
 - a. theft from motor vehicles
 - b. tampering with motor vehicles
 - c. minor criminal damage
 - d. theft of motor vehicle

However, aggravating factors such as repeat victimisation, victim request for contact, vulnerable victims or hate crime will ensure a referral to Victim Support.

The situations where a homicide or injury is a consequence of a road crash is currently being reviewed by a government working group, and each force should discuss with its Victim Support Area the level of support which they are currently able to provide.

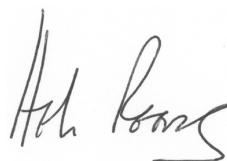
- 11 Victim Support is also one of the listed agencies for engagement in response to emergencies and disasters.

Agreed between

John Broughton
Assistant Chief Constable
ACPO
Victims and Witnesses Portfolio

and

Dame Helen Reeves
Chief Executive
Victim Support



CPS file sample and snapshot monitoring data

CPS Area	CPS File Sample (March 2003)	CPS Snapshot Monitoring (December 2002)
Derbyshire	49	22
Hampshire	51	44
Northumbria	148	138
Hackney and Tower Hamlets (CPS London)	11	113*
South Wales	44	31
West Yorkshire	115	128

* The snapshot monitoring figure was for the whole of CPS London, it was not divided into Boroughs or units.

Project reference group

Jerry Hyde	HM Deputy Chief Inspector, HMCPSI
Di Hurlley	Lead Inspector, HMCPSI
Kate Flannery	HM Inspector of Constabulary
Reg Pengelly	Staff Officer, HMIC
Davina James-Hanman	Greater London Domestic Violence Project
Eleri Butler	Women's Aid Federation of England
Meg Blumsom	Probation Service
Jim Gamble	Assistant Chief Constable, ACPO
Mike Gillespie	Home Office, Violent and Youth Crime Reduction Unit
Nadine Tilbury/Jude Watson	CPS Policy Directorate
Robyn Greeves	Legal Secretariat to the Law Officers
Dr Peter Franklin	Association of Police Surgeons
Shirley Ford	Victim Support
Sumanta Roy	Imkaan
Indira Purushothaman	Imkaan
Julie Nesbit	Police Federation

List of local representatives of criminal justice agencies and organisations who assisted in our inspection

Crown Court

His Honour Judge Bathurst Norman, Senior Resident Judge Southwark Crown Court

His Honour Judge Broderick, Winchester Combined Court Centre

His Honour Judge Curran, The Law Courts, Merthyr Tydfil

His Honour Judge Diehl QC, The Law Courts, Swansea

His Honour Judge Gullick, The Recorder of Bradford

His Honour Judge Hodson, The Recorder of Newcastle

His Honour Judge Norman Jones QC, The Recorder of Leeds

His Honour Judge Selwood, Portsmouth Combined Court Centre

His Honour Judge Wait, Derby Combined Court Centre

Magistrates' courts

Mrs G Baranski, Justices' Chief Executive, South Wales Magistrates' Courts Committee

Mr G Fowler, Justices' Chief Executive, Derbyshire Magistrates' Courts Committee

Mr N Hallam, Clerk to the Justices, Derby and South Derbyshire PSA

Ms V Rawson, (Mr J Young), Justices' Chief Executive, Northumbria Magistrates' Courts Committee

Mr M West, Justices' Chief Executive, Hampshire and Isle of Wight Magistrates' Courts Committee

Defence solicitors

Mr P Douglas-Jones

Mr M Duxbury

Mr G Forrester

Ms J Grey

Mr G James

Mr F McDermott

Mr D McSorley

Mr B Merry

Miss T Parker

Mr B Shawe

Ms L Ward

Counsel

Ms J Clemitson

Mr G Dickinson QC

Ms C Goodwin

Mr H Hughes

Ms M Lewis

Mr I Morris

Mr K Thomas

Probation Service

Mrs J Chaplin, Chief Probation Officer (Acting) (South Wales)

Ms C Whitehead, Assistant Chief Officer (Derbyshire)

Ms P Williamson, Chief Probation Officer (Acting) (Northumbria)

Witness Service

Ms H Watts, (Thames Magistrates' Court)

Victim Support

Ms S Featherstone, District Manager (Hampshire East)

Ms J Porter, District Manager (Hampshire West)

Ms L Henley, Co-ordinator, Vulnerable & Intimidated Witnesses (Hampshire)

Ms L Jarvis, (East Newcastle)

Ms H Scratcherd, (Derby)

Mr M Maud, Area Manager (East Newcastle)

Mr S Kennedy, Borough Manager (Hackney)

Mr S Whitehouse, Borough Manager, (Tower Hamlets)

Mr P Choda, (South Glamorgan)

Ms M Amos, Chief Executive Officer (Hampshire)

Mr K Scarisbrick, (West Yorkshire)

Local Crime and Disorder Reduction Partnerships

Ms P Chipping, Domestic Violence Coordinator, LBTH Crime Reduction Services

Mr J Feather, Community Safety Officer, Newcastle Community Safety Partnership

Mr S Smith, Chair, Leeds Safer Communities Partnership

Community groups

Bradford Women's Aid Outreach Service

Bradford Domestic Violence Partnership

Cardiff Women's Safety Unit

DIVA, Newcastle Domestic Violence Forum

Gateshead Domestic Violence Forum

HALT (Help Advice and the Law Team)

Kirklees Domestic Violence Forum

Leeds City Council, Social Services Dept

Newcastle Women's Aid

Pontypridd Domestic Violence Forum/Pontypridd Women's Aid

Portsmouth Domestic Violence Forum

Probation & Pathfinder Reference and Evaluation Group

Staying Put Project

Wearside Domestic Violence Forum

Domestic violence workshop

24th April 2003

'Hold Tight, Tight Hold' – Gay and Lesbian Arts & Media Ltd

NACRO

NSPCC – North Yorkshire Domestic Violence Project

SCOPE

Southall Black Sisters

Women's Aid – England and Wales

Victim Support – Westminster

Checklist of actions

Violence at Home

A Joint Thematic Inspection of the Investigation and Prosecution of Cases Involving Domestic Violence

Checklist for Policy Makers and Practitioners

		TICK BOXES, INSTRUCTIONS BELOW			
		A	B	C	D
High level issues					
1	Develop a common definition of domestic violence (DV).				
2	Chief officers and I/CJBs assess the priority of DV and develop performance management.				
3	Chief officers and I/CJBs agree protocol/SLA on roles and responsibilities regarding victims and witnesses, regular review of referral protocols.				
Police					
1	Systems to flag DV incidents in place and staff clear.				
2	DV policy relevant, up-to-date – responsibility allocated at BCU level.				
3	Systems to routinely provide front-line officers with previous history information.				
4	Standards of investigation set, reflecting effective evidence gathering.				
5	Sufficient information on DV incident logs plus effective supervision: active monitoring by supervisors, in particular of decisions not to arrest; effective investigation and supervision of cases of serious crime.				
6	Clear policies and guidance regarding police officers and staff as either victims or perpetrators, including support to victims.				
7	DV officers' role and job descriptions clear; workload realistic; administrative support adequate; line management and supervision clear.				
8	Systems in place to provide case-specific information to victims.				
9	Review training: implement Centrex training programme; sufficient training for specialist officers.				
10	Agree information sharing protocols and procedures with social services.				
11	Agree provision of background information with CPS.				
12	Details of children of family and impact upon them included on prosecution files.				
13	Diversity awareness included in DV training: supported by supervision and monitoring.				
14	Agree with CPS inclusion of assessments of reasons for withdrawal and views upon proceeding against victim's wishes.				
15	Effective action taken upon breach of bail.				
16	Victims offered opportunity to make victim personal statement.				
17	Contact details of police and CPS DV specialists readily available to all police officers and staff.				
Crown Prosecution Service					
1	Agree with police background information to be provided on prosecution files.				
2	Prosecutors take rights and safeguarding of children into full account.				
3	Diversity awareness included in DV training, supported by supervision and monitoring.				
4	Agree with police inclusion of assessments of reasons for victim withdrawal, and police views on proceeding against victim's wishes.				
5	Prosecutors pursue breaches of bail and appropriate additional charges.				
6	Prosecutors make use of victim personal statements in decision-making and provide to court as appropriate.				
7	Contact details of police and CPS DV specialists are readily available to all CPS prosecutors and staff.				
8	Review systems for identifying and highlighting cases of DV.				
9	Experienced prosecutors to be consulted where victim withdraws support; guidance provided on factors which support requiring attendance at court or compelling witness to give evidence.				
10	Guidance on reason for discontinuance when victim declines to attend court.				
11	File endorsements reflect consideration and application of Code and policy; factors relating to public interest recorded when victim declines to attend court; reasons for bail decisions on file systems in place so victim is informed of bail decision straight away.				
12	Instructions to counsel include relevant details about policy, plea acceptability and witness issues regarding attendance and compelling evidence.				
13	Suitable counsel and HCA selected, and performance monitored.				
14	Appropriate information under direct communication with victims; special measures identified and applications made; prosecutors and caseworkers aware of CPS policy.				
15	Template for Area domestic violence co-ordinator (DVC) job description; role of DVC strategic; DVCs and specialists meet regularly; DVCs undertake joint performance management with police and circulate information to Area.				
16	CPS produce national DV training package; CPS staff receive DV awareness training; agents and prosecuting counsel made aware of CPS policy and practice in DV cases.				

INITIALLY ASSESS EACH ISSUE		DATE ASSESSED
NO TICKS Nothing is in place, or not considered with any consideration	A ✓ Some thought but no tangible action taken	1. _____ 2. _____ 3. _____
B ✓ Some progress addressing issues, but few outputs	C ✓ Achieved	1. _____ 2. _____ 3. _____
D ✓ Outcomes achieved, benefits have resulted		1. _____ 2. _____ 3. _____

REVIEW REGULARLY AND TICK NEXT BOX WHEN APPROPRIATE

Abbreviations used in the report

ACPO	Association of Chief Police Officers
ASBO	Anti Social Behaviour Order
BCU	Basic Command Unit
CCP	Chief Crown Prosecutor
Centrex	Central Police Training and Development Authority
CJS	Criminal Justice System
CPU	Child Protection Unit (Police)
DCV	Direct Communication with Victims (CPS)
DPP	Director of Public Prosecutions
DVC	Domestic Violence Co-ordinator (CPS)
DVO	Domestic Violence Officer (Police)
HMCPSI	Her Majesty's Crown Prosecution Service Inspectorate
HMIC	Her Majesty's Inspectorate of Constabulary
LCJB	Local Criminal Justice Board
NCRS	National Crime Recording Standard
NIM	National Intelligence Model
OIC	Officer in Charge
PSU	Police Standards Unit
SLA	Service Level Agreement
SOCO	Scenes of Crime Officer
VIVID	Vulnerable and Intimidated Victims Database
VPS	Victim Personal Statement

Glossary

ADVERSE CASE	NCTA, JOA, JDA (see separate definitions) or one where magistrates decide there is insufficient evidence for an either way case to be committed to the Crown Court
AGENT	Solicitor or barrister not directly employed by the CPS who is instructed by them, usually on a sessional basis, to represent the prosecution in the magistrates' court
COMPASS	IT system for case tracking used by the CPS. Compass is the new comprehensive case management system in the course of being rolled out to all Areas
CASEWORKER	A member of CPS staff who deals with, or manages, day-to-day conduct of a prosecution case under the supervision of a Crown Prosecutor and, in the Crown Court, attends court to assist the advocate
CENTREX	Working name and registered trademark of the Central Police Training and Development Authority
CHIEF CONSTABLE	One of 43 chief police officers in criminal justice areas. Autonomous in operational issues, accountable to the local Police Authority for the performance of the force.
CHIEF CROWN PROSECUTOR (CCP)	One of 42 chief officers heading the local CPS in each Area, is a barrister or solicitor. Has a degree of autonomy but is accountable to Director of Public Prosecutions for the performance of the Area
CODE FOR CROWN PROSECUTORS (THE CODE)	The public document that sets out the framework for prosecution decision-making. Crown Prosecutors have the DPP's power to determine cases delegated, but must exercise them in accordance with the Code and its two tests - the evidential test and the public interest test. Cases should only proceed if, firstly, there is sufficient evidence to provide a realistic prospect of conviction and, secondly, if the prosecution is required in the public interest

CO-LOCATION	CPS and police staff working together in a single operational unit (TU or CJU), whether in CPS or police premises - one of the recommendations of the Glidewell report
COMMITTAL	Procedure whereby a defendant in an either way case is moved from the magistrates' court to the Crown Court for trial, usually upon service of the prosecution evidence on the defence, but occasionally after consideration of the evidence by the magistrates
COURT SESSION	There are two sessions each day in the magistrates' court, morning and afternoon
CRACKED TRIAL	A case listed for a contested trial which does not proceed, either because the defendant changes his plea to guilty, or pleads to an alternative charge, or the prosecution offer no evidence
CRIMINAL JUSTICE UNIT (CJU)	Operational unit of the CPS that handles the preparation and presentation of magistrates' court prosecutions. The Glidewell report recommended that police and CPS staff should be located together and work closely to gain efficiency and higher standards of communication and case preparation. (In some Areas the police administration support unit is called a CJU)
CUSTODY TIME LIMITS (CTLs)	The statutory time limit for keeping a defendant in custody awaiting trial. May be extended by the court in certain circumstances
DESIGNATED CASEWORKER (DCW)	A senior caseworker who is trained to present straightforward cases on pleas of guilty, or to prove them where the defendant does not attend the magistrates' court

DIRECT COMMUNICATION WITH VICTIMS (DCV)	A new procedure whereby CPS consults directly with victims of crime and provides them with information about the progress of their case
DISCLOSURE, Primary and Secondary	The prosecution has a duty to disclose to the defence material gathered during the investigation of a criminal offence, which is not intended to be used as evidence against the defendant, but which may be relevant to an issue in the case. Primary disclosure is given where an item may undermine the prosecution case; secondary is given where, after service of a defence statement, any item may assist that defence
DISCONTINUANCE	The dropping of a case by the CPS in the magistrates' court, whether by written notice, withdrawal, or offer of no evidence at court
EARLY ADMINISTRATIVE HEARING (EAH)	Under Narey procedures, one of the two classes into which all summary and either way cases are divided. EAHs are for cases where a not guilty plea is anticipated
EARLY FIRST HEARING (EFH)	Under Narey one of the two classes into which all summary and either way cases are divided. EFHs are for straightforward cases where a guilty plea is anticipated
EITHER WAY OFFENCES	Those triable in either the magistrates' court or the Crown Court, e.g. theft
EVIDENTIAL TEST	The initial test under the Code – is there sufficient evidence to provide a realistic prospect of conviction on the evidence?
GLIDEWELL	A far-reaching review of CPS operations and policy dating from 1998 which made important restructuring recommendations e.g. the split into 42 local Areas and the further split into functional units – CJUs and TUs

GOOD PRACTICE	An aspect of performance upon which the Joint Inspection Team not only comments favourably, but considers that it reflects a manner of handling work developed by an Area which, with appropriate adaptations to local needs, might warrant being commended as national practice
HIGHER COURT ADVOCATE (HCA)	In this context, a lawyer employed by the CPS who has a right of audience in the Crown Court
JOINT PERFORMANCE MONITORING (JPM)	A management system which collects and analyses information about aspects of activity undertaken by the police and/or the CPS, aimed at securing improvements in performance
INDICTABLE ONLY OFFENCES	Offences triable only in the Crown Court, e.g. murder, rape, robbery
INEFFECTIVE TRIAL	A case listed for a contested trial that is unable to proceed when it was scheduled to start, for a variety of possible reasons, and is adjourned to a later date
JUDGE DIRECTED ACQUITTAL (JDA)	Where the judge directs a jury to find a defendant not guilty after the trial has started
JUDGE ORDERED ACQUITTAL (JOA)	Where the judge dismisses a case as a result of the prosecution offering no evidence before a jury is empanelled
LOCAL CRIMINAL JUSTICE BOARD	The Chief Officers of police, probation, the courts, the CPS and the Youth Offending Team in each criminal justice area who are accountable to the National Criminal Justice Board for the delivery of PSA targets
MG FORMS	Forms completed by police in standard fashion under the Manual of Guidance agreed by ACPO and the CPS
NAREY COURTS, REVIEWS ETC	A reformed procedure for handling cases in the magistrates' court, designed to produce greater speed and efficiency

NO CASE TO ANSWER (NCTA)	Where magistrates dismiss a case at the close of the prosecution evidence because they do not consider that the prosecution have made out a case for the defendant to answer
PRE-TRIAL REVIEW	A hearing in the magistrates' court designed to define the issues for trial and deal with any other outstanding pre-trial issues
PUBLIC INTEREST TEST	The second test under the Code - is it in the public interest to prosecute this defendant on this charge?
PUBLIC SERVICE AGREEMENT (PSA) TARGETS	Targets set by the Government for the criminal justice system (CJS), relating to bringing offenders to justice and raising public confidence in the CJS
REVIEW, initial, continuing, summary trial etc	The process whereby a Crown Prosecutor determines that a case received from the police satisfies and continues to satisfy the legal tests for prosecution in the Code. One of the most important functions of the CPS
SECTION 51 CRIME AND DISORDER ACT 1998	A procedure for fast-tracking indictable only cases to the Crown Court, which now deals with such cases from a very early stage - the defendant is sent to the Crown Court by the magistrates
SENSITIVE MATERIAL	Any relevant material in a police investigative file not forming part of the case against the defendant, the disclosure of which may not be in the public interest
SUMMARY OFFENCES	Those triable only in the magistrates' courts, e.g. most motoring offences
TQ1	A monitoring form on which both the police and the CPS assess the timeliness and quality of the police file as part of joint performance monitoring
TRIAL UNIT (TU)	Operational unit of the CPS which prepares cases for the Crown Court



HM Crown Prosecution Service Inspectorate
26–28 Old Queen Street
London SW1H 9HP
020 7210 1197
www.hmcpsi.gov.uk



HM Inspectorate of Constabulary
Home Office
50 Queen Anne's Gate
London SW1H 9AT
020 7273 4197
www.homeoffice.gov.uk/hmic

