

EVALUATING CRIMINAL JUSTICE INTERVENTIONS IN THE FIELD OF DOMESTIC VIOLENCE – A REALIST APPROACH.

By

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ABSTRACT:

This thesis evaluates the combination of two criminal justice interventions in the field of the domestic violence. The intervention, termed a Domestic Violence Court Advisory Service (DVCAS) throughout the thesis, comprises two elements –Independent Domestic Violence Advisers (IDVAs) and Specialist Domestic Violence Courts (SDVCs). Both initiatives were instituted in the wake of much criticism of the treatment of domestic violence in the Criminal Justice System (CJS). To date, however, there has been no rigorous evaluation of the combined efficacy of these initiatives – in particular, regarding their impact on the number of offenders brought to justice.

This thesis examines how a DVCAS can increase the successful prosecution of domestic violence offences through increased victim participation, better court outcomes and a wide and varied use of sentencing options. The thesis highlights ‘what works and why’ in prosecuting domestic violence offences, and in so doing identifies a number of outcomes to suggest that certain practices in the police and CPS do not always support the DVCAS in achieving its aims, in particular, through ineffective investigations, inappropriate safeguarding responses and poor prosecution practices.

DEDICATION:

I would like to dedicate this thesis to the women and children whose lives have been affected by domestic violence, and to the support workers across the country who work to keep women and children safe.

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LIST OF ABBREVIATIONS:

ABH – Actual Bodily Harm

ACPO – Association of Chief Police Officers

CAADA – Coordinated Action Against Domestic Abuse

CCI – Complex Community Initiative

CCR – Coordinated Community Response

CCTV – Closed-circuit Television

CEO – Chief Executive Officer

CID – Criminal Investigation Department

CJS – Criminal Justice System

CMO – Context Mechanism Outcome-Pattern

CMOC – Context Mechanism Outcome-Pattern Configuration

CPS – Crown Prosecution Service

DASH – Domestic Abuse Stalking and Harassment

DV – Domestic Violence

DVCAS – Domestic Violence Court Advisory Service

DVCVA – Domestic Violence Crimes and Victims Act

DVO – Domestic Violence Officer

DVPO – Domestic Violence Protection Order

DVU – Domestic Violence Unit

FTS – Fast-track Services

GBH – Grievous Bodily Harm

GP – General Practitioner

HBV – Honour Based Violence

HMCPSP – Her Majesty's Crown Prosecution Service Inspectorate

HMCS – Her Majesty's Court Service

HMCTS – Her Majesty's Court and Tribunal Service

HOC – Home Office Circular

IDAP – Integrated Domestic Abuse Programme

IDVA – Independent Domestic Violence Advisor

LGBT – Lesbian, Gay, Bisexual and Transgender

MARAC – Multi-agency Risk Assessment Conference

NCRS – National Crime Recording Standards

NFA – No Further Action

OIC – Officer in Charge

ONS – Office for National Statistics

PACE – Police and Criminal Evidence Act

PNC – Police National Computer

PPU – Public Protection Unit

PSR – Pre-sentence Report

RE – Realistic Evaluation

SAP – Sentencing Advisory Panel

SDVC – Specialist Domestic Violence Court

SGC – Sentencing Guidelines Council

ToC – Theory of Change

VAW - Violence Against Women

WCU – Witness Care Unit

CONTENTS PAGE:

CHAPTER ONE: INTRODUCTION.....	1
DOMESTIC VIOLENCE.....	2
RESEARCH AIMS	6
METHODOLOGICAL APPROACH.....	6
THESIS STRUCTURE.....	7
CHAPTER TWO: LITERATURE REVIEW	10
IDENTIFYING THE PROBLEM – DOMESTIC VIOLENCE IN THE CRIMINAL JUSTICE SYSTEM	11
<i>The Overall Picture – Attrition Rates for Domestic Violence.....</i>	<i>12</i>
<i>The Police Decision to Arrest</i>	<i>16</i>
<i>The Extent of Investigation and Evidence Gathering.....</i>	<i>20</i>
<i>Reducing the Seriousness of Criminal Charges.....</i>	<i>22</i>
<i>Prosecution Practices for Offences of Domestic Violence.....</i>	<i>24</i>
<i>Conviction and Sentencing Practices for Domestic Violence Offences.....</i>	<i>25</i>
<i>Women’s Experiences at Court.....</i>	<i>25</i>
<i>Sentencing of Domestic Violence Offenders</i>	<i>27</i>
<i>Summary – Secondary Victimisation of DV victims in the UK</i>	<i>28</i>
UNDERSTANDING POOR PRACTICE FOR OFFENCES OF DOMESTIC VIOLENCE.....	30
<i>Understanding Police Decisions to Arrest and Charge.....</i>	<i>31</i>
<i>Understanding the Decisions of the Wider CJS.....</i>	<i>36</i>
CHAPTER SUMMARY	39
CHAPTER THREE: POLICY LITERATURE REVIEW.....	41
PHASE 1: ROOTS OF CHANGE IN THE CJS: (1974-1996).....	42
<i>Summary of Phase 1</i>	<i>48</i>
PHASE 2: CHAMPIONING CHANGE IN THE CJS: (1997 – 2004)	48
<i>Summary of Phase 2.....</i>	<i>59</i>
PHASE 3: CO-ORDINATING CHANGE IN THE CJS: (2005 – 2010)	59
<i>Summary of Phase 3.....</i>	<i>99</i>
CHAPTER SUMMARY	100
CHAPTER FOUR: METHODOLOGY.....	103
PART 1: SELECTING A METHODOLOGY	104
<i>History of Evaluation</i>	<i>104</i>
<i>Positivist Approaches.....</i>	<i>104</i>
<i>Interpretive Approaches.....</i>	<i>106</i>

<i>A Dichotomy in Policy Evaluation</i>	106
<i>Realism - Bridging the Gap</i>	107
<i>Theory in Evaluation</i>	108
<i>Realistic Evaluation in practice</i>	117
<i>Selecting Realistic Evaluation</i>	120
PART 2: RESEARCH DESIGN	124
<i>Applying Realistic Evaluation</i>	124
<i>Practitioner-Research</i>	125
<i>Developing a Programme Theory</i>	135
<i>Refining the Programme Theory</i>	137
<i>Testing the Programme Theory</i>	139
<i>Refining the Programme Theory</i>	148
INITIAL PROGRAMME THEORY	149
CHAPTER SUMMARY	154
CHAPTER FIVE: FINDINGS PART 1	155
THE ROLE OF A DVCAS IN INCREASING SUCCESSFUL PROSECUTIONS	157
<i>Enhanced Victim Participation</i>	157
<i>Better Court Outcomes</i>	160
<i>Comprehensive Use of Sentencing Options</i>	163
ACHIEVING THE OUTCOMES: IDENTIFYING MECHANISMS	165
<i>Mechanism A: 'Supported Victims'</i>	166
<i>Mechanism B: 'Specialist Delivery of Justice'</i>	176
<i>Mechanism C: 'Co-ordinating the CJS'</i>	188
UNDERSTANDING THE IMPORTANCE OF CONTEXT	198
CHAPTER SUMMARY	203
CHAPTER SIX: FINDINGS PART 2	207
THE ROLE OF THE POLICE AND CPS IN SUPPORTING THE DVCAS	208
<i>Issues of Police and CPS Practice</i>	208
<i>Ineffective Investigation by the Police</i>	208
<i>Inappropriate Safeguarding Responses</i>	215
<i>Ineffective Prosecution Practice</i>	219
POTENTIAL MECHANISMS	231
UNDERSTANDING THE IMPORTANCE OF CONTEXT	234
CHAPTER SUMMARY	247
CHAPTER SEVEN: DISCUSSION	251
UNDERSTANDING IDVAs AND SDVCs PRIOR TO THIS RESEARCH	251
CONTRIBUTING TO UNDERSTANDING AND POLICY/PRACTICE DEVELOPMENT	254

SUMMARY OF CONTRIBUTIONS MADE BY THIS THESIS	267
CONTRIBUTING TO THE METHODOLOGICAL DEVELOPMENT OF REALIST EVALUATION	268
CHAPTER SUMMARY	278
CHAPTER EIGHT: CONCLUSION	280
KEY MESSAGES FOR POLICY MAKERS AND PRACTITIONERS	281
PRIORITIES FOR FUTURE RESEARCH.....	284
‘UNTIL WOMEN AND CHILDREN ARE SAFE’	286
APPENDIX 1:	287
APPENDIX 2:	289
APPENDIX 3:	293
APPENDIX 4:	308
APPENDIX 5:	318
APPENDIX 6:	326
APPENDIX 7:	329
APPENDIX 8:	336
APPENDIX 9:	337
APPENDIX 10:	342
APPENDIX 11:	346
REFERENCE LIST:	361

LIST OF TABLES:

TABLE 1: INITIAL PROGRAMME THEORY	151
TABLE 2–VICTIM RETRACTION STATEMENTS REQUESTED AND COMPLETED (2009/10 AND 2010/11)	158
TABLE 3 – VICTIMS REQUIRED TO ATTEND COURT AND VICTIMS ATTENDING VOLUNTARILY (2009/10 AND 2010/11).....	159
TABLE 4 - VICTIMS REQUIRED TO GIVE EVIDENCE AND VICTIMS GIVING EVIDENCE (2009/10 AND 2010/11)	160
TABLE 5 - PLEAS MADE BY DEFENDANTS (SUCCESSFUL CASES) 2009/10 AND 2010/11	162
TABLE 6 – SUCCESSFUL COURT OUTCOMES (2009/10 AND 2010/11)	163
TABLE 7 – SENTENCES FOR SUCCESSFUL CASES (2009/10 AND 2010/11)	164
TABLE 8 – RESTRAINING ORDERS REQUESTED AND GRANTED	165
TABLE 9 – ADDITIONAL ISSUES FACED BY VICTIMS (2009/10 AND 2010/11)	169
TABLE 10: SUPPORTED VICTIMS MECHANISM.....	174
TABLE 11 – SPECIAL MEASURES REQUESTED AND GRANTED (2009/10 AND 2010/11)	178
TABLE 12 – COURT SUPPORT OFFERED BY IDVAs (2009/10 AND 2010/11)	180
TABLE 13: SPECIALIST DELIVERY OF JUSTICE MECHANISM	186
TABLE 14: CO-ORDINATING CJS MECHANISM	196
TABLE 15: REFINED PROGRAMME THEORY	204
TABLE 16 – OFFENCES REPORTED BUT NOT CHARGED (2009/10 AND 2010/11)	212
TABLE 17 – WITNESS INTIMIDATION AND BREACH OF BAIL	215
TABLE 18 – PERPETRATOR PREVIOUS HISTORY (2009/10 AND 2010/11).....	222
TABLE 19: INITIAL PROGRAMME THEORY	229
TABLE 20: PROGRAMME THEORY – UNINTENDED OUTCOMES	248

LIST OF DIAGRAMS:

DIAGRAM 1 – THE REALIST EVALUATION CYCLE	124
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LIST OF BOXES:

BOX 1: CASE STUDY 1 – SHEILA.....	179
BOX 2: CASE STUDY 2 – VICKI.....	189
BOX 3: CASE STUDY 3 – ANGELA.....	209
BOX 4: CASE STUDY 4 – SASHA.....	213
BOX 5: CASE STUDY 5 - CLARA.....	214
BOX 6: CASE STUDY 6 – VALERIE	214
BOX 7: CASE STUDY 7 – SARAH	217
BOX 8: CASE STUDY 8 – ANNE.....	218
BOX 9: CASE STUDY 9 – KAREN.....	219
BOX 10: CASE STUDY 10 – HELEN	223
BOX 11: CASE STUDY 11 – ESTHER.....	226

CHAPTER ONE:

INTRODUCTION

This thesis evaluates the impact of a combination of two separate initiatives in criminal justice, both in the field of domestic violence. This combination is described here as a Domestic Violence Court Advisory Service (DVCAS), and the two constituent initiatives are respectively: a) a Specialist Domestic Violence Court (SDVC) working within the magistrate court's jurisdiction, and which incorporates specialist training and practical measures for domestic violence cases; and b) Independent Domestic Violence Advisers (IDVAs) who provide support to victims throughout the criminal court process and beyond. Both initiatives were instituted in the wake of much criticism of the treatment of domestic violence in the Criminal Justice System (CJS). To date, however, there has been no rigorous evaluation of the combined efficacy of these initiatives – in particular, regarding their impact on the number of offenders brought to justice - which was an explicit objective of their introduction. Furthermore, there has been little focus on the important issues of the interaction between these two initiatives or of the role of the police and CPS in this context and to the same end of securing the successful prosecution of domestic violence offenders.

This introductory chapter begins by exploring the problem of 'domestic violence' before defining the particular form of abuse that will be studied during this research. The discussion then turns to how the CJS has typically responded to these offences before outlining the aims of the research and the methodological approach adopted. The discussion concludes by setting out the structure of the thesis and the contribution of the individual chapters.

Domestic Violence

Over the last 40 years, domestic violence has become recognised as a key public policy issue with an estimated cost to UK society of 15.7 billion every year (Walby, 2009). Numerous studies have been commissioned in an attempt to understand the prevalence and nature of this form of abuse. The majority of research has focused on men's abuse towards women, primarily due to the issue arising from the feminist campaigns of the early 1970s. International studies have suggested that between 40% - 70% of female murder victims (depending on the country) were killed by their partners/former partners (Krug et al. 2002), with one in four women estimated to have experienced domestic violence at some point in their lives (Council of Europe, 2002). In the UK, research has shown that two women per week are killed as a result of domestic violence (Coleman and Osborne, 2010, Povey, 2005), nearly half of all women murdered in the UK are killed by a current or former partner (Osborne, 2012, Povey 2005 and Home Office, 2001b), and over half of all reported rapes in the UK are committed by someone in an intimate relationship with the victim (Walby and Allen, 2004).

In more recent years, research has highlighted the extent to which domestic violence occurs in the context of other relationships. For example, in their 2013 report, the Office for National Statistics (ONS) identified that whilst women were nearly twice as likely to experience abuse in their relationships, there are also a significant number of men disclosing the same:

- 7.1% of women and 4.4% of men reported having experienced some type of domestic abuse in the last year, equivalent to an estimated 1.2 million female victims of domestic abuse and 700,000 male victims.

- Overall, 30.0% of women and 16.3% of men had experienced domestic abuse since the age of 16, equivalent to an estimated 4.9 million female victims of domestic abuse and 2.7 million male victims.
- Among both men and women, the prevalence of intimate violence was higher for younger age groups.
- Both women and men with a long-term illness or disability were more likely to be victims of domestic abuse in the last year, compared with those without a long-term illness or disability.

(ONS, 2013)

Whilst the ONS data did not account for the sexuality of the men and women in their research, it has been suggested that domestic violence is just as prevalent in the Lesbian, Gay, Bisexual and Transgender (LGBT) communities, with Henderson (2003) estimating as many as 1 in 4 people in a same-sex relationship have experienced DV. Similarly, in a study by Donovan et al (2006), around 40% of respondents identified themselves as having suffered abuse in a same sex relationship, yet this number increased to as much as 77% when recalling a specific incident of emotional abuse. Moreover, domestic violence does not just occur within intimate relationships, it is often the case that individuals are abused by family members, particularly in the context of Honour Based Violence (HBV).

As understandings of domestic violence have changed, so too have definitions. Until March 2013, the Home Office defined domestic violence as:

‘Any incident of threatening, abusive or violent behaviour (psychological, physical, emotional, sexual or financial), between two people who are, or have been in an intimate relationship, or family members, regardless of gender or sexuality. (Home Office, 2005, p.7)’

This definition has now been widened to include people aged between 16 to 18 (recognising it is a particular issue in young people’s relationships (ONS, 2013)) as well as including the concept of coercive control (to help victims understand that abuse extends beyond incidents of physical, sexual, financial and emotional abuse and forms a pattern of behaviour).

Whilst it is evident from the above research that victims of domestic violence are not confined to one demographic, this thesis is concerned with female victims of abuse. This was a pragmatic decision as the IDVA service being evaluated is based in a women’s organisation with women being the only recipients of the service. Furthermore, whilst the IDVA service supports women in same-sex relationships and those who have been abused by family members, all the cases included in the samples taken for this study related to male perpetrators with whom the women were currently, or had been, in intimate relationships. Accordingly, the particular ‘form’ of domestic violence referred to throughout this research concerns men’s violence towards women within the context of intimate relationships (albeit recognising the existence of other contexts in which such abuse also occurs).

At this point, it is important to note that this thesis refers to ‘victims’ of domestic violence from a purely criminological perspective, in that they fit within the criminal justice category of ‘victims of crime’, yet acknowledges that some organizations and individuals view this term as

disempowering and so prefer the term ‘survivor’. Similarly, whilst the term domestic ‘violence’ is used throughout this thesis, the term is not confined to physical or sexual incidents of abuse, and also encompasses the range of controlling and coercive behaviours, along with emotional, psychological and financial abuse, as recognised in the Home Office definition (2013).

The Criminal Justice Response

The criminal justice response to domestic violence (more specifically men’s violence towards women) has drawn intense criticism from academic research and women’s advocates since the issue began to stir more strongly in the public consciousness in the 1970s. Initially, criticism focused mainly on police responses to such crimes, with evidence suggesting a reluctance on the part of officers to intervene in ‘domestics’ and to arrest and charge offenders. Prosecutors were criticized on account of the small proportion of offenders prosecuted, whilst magistrates were viewed negatively for the seemingly lenient sentences imposed on the minority of offenders who were convicted (see Cretney and Davis 1996, 1997, 1997a, Cook et al 2004). In response to such criticisms, various policy developments were introduced in subsequent years, including the establishment of Special Domestic Violence Courts (SDVCs) and the introduction of Independent Domestic Violence Advisers (IDVAs) – the two initiatives on which this thesis focuses. However, relatively limited research has been undertaken to assess the efficacy of these developments.

Research Aims

Against this background, the overarching question framing this research became:

- **What works in increasing the successful prosecution of domestic violence offences?**

As will be shown throughout the thesis, the initiatives of the SDVC and the IDVA (described in combination here, as a Domestic Violence Court Advisory Service, or DVCAS) have yet to be evaluated with reference to the impact they can have on increasing successful prosecutions. Accordingly, the question of what impact a DVCAS can have provides the central focus for this study. More specifically, the research questions that underpin the overarching research question are:

- **What impact does a DVCAS have on increasing successful prosecutions for domestic violence offences?**
- **What is the role of the police and CPS in supporting the work of a DVCAS?**

Methodological Approach

In order to answer the above research questions, this thesis uses the framework of Realistic Evaluation (RE) as developed by Pawson and Tilley (1997). This approach is not concerned with assessing *overall* policy success or failure; it is about addressing the questions of ‘what works, for whom, in what circumstances and in which respects?’ To the author’s knowledge, this thesis constitutes the first application of RE in the field of domestic violence although it has been applied in a number of other criminal justice settings including by Pawson and Tilley themselves. Its use

here, in a DV context is to identify specifically what it is about a DVCAS that might increase the number of successful prosecutions of offenders, the particular circumstances (or contexts) in which this would be most likely to occur, and also how different policies and practices of the police and CPS would tend to support (or counter) the success of the DVCAS initiative.

Thesis Structure

Chapter Two explores the contribution of the literature to an understanding of criminal justice responses to domestic violence. The discussion begins by identifying the roots of the problem – namely the reluctance of the police (and wider CJS) to intervene in domestic violence cases with the consequence of leaving victims at further risk. The chapter also reviews the reasons offered in the literature for this state of affairs.

In Chapter Three, the changing policy landscape with regard to criminal justice responses to domestic violence is presented. The chapter provides a chronological account of the main legislative changes, governmental policy developments and associated guidance, and the responses of the police, the CPS and the courts. The chapter also provides a fuller account of Special Domestic Violence Courts (SDVCs) and Independent Domestic Violence Advisers (IDVAs) - the two initiatives that together constitute the focus of the evaluation study in this thesis– as the Domestic Violence Court Advisory Service (DVCAS).

Chapter Four outlines the methodological framework that has been used to address the key research questions. The first part of this chapter introduces the dichotomy between positivist and interpretive approaches in public policy evaluation and then identifies ‘realism’ as the preferred

approach for this thesis. The chapter then reviews the different theory-based approaches to evaluation and provides a justification for the chosen framework of Realistic Evaluation (RE). The second part of the chapter begins by summarising how the evaluation study was conducted, in particular, by exploring the ‘insider’ status of the researcher and the complexities associated with researching as a practitioner. The discussion then moves on to the detail of how the framework of RE was applied in practice, before presenting the initial ‘programme theory’ to hypothesise what it is about a DVCAS, alongside the police and CPS, that could impact on increasing successful prosecutions, and the contexts that would be needed for this to occur.

In Chapters Five and Six, the main findings of the research are presented. In Chapter Five, the findings are discussed in relation to the impact of the DVCAS on successful prosecutions, and with a detailed account provided of the features of the policies that underpinned the changes, and the particular contexts in which they were implemented. In Chapter Six the discussion turns to examine how the role of the police and CPS impacted on the outcomes of the DVCAS.

Chapter Seven reflects upon the research findings as a whole and highlights a number of key implications for policy and practice. The contribution of the thesis is discussed, with particular reference to identifying how the research has added to current understanding of domestic violence policy responses in the criminal justice arena, and also how it has contributed further to the development and application of RE methodology.

Chapter Eight draws the strands together and, having provided a further short summary of the main findings, offers a set of recommendations for policy makers and practitioners, as well as identifying

priorities for future research in this increasingly recognized key area for public policy and for social justice.

Taken as a whole, this thesis demonstrates the positive impact that a DVCAS can have on the successful prosecution of domestic violence offences. However, it also identifies a number of outcomes to suggest that practice in the police and CPS does not always support the achievement of aims in this respect. Most important, the thesis offers an explanation as to *how* the outcomes were achieved and the particular contexts in which there was more or less success – in this way providing unique insights into ‘what works and why’ in the prosecution of domestic violence offences.

CHAPTER TWO:

LITERATURE REVIEW

Prior to the twentieth century, violence against women in the home was condoned in law (see Buzawa and Buzawa 1996). Many eighteenth century statutes recognised that women were the possession of their husbands and were subject to his authority; under the principle of coverture the husband and wife were viewed as a single legal entity (Dobash and Dobash, 1979). This had serious implications for victims of domestic violence, as: “*a wife upon marriage fortified her right to protection from assault by her husband, and could not be compelled to give evidence against him*” (Edwards, 1991, p.51).

Whilst the twentieth century saw a change in attitudes towards men’s dominance of women, and while the law was clarified so that violence committed by a man against his wife was to be considered illegal, cultural norms generally continued to condone such behaviour (Dobash and Dobash, 1979). In 1967 the International Association of Police Chiefs outlined its stance on domestic violence:

“For the most part these disputes are personal matters requiring no direct police action...In dealing with family disputes the power of arrest should be exercised as a last resort. The officers should never create a police problem where there is only a family problem existing” (Dobash and Dobash, 1979, p.210).

It was against this backdrop that the feminist movement of the 1970s sought to change the perception of violence against women from a private family matter, to an issue for State intervention – in particular, seeking protection from the CJS.

This chapter, then, explores the contribution of academic literature to an understanding of how the criminal justice response to domestic violence has progressed over the last 40 years. The chapter begins by focusing on the problem – namely that the criminal justice system in England and Wales has been largely ineffective at prosecuting offenders through the courts. The published literature on the subject has also offered a number of possible explanations – these mostly building on feminist critiques - identifying the gendered nature of this form of abuse existing within a patriarchal society. As the chapter will evidence, traditional criminal justice responses to crimes of domestic violence were deemed ineffective by researchers, both in regards to protecting victims and in holding offenders to account.

Identifying the Problem – Domestic Violence in the Criminal Justice System

The following discussion explores how crimes of domestic violence have been dealt with by the CJS in England and Wales since initial research publications on this subject in the 1970s. As will be seen, research identified a range of issues at each stage of the criminal justice process- starting with police decisions about whether or not to arrest, the quality of investigation work, the frequency of charge reduction, reluctance by the CPS to prosecute without the victim appearing as a witness, the insensitive and degrading treatment of women victims at court, and also the widely perceived leniency of sentences imposed for those convicted.

The Overall Picture – Attrition Rates for Domestic Violence

To understand better the low prosecution rates for DV offences across the CJS, it is helpful to explore the attrition rate concept. Attrition occurs where: *“Of crimes committed, a smaller proportion are reported; of those reported, a smaller proportion are prosecuted, of those prosecuted, a smaller proportion end in conviction”* (Home Office, 1999). Attrition can occur at every stage of the criminal justice process, and the reluctance of the police to arrest alleged offenders of domestic violence is one of the first points of attrition.

Early studies, such as those conducted by Edwards (1986), indicated high levels of attrition in domestic violence cases: *“Out of all 324 calls for assistance, 1.5% of cases were proceeded with”* (1986, p.234). In a further London study, Edwards again identified that:

“In 1985 approximately 54,000 calls were received in the Metropolitan Police district; only 12 per cent of these calls were treated as crimes. Seventeen per cent of these resulted in arrest and prosecution” (1991, p.157).

In two later studies, the rates of attrition were similarly concerning. The first was conducted between 2001 and 2003 and was commissioned by the Northern Rock Foundation. The study was based in Northumbria and involved data collection from Newcastle West, the coastal town of South Tyneside and rural North Northumberland. The results for attrition in this study were as follows:

- 869 domestic violence incidents were recorded by the police
- 222 of the incidents resulted in arrest (26% of incidents)

- 60 of the alleged offenders were charged for criminal offences (27% of those arrested, 7% of incidents)
- 31 individuals were convicted (52% of those charged, 14% of arrests, 4% of incidents)
- 4 of these convictions resulted in a custodial sentence (13% of convictions, 0.5% of incidents)

(Hester, 2005, p.81)

In a similar study conducted by Her Majesty's Crown Prosecution Service Inspectorate in October 2002, it was found that of 436 incidents that were examined in detail:

- 118 resulted in a crime being recorded
- (and potentially, a further 142 crimes could have been recorded)
- 71 arrests were made (16% of all incidents, 60% of all crimes recorded)
- 25 alleged offenders were charged (21% of all crimes recorded)
- 13 offenders were convicted (2.8% of all incidents, 11% of crimes recorded)

(HMCPSI, 2004)

These studies have suggested a wide disparity in the number of domestic violence offences reported to the police and the number of offenders brought to justice. In more recent years, despite the policy attention that domestic violence has received (as explored in Chapter Three) it is still the case that understanding the overall attrition rate is problematic. Individual police forces publish data regarding the number of domestic violence 'incidents' reported. However, such data does not include breakdowns of how many 'incidents' were subsequently recorded as crimes (furthermore this data is not audited by the Home Office and so does not have the status of 'official' statistics).

The CPS publish data regarding the number of domestic violence files forwarded from the police for consideration for criminal charges, and the number of prosecution decisions taken as a result. It is therefore possible to build a picture of average attrition rates. However, such data is unlikely, on its own, to provide a sufficiently comprehensive and accurate account of the scale and dynamics of the issue.

An analysis of the available data from 2007/8 to 2011/12 shows the following:

- ‘Incidents’ of domestic violence recorded by the police (in England and Wales) between 2007/08 and 2011/12 increased from 580, 238 to 796, 935, with an average level of 715,851 (Dar, 2013).
- The number of incidents that were then forwarded to the CPS for charge during the same years ranged from 74,000 (2007/08) to 95,000 (2011/12) – with the average being 88,200 (CPS, 2008 – 2012).

This suggests that only 12% of ‘incidents’ reported to the police resulted in a crime being recorded and forwarded to the CPS to authorise a charge (however, it should be noted that some ‘incidents’ may not have constituted criminal offences, while other offences may have been ‘crimed’ but not forwarded to the CPS).

- Of the 88,200 cases forwarded by the police to the CPS for a charging decision between 2007/8 and 2011/12, an average of 65% of them were authorised - meaning 35% (30,870) of

domestic violence crimes did not go any further in the criminal justice process (CPS, 2008 – 2012).

- Of the 65% (57,330) of domestic violence offences that were charged by the CPS, the successful prosecution rate of these offences increased from 68.9% (in 2007/8) to 73.3% in (2011/12). This prosecution rate averages out at 72% (41,277) over the 5 year period, meaning that a further 28% of offences (16,052) were not successfully prosecuted (CPS, 2008 – 2012).

Therefore, of the yearly average number of domestic violence cases recorded by the police as crimes and forwarded to the CPS for charge, less than half (41,277) were eventually prosecuted successfully. Furthermore, when considered in conjunction with the police data, the indication is that probably less than 6% of recorded incidents resulted in successful prosecutions.

Moreover, there are further complexities to the above picture. CPS data for 2012/13 shows that the number of cases forwarded to them by the police has decreased significantly since 2010/11 (from over 100,000 criminal offences to 88,110, suggesting a reduction in the overall proportion of offenders being held accountable for their behaviour). The following discussion examines more fully the particular responses of the police, CPS and the courts which can be understood as being reflected in the above statistics.

The Police Decision to Arrest

When a police officer attends an incident, s/he has to decide whether to arrest the offender. The question of whether a crime has or has not been committed is not the primary factor in the officer's decision to arrest the suspect. Operational police officers must make a decision as to the appropriateness of an arrest, based on the presenting situation. As Wadham (1998) suggests: "*As gatekeepers to the criminal justice system the police occupy a quasi-judicial role, selecting potential offenders, deciding on guilt and imposing punishment*" (cited in Poyser, 2004, p.26). The use of discretion is fundamental to the functioning of everyday policing. However, it has been recognised by authors such as Poyser (2004) that discretionary power has resulted in both the over and under-policing of offenders for different offending behaviours, with visible crimes such as anti-social behaviour, tending to be targeted more strongly at the expense of less visible crimes such as fraud. One of the most pervasive crimes for which discretion has caused particularly marked under-enforcement is domestic violence which, as the following discussion will show, has historically being treated as a private civil issue, as opposed to a crime.

Throughout the last four decades, numerous studies have highlighted the inappropriateness of the response of the police to cases of domestic violence. These studies have indicated the reluctance of officers to intervene by arresting alleged offenders and instead have sought alternative means for addressing the situations. In 1978-79, Faragher conducted a study with Staffordshire police to investigate the police response to domestic violence. Although the number of cases he examined was small (26 in total), it was clear that the police were reluctant to invoke the law in domestic contexts. Of the 26 incidents examined, 10 involved a criminal offence, five involved assault, 2

were breaches of injunctions and 3 involved theft/damage. Of the five assault charges, only two resulted in arrest: “*although in one of the two cases it was clear that the arrest was made primarily because of the presence of an observer*” (Faragher, 1985, p.113). In relation to the breaches of injunctions and offences of theft and damage, the officers refused to arrest the offender in all five cases (Faragher, 1985, p.116).

Further studies also suggested police reluctance to arrest offenders in domestic disputes. As Edwards explained: “*Even where physical injury is present, criming such an incident is by no means an inevitable consequence*” (1986, p.231). Furthermore, Edwards found that the most important factor determining whether an offender was arrested was the willingness of the victim to press charges. Hoyle’s later study in Thames Valley (conducted between 1993 and 1994) supported this argument, with officers requiring the victim to have made a complaint prior to arrest (1998). In determining the factors associated with the decision to arrest, Dobash and Dobash (1979) found that neither the severity of the assault nor level of injury significantly impacted on the arrest decision. Similarly, Edwards (1991) noted that the severity of the injury was an important consideration, but by no means a guarantee of arrest (1991, p.102; see also Berk and Loseke, 1980).

Part two of this chapter will explore potential explanations for the police decision to arrest, and as will be seen, the main reason given by the police for deciding not to arrest, was the probability of the woman withdrawing her complaint. Yet, Hoyle suggested that: “*even when all the conditions were met for the police to make an arrest, including the co-operation of the victim, this was rarely done*” (1998, p.3). Research showed that unless there had been a serious injury inflicted with a weapon, the police were unlikely to arrest and charge (Edwards, 1986). Officers would typically try every other course of action available, rather than enforcing the criminal law. As a result,

Bourlet claimed that: “*Non-arrest policies...have been the norm until very recently, even when there is clear evidence of assault*” (1990, p.9).

Due to the fact officers would seldom make an arrest at a domestic dispute, one of the most common alternatives was a ‘cooling-off period’ whereby either the victim or the offender would be removed from the address temporarily so that they could ‘calm down’. In addition, if a victim had expressed a desire to make a statement, officers would sometimes allow 48 hours before taking the statement with the expectation she may have changed her mind (see Edwards, 1991). Such approaches had serious implications for victims; firstly because of the implied condoning of the violence (by trivialising the serious criminal nature) and, secondly, because it discouraged victims from supporting prosecutions.

A further tactic used by officers throughout the 1980s was to recommend resort to civil remedies. As Edwards argues, “*Throughout recent history, violent assault committed against a wife...has been systematically diverted away from the criminal justice process and dealt with as a civil matter*” (Edwards, 1991, p.50). Civil legislation introduced throughout the 1970s and early 1980s was intended to assist victims of domestic violence yet, in practice, it tended to reinforce the police’s reluctance to enforce criminal sanctions. As such, women who called the police would often be advised to contact a solicitor as this was seen as the most appropriate means by which to deal with violence in the home.

Hague and Malos (1993, p.68) summarised the police response to domestic violence throughout the 1970s and 1980s:

“Typically, the police have not intervened to arrest the man and protect the woman. Even when faced with clear evidence that a crime has been committed, they have seen it as their job to mediate, to calm things down as far as possible and then leave, without taking any steps to ensure the safety of the woman. At best, they might give the man a ‘talking to’ or take him to the end of the road to cool down, and perhaps advise the woman to take out an injunction or a private prosecution for assault, even when the attack caused her injury”.

But it is important to note that the issue of police reluctance to arrest was not confined to the 1970s and 1980s. For example, in a study conducted between 1992 and 1994 of Northamptonshire Police, Wright (1995, p.419) found that:

“Over 60 per cent of registered calls concerned an assault or Actual Bodily Harm (ABH). However, only 23 per cent of cases involved the police pressing charges for assault or ABH. The most common police response was to decide that no action was required, or to issue advice or a warning”.

Similarly, in the evaluation of ‘Domestic Violence Matters’ (Kelly et al, 1999), an initiative developed in the 1990s, the authors again found that police action by way of arrest and charge, only occurred in a minority of cases (Kelly et al, 1999, p.Viii). Furthermore, the attrition studies cited above (Hester, 2005 and HMCPSI, 2004), both conducted post 2000, showed arrest rates between 16% and 26% (of incidents reported), suggesting the reluctance of the police to arrest DV offenders has persisted across the decades.

The Extent of Investigation and Evidence Gathering

Once an offender has been arrested, the police should investigate the crime by gathering all available evidence. Unfortunately, relatively little research has focused around the police's investigation of domestic violence offences, partly due to the small number of offenders who have been arrested. However, of those studies that have been undertaken, a similar 'hands-off' philosophy can be identified in the approach to investigations.

In a study of Thames Valley police, for example, Hoyle (1998) identified the crucial role of the victim in the investigation of domestic violence offences. Essentially, if a victim showed any reluctance to support the case, this would be likely to signal the end of the investigation, and as Hoyle further explained: *"Recent studies indicate limited police efforts to 'construct' a case in response to domestic violence complaints beyond a victim's initial statement"* (1998, p. 838). Similarly, Ellison (2002, p. 836) identified the consequence of relying solely on the victim as the only source of evidence:

"Research points to an overly narrow focus on domestic violence victims as an evidential resource at the investigative stage of the criminal process...this limits the evidence potentially available to prosecutors".

One of the most comprehensive studies regarding police investigations of domestic violence offences was the Her Majesty's Crown Prosecution Inspectorate (HMCPSI) report published in 2004. This research highlighted a number of deficiencies in the approach of the police to investigating such crimes. The first aspect of an investigation lies in accurately recording which crime, if any, has been committed. Yet the report found that despite the Home Office adopting a

National Crime Recording Standard (NCRS), the recording of crimes amongst the forces varied from 66% to 10%, leading the authors to argue that:

“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” (HMCPSI, 2004, p.38).

Furthermore, despite police force policies referring to ‘approved investigation techniques’, the authors of the HMCPSI report found that understanding of policy was often lacking, resulting in frequent failures to follow guidance routinely or consistently. Furthermore, they found only one police force policy advising officers to record the victim’s injuries or to describe the scene. On a related point, the report also found that despite Polaroid cameras being available in most forces, they were rarely used in practice. This is a finding mirrored by Hester (2005) who commented that, despite photographic evidence making it more likely that a guilty plea or conviction would result, *“such evidence was rarely collected”* (p.86).

The HMCPSI report also found few examples of officers considering additional evidence such as CCTV, statements from neighbours, admissions and 999 tapes (2004, p. 40). Similarly, Hester commented: *“The extent to which other evidence, such as interviews with neighbours or use of CCTV footage, was followed up appeared to depend on what was requested by CPS rather than such evidence being gathered more routinely”* (2005, p. 86). In a later research project in Caerphilly, conducted by Vallely et al (2005), it was again found that evidence gathering remained limited, despite a positive correlation between additional evidence (where it existed) and an increase in guilty pleas and defendants being found guilty. Findings such as these suggested the

investigation of domestic violence offences to be mostly ineffective and inconsistent – with the tendency being for ‘domestics’ not to be viewed as ‘real crimes’.

Reducing the Seriousness of Criminal Charges

When the police arrest a suspect, they will normally caution the suspect for a particular offence. With regard to violent crimes, the offence might typically be a: Section 39 (Common Assault); Section 47 (ABH); Section 20 (Grievous Bodily Harm (GBH)); or Section 18 (GBH with intent). If the physical evidence of an assault is more limited, such as a bruise or cut, then the offence would typically be treated as Common Assault. However, if there is more substantial injury (such as more serious breaking of the skin), the offence might be categorised as ABH. More serious assaults, involving, for example, broken bones, would likely be treated for charge purposes as GBH. Issues of selection of charge, and decisions on any ‘charge reduction’ have variously involved both the police and CPS. Between 1985 and 2005, both the police and CPS had a role in determining charges, although since 2005 the CPS have been ultimately responsible for all such charging decisions.

Various studies have shown the frequency with which charges were reduced in cases of domestic violence. As Cretney and Davis report in their 1997 paper, it was rare with domestic violence cases for a suspect to be charged with the offence for which they were arrested. The authors found that only 16% of Section 47 assaults in the domestic context were sustained to the point of conviction, compared with 40% in non-domestic contexts (1997, p.148). Similarly, as Smith has commented regarding Edwards’ 1986 study: *“It further appears that it is common practice for police to*

'downgrade' the injuries sustained' (1989, p.44). Various explanations have been proffered for this practice:

"The reason most commonly advanced for reducing assault charges to s.39 (advanced not least by prosecutors themselves) is that the offence must then be dealt with summarily" (Cretney and Davis, 1997a, p.148).

This means that the matter will be heard in the magistrates' court, the main benefits of which would relate to speed of outcome, degree of certainty and cost to the criminal justice system. As Grace (1995, p.46) has commented, from interview research with prosecutors:

"Several said that they were very keen to use summary-only offences because it was better to prosecute cases in the magistrates' court where they would be dealt with more speedily and where, one prosecutor said, a conviction was more likely".

Such benefits, however, are often negated by the disadvantages of less severe penalties and downgrading of offence categories. The maximum penalty in the magistrates' court for a common assault is 6 months imprisonment, although magistrates are often reluctant to impose custodial sentences. However, with an ABH charge, the case can be heard in the Crown Court and the associated penalties can be significantly more severe (although, before a jury, the chances of conviction tend to be lower).

Prosecution Practices for Offences of Domestic Violence

Far less is known about the decision to prosecute in domestic violence offences, compared with issues of response by the police. One study which gives an insight however, is that by Hester and Westmarland (2005, p. 57) who found wide variation in prosecution rates when evaluating Crime Reduction Projects:

“Prosecution and conviction rates varied considerably across the project areas, with conviction rates of between 39 per cent (in Hammersmith and Fulham) and 67 per cent (in Cheshire) for prosecuted cases where the outcome was known. In the instances where the perpetrator was convicted the use of custodial sentences also varied considerably (11 to 50%)”.

Variance in prosecution rates, however, should be seen in the wider context. The national average for all cases prosecuted by the CPS in 2005 was 82.3%, yet for all domestic violence cases prosecuted in the same period the average was only 59% (CPS, 2005a). Similarly, in the HMCPSI report (2004, p.78), variance between domestic violence offences compared with the national average were found in the following:

- *“A discontinuance rate of 28.2% compared to the national average of 11%.*
- *Crown Court acquittal at 11.1% compared with a national average of 6%.*
- *Magistrates’ court acquittal at 4.2% compared to a national average of 1.5%”*

The above data suggests that, until 2005 at least, prosecution for domestic violence offences was less likely than for other offences.

Conviction and Sentencing Practices for Domestic Violence Offences

One further issue to be explored here relates to the conviction and sentencing of domestic violence offenders. As discussed above, most attention has focused on the police response, leaving the rest of the CJS relatively less well understood. Despite limited research in this area, the investigations that have been conducted tend to depict victims' experience of the court process as mostly quite negative and as doing little to improve their longer-term safety. Furthermore, as indicated, sentencing is often widely perceived as being unduly lenient and tending to downplay the seriousness of the offence.

Women's Experiences at Court

In reviewing women's experience of the criminal justice system – in particular the requirement to attend court - several authors have highlighted the insensitive and humiliating treatment victims of domestic violence often receive. As Cretney and Davis (1997) observed:

“Anticipated participation in the criminal trial is an ordeal for the assault victim, and it can be unsettling to discover that nobody at court is explicitly charged with representing her interest. In most of the cases which we observed there was contact between prosecutor and complainant only in hurried interludes, possibly within earshot of the defendant and his lawyer” (1997a, p.150).

Similarly, Grace found that:

“When the police did charge an offender and the case came to court, many respondents felt that the way in which the courts had dealt with their complaints had exacerbated their problems” (1995, p. 42-43).

The limited UK research on this subject has also highlighted concerns regarding the safety of women at court, with many courts lacking separate and safe waiting areas for victims away from alleged perpetrators or their associates, nor giving consideration to the victim’s safety once a court case has been concluded. Furthermore, researchers and women’s groups have raised concerns with the way in which the facts are often presented in court. Cretney and Davis (1997) highlighted the predicament of victims who felt they had been ill-treated, particularly by the defence, most commonly through derogatory allegations, and to which there was no challenge from the prosecutor. However, they also commented that:

“Some of the women whom we interviewed complained that only a bare outline of the incident had been presented to the court and that the prosecutor had underplayed the extent of the violence” (Cretney and Davis, 1997, p. 151).

Whilst the number of such studies to date has been limited, the overriding conclusion has been that, for the small number of cases that do reach court, the safety and well-being of victims has hardly been a major consideration for prosecutors. Indeed, surprisingly few victims appear to have had direct contact with the prosecutor – a factor that is likely to have had a bearing on the prosecutor’s attitude to challenging any unsubstantiated comments from the defence.

Sentencing of Domestic Violence Offenders

As Cretney and Davis have also suggested: “*One obvious way of indicating that a particular category of crime is taken seriously is through the sentences imposed for that type of offence*” (1997a, p.152). However, as other authors have commented, the sentences imposed for domestic violence incidents tend to be viewed as more lenient than equivalent crimes in other contexts (Smith, 1989, Cretney and Davis 1997 and 1996).

“Getting the case to court is one thing, getting magistrates and judges to mete out realistic or appropriate sentences is another. In a 1989 study of 102 convictions at Streatham, two offenders received custodial sentences, 10 per cent were conditionally discharged and bind-overs and fines constituted the remainder” (Edwards and Halpern, 1992, p.4).

In addition to the above, a study conducted in 1994 by Cretney and Davis investigated the prosecution and sentencing of domestic violence cases in comparison with non-domestic cases. The authors showed that in cases of domestic assault, a conditional discharge was the most likely outcome; with custodial sentences being only rarely imposed and community service orders viewed as inappropriate. Cretney and Davis (1997a, p.152-3) also found that most cases of domestic assault would be down-graded to common assault, for which “*bind over and conditional discharge are the standard response to assaults in the home. As sentences go, a fine is relatively severe*”.

In a study of attrition in Northumberland, Hester (2005, p. 81) highlighted that only 13% of convictions ended in custodial sentences. Whilst in a similar investigation, Hester and Westmarland (2005, p. 67), found that the level of prosecution and conviction varied considerably between areas, with the use of custodial sentences ranging from 11% to 50%. A study conducted

by Gilchrist and Blissett (2002) sought specifically to determine whether magistrates' sentencing varied between 'stranger-committed violence' and domestic violence. Here they found no clear evidence suggesting that magistrates were likely to sentence stranger-committed violence more severely than domestic violence (their quantitative analysis finding the apparent differences to be not statistically significant). They used sentencing exercises (with a series of hypothetical scenarios, each detailing a situation of domestic or stranger violence) and with magistrates being asked to decide the appropriate sentence on each. The scenarios variously involved additional factors such as alcohol consumption, children being present, and the need for medical attention. Two factors which consistently led to significantly more severe sentencing were alcohol and the need for medical treatment.

Summary – Secondary Victimisation of DV victims in the UK

As the above discussion has shown, early research into women's experience of the CJS when reporting domestic violence identified a range of practices that were likely to cause distress to the victim and undermine the abuse she had suffered. It was less than likely that the police would take women's safety seriously (by arresting the offender), and instead might more likely be expected to resort to non-criminal resolutions; the CPS tended not to use the full range of options available to them in pursuit of a prosecution; and for the women whose cases did come to court, there was unlikely to be any form of personal support, and the likelihood that they would end up feeling that justice had not been done. Such negative consequences (and the potential further harm caused) have been extensively documented in relation to victims of sexual violence, and described as contributing to 'secondary victimisation'. As Campbell et al (2001, p.1240) explain: "*Secondary victimisation has been defined as the victim-blaming attitudes, behaviours, and practices engaged*

in by community service providers, which further the rape event, resulting in additional trauma for rape survivors". There is a wealth of literature regarding the nature and impact of such secondary victimisation, particularly in the US (Campbell et al, 2001, Orth, 2002, Campbell, 2006, Patterson, 2010, Maier, 2008), which shows that it is not just about the response of the legal system, but includes medical professionals, victim services, religious groups and wider society. Campbell et al (2001) have summarised various ways in which victims of sexual assault might experience secondary victimisation. These include; women being told by professionals that their accounts were not believed or that they themselves could not be considered credible witnesses, women being denied thorough investigative services by the police, and, for women whose cases were indeed taken forward for prosecution, encountering the additional stress and humiliation of an insensitive and aggressive cross-examination in the courtroom. There appears to be a strong correlation in the literature between the experience of victims of sexual assault and those of domestic violence. Indeed, they are often one and the same, with the majority of rape victims in the UK having been assaulted by someone with whom they were (or had been) in an intimate relationship (Walby and Allen, 2004). Furthermore, much of the US literature suggests that victims who were raped within a domestic context were more likely to encounter negative experiences with the police and the wider criminal justice system and were therefore more likely to suffer increased secondary victimisation (Campbell et al, 2001, Patterson, 2010).

Overall, then, the indication is that the criminal justice response to domestic violence victims in the UK, has mostly involved some form of secondary victimisation, arising from poor practices by the professional agencies, the reasons for which will now be examined.

Understanding Poor Practice for Offences of Domestic Violence

As the above discussion illustrates, the criminal justice response to domestic violence has been the focus of much critical insight in the academic literature. Research has drawn attention to the reluctance of the police to arrest, poor investigative actions, the frequency of charge reduction, and insensitive prosecution and questionable sentencing practices, all of which suggesting that crimes of domestic violence have generally been treated less seriously than other violent crimes.

This discussion will now consider what the literature has contributed to an understanding of why these shortcomings occur, and will highlight that the focus of the literature has been predominantly on explaining the police response, without adequately seeking to understand the practices of the wider criminal justice system. The explanations offered in the literature have mainly built on feminist perspectives. These regard UK society and its legal system as patriarchal institutions; emphasising the tendency for practitioners to make subjective decisions based on situational variables (such as victim and suspect demeanour) and stereotyping, blaming organisational culture, or postulating that structural issues such as the inadequacy of training or lack of resources are primarily responsible. Much of the published literature on the poor response of the criminal justice system takes a feminist perspective and argues that domestic violence is a form of dominating and controlling women in order to oppress them, and that whilst women live in fear, their opportunities in life will be severely diminished.

Understanding Police Decisions to Arrest and Charge

The 'Private' Nature of Domestic Violence

A common theme to emerge from the earliest research on the subject was that domestic violence was regarded as occurring in the privacy of the family and home, and was therefore not an issue to be dealt with by public agencies. Such a division between public and private is, of course, a gendered division:

“The split between public and private life, so it is argued, is a split between the State and the family, and ultimately a split between the domain of men and the domain of women”
(Dhalerup, 1992, p.105).

Initial research, such as that conducted by Faragher (1985) concurred with the feminist perspective at the time. The police officers interviewed in his research commented that much of their work involved ‘private’ issues with which they should not become involved (Faragher 1985, p.119). There was a prevailing attitude that violence in the home should remain ‘behind closed doors’, with Faragher suggesting that violence in the home, more specifically translated to violence against women: *“The ‘discovery’ of violence against women in the home...threatened cherished values and laid bare the fact and method of the exercise of the power of men over women”* (1985, p.121).

Similarly, Dobash and Dobash (1979, p 208) explained the low arrest rate by reference to the privacy of the family, suggesting that violent offences that occurred outside of the domestic context were treated much more seriously than those within it. From a feminist perspective, they also identified that as agents of a patriarchal legal system, police officers of a predominantly male workforce, were more likely to support the notion that women should be subject to their husbands’

authority, which in turn would impact on their decision to intervene (Dobash and Dobash, 1979, p.212). Furthermore, Wright (1995, p 412) has suggested that: *“Their status as one of the most patriarchal institutions in a patriarchal society appears to have been the source of one of their major problems”*. In her study of Nottinghamshire, she found that the police were more likely to charge the suspect if they were not living with, or married to the victim. This again reinforced the view that violence in the context of marriage automatically became a ‘private’ issue rather than a criminal offence. In Edwards’ (1991) study of London and Kent, she found no formal prosecutions where spouses or cohabitants were living together, concluding that: *“Spousal violence, where assault occasioning actual bodily harm was apparent, was considered a private matter, and it was expected that the complainant would in any event withdraw her allegation”* (1991, p.100). The issue of victim withdrawal is important, with authors such as Edwards (1986) and Hanmer and Saunders (1993) having suggested that the expectation from police officers that victims would withdraw their complaints, has further impacted on low arrests rates. Taken as a whole, the above research suggests that officers were viewing violence in the home (and more specifically, violence against women) as a private concern and as such: *“The failure to arrest is in many ways an indirect support for the husband’s attack”* (Dobash and Dobash, 1979, p.213).

The Impact of Police Culture

The feminist explanation of the low arrest rate for domestic violence also emphasised the issue of police culture and attitude. Hoyle, in her study of Thames Valley in 1993-4, examined the effect that police culture had on the arrest decision. As she identified: *“Most studies...of routine police work have uncovered a range of informal cultural norms, values, and beliefs at work in the translation of law and organisational rules into practical policing”* (1998, p.67). She differentiated

between what has been referred to as ‘cop’ culture and ‘canteen’ culture. For Hoyle, ‘cop culture’ was a term used (particularly by academics) to describe the norms and values of the police, while officers themselves often used the term ‘canteen culture’. Hoyle (1998, p.75) in fact, identified ‘canteen’ culture as just one aspect of ‘cop’ culture and argued that, in large part, it explained the views officers expressed of and among themselves.

‘Canteen culture’ allows officers to articulate their fears, and vent their frustrations and anger. But neither causes them to behave in a certain way when dealing with members of the public, nor corresponds with their actual practices (original emphasis).

However, other authors have presented a rather different picture of police culture and its impact on domestic violence. As Hague and Malos (1993, p. 71) have argued:

“One of the barriers to change in police practice is the traditionalist masculine culture of the police. As an overwhelmingly male organization, they have developed what has been described by the Policy Studies Institute as ‘an occupational culture of their own’. This culture has not often been welcoming to women”.

Similarly, Edwards (1986, p. 235) described a negative police culture specifically in relation to domestic violence:

“Given the present climate and attitude to domestic violence, some found it a drain on resources and “not our problem”. On the whole, this kind of work was not desired or enjoyed, exacerbated by an absence of clear support from superiors in this difficult situation”.

Importantly, the impact of such cultural attitudes to violence in the home have been found to impact negatively on police officers' action at domestic incidents and have increased the likelihood that officers would relate to the offender, rather than protecting the victim (Dobash and Dobash, 1979, Edwards, 1986 and 1991, Faragher, 1979) . These descriptions of police culture would suggest that, as a male dominated and patriarchal institution, their ability or willingness to deal effectively with violence against women has been significantly impeded.

Making Decisions at the Scene

In explaining the arrest decision for offences of domestic violence, most US studies have focused upon the importance of situational variables (Berk and Loseke 1980, Robinson and Chandek 2000, Worden and Pollitz 1984 and Buzawa and Austin 1993). Situational variables involve a number of issues, including: evidence; the seriousness of the offence; suspect demeanour; the risk of further violence; the wishes of the victim; and victim demeanour. These are all issues which the officer takes into account at the scene and all of which are subjective to the officers involved. However, the UK literature has focused on the factors which influence the police officers' interpretation of the situation, with Walker and McNicol (1994, p.9) concluding:

“There is evidence...that in using their discretion about whether to arrest, the police make judgements which are based largely on subjective criteria: the character of the assailant, the character of the victim, the seriousness of the assault, the reasons for the assault and whether the assailant continues to be a ‘nuisance’, particularly towards the police officers”.

Such findings have been mirrored in other studies (see Kelly et al, 1999) who found that officers made decisions to arrest on the basis of value judgements about ‘victim worthiness’. Similarly, other research identified that officers were making decisions based on stereotypes, in particular those which viewed domestic violence as being a working-class issue (Wright 1995 and Edwards 1991) or related to alcohol consumption (Wright 1995).

The impact of these stereotypes and value judgements led to officers avoiding arrest, as Edwards (1991, p. 91) explained: *“Just as stereotypes affect street policing, so they affect the police approach to domestic violence, but in the latter case the result is less intervention, rather than more.* Suggesting therefore, that in the case of domestic violence, police officers were more likely to apportion blame with the victim than the offender, thereby condoning violence against women.

Issues of Training and Resources

In addition to the situational variables that can affect the decision to arrest, other research, for example, by Edwards (1991) has also highlighted a number of structural variables. These have included: training; policing style; technology; resources; organisational goals; and procedural law.

“The substantive law and the discretion of chief police officers and individual officers has contributed to a policing profile that has focused on street crime and public order and treated domestic violence as ‘domestic’ and inconsequential” (Edwards, 1991, p. 81).

One of the most fundamental structural issues was that of resources. As the CJS has, and continues to be, affected by limited resources, the areas that receive substantial funding can be seen as priorities for both the government and the CJS. The fact that research suggests domestic violence to have been seen as a ‘private concern’ by the police has in turn impacted on the level of resources

made available. Crimes in the public arena, such as robbery or anti-social behaviour, have often been targeted at the expense of crimes against women (which are committed most frequently by those closest to them and out of sight). As Hall and Whyte suggested: “*Government commitment to tackling domestic violence is indicated clearly by its dedication to a similar level of added spending to vehicle registration*” (2003, p. 11). The issue of resource allocation has been further compounded by the introduction of Key Performance Indicators (KPIs) with a focus on ‘reducing crime’. Authors such as Patrick (2011) have suggested that such a focus can create ‘perverse incentives’ for police officers to skew how offences are recorded – for example, by failing to believe a victim’s account without further investigation – with the result that fewer crimes would be recorded.

Understanding the Decisions of the Wider CJS

The main explanation found in the UK literature for low prosecution rates (in the context of domestic violence) has been the ‘reluctant’ victim. As Robinson and Cook explained: “*Victim retraction is almost universally viewed by criminal justice officials as a problematic outcome in cases of domestic violence*” (2006, p. 189). Therefore, it is not just the police who were starting with an assumption that victims of DV would be likely to withdraw their support at some point in the process. As Cretney and Davis suggested:

“The most usual cause of discontinuance in domestic violence cases is the complainant’s withdrawal of support for the prosecution. The difficulty about domestic assault lies in the frailty, as prosecutors perceive it, of the woman’s commitment to the prosecution enterprise” (1996, p. 3).

The question then arises as to the proportion of victims who did indeed ask to withdraw their support. Research into this area has in fact found varying rates of victim withdrawal: 50% (Robinson and Cook 2006); 44% (HMCPSI 2004); 30% (Cretney and Davis 1996); 10% (Faragher 1978-79); and 6% (Dobash and Dobash 1979).

Whilst some of these percentages were quite high, it seems this cannot be the sole factor in high attrition rates for domestic violence offences, with at least 50% of victims continuing to support the prosecution. The fact that victim withdrawal has been cited by so many authors as being a significant factor in the dropping of cases (Robinson and Cook 2006, Edwards and Halpern 1992, Cretney and Davis 1996 and 1997 and 1997a), might suggest that the prosecution only rarely attempted to continue with the case. Ellison explored this issue further, suggesting the UK approach should be described as ‘complainant reliant’ – in other words, without a co-operative victim, the most likely outcome would be for a case to be discontinued by the CPS. However, as Ellison suggested, ‘complainant reliance’ began with the police, who, if faced with an uncooperative victim, were unlikely to investigate fully. This in turn impacted on the quality of evidence available to the CPS:

“Seemingly unheeded is the fact that prosecutors might be more inclined to proceed with a case if the police broadened their approach and concentrated efforts on securing corroborative evidence”. (Ellison, 2002, p.838).

A further explanation for the reluctance of the CPS to prosecute was identified in Burton’s 1995 study. She found that protecting scarce resources was often a factor in not pursuing the case, regardless of the wishes of the victim (2000, p.186). Moving on to sentencing decisions, there has

been very limited research seeking to understand magistrates' sentencing decisions for domestic violence cases. However, a study conducted by Gilchrist and Blissett found that: "*Magistrates' reasoning reflected the themes of denying, minimising and victim blaming*" (Gilchrist and Blissett, 2002, p.348).

Whilst there has been limited research seeking to explain the practices of the wider CJS with regard to domestic violence offences, authors such as Smith (1989, p. 63) suggested that the explanations for policing practice still applied:

"The factors influencing police decisions to 'crime' domestic violence incidents and to arrest offenders are, by extension, also relevant to the decision to prosecute. Those factors include the belief that domestic violence victims are intrinsically unreliable, will withdraw complaints and fail to cooperate in any prosecution; the belief that much domestic violence is of a trivial nature; the view that domestic violence victims are usually 'undeserving'; and the belief that it is a family matter in which the law should not interfere" (1989, p. 63).

Smith's explanation is fundamentally a feminist one. Essentially, the issues explored above, ranging from the impact of police culture, situational decision-making based on stereotypes and structural factors such as resources, all come down to the same issue, namely that domestic violence is a form of violence against women, which has long been condoned by the various agencies of a patriarchal legal system.

Summary

This discussion has identified that in order to explain the often inadequate response of the CJS to victims of domestic violence (as presented in the first part of the Chapter), it is essential to

explore the societal context in which the CJS operates. In particular, the position of women in society and the power imbalance associated with a patriarchal society (and by extension, a patriarchal legal system) must be taken into account when seeking to understand criminal justice responses to violence against women. As Edwards has argued:

“Feminists argue that it is the absence of law, the lack of application of law or the selective enforcement of law which has created a cultural climate in which particular behaviours, including violence against women, is condoned” (1991, p.149).

Chapter Summary

This chapter has explored the contribution of academic literature to understanding the criminal justice response to domestic violence. Since the 1970s, various authors (Cretney and Davis, 1996, 1997, 1997a, Edwards, 1986, 1991, Dobash and Dobash, 1979) have criticised the actions of the police, CPS and the court’s handling of offences within this context. Whilst the police attracted the most criticism, this was largely due to the small number of offenders who made it past this initial stage of the CJS. The studies cited in this discussion show that until 2005 at least, criminal justice responses were criticised due to their inconsistency (Hester and Westmarland, 2005), and suggest that victims of domestic violence have been further victimised by the criminal justice process. Furthermore, this chapter has presented a range of explanations for the often inadequate response of the CJS to domestic violence. As the Chapter has identified, these explanations have emerged primarily from a feminist viewpoint, suggesting that the issues of police culture, myths

and stereotypes and policing priorities, are attributable to the gendered nature of most domestic violence, and that the patriarchal institutions of the CJS have been largely unresponsive to the needs of female victims.

CHAPTER THREE:

POLICY LITERATURE REVIEW:

Having explored the problems associated with the criminal justice response to domestic violence in Chapter Two, this chapter moves on to explore how policies in England and Wales have developed in response. The chapter is organised into three main sections – each covering a particular time period – and together highlighting how the focus of criminal justice policies has shifted over time. For each period, developments in legislation, national policy, Home Office guidance, and policy change in the police, CPS and Her Majesty's Court Service (HMCS), are detailed.

Part 1 covers the period 1974 to 1997 (a period dominated by Conservative political administrations) in which domestic violence was first considered to be a policy issue. Part 2 focuses on changes from 1997 to 2004 (under the first period of New Labour government) when the policy landscape around 'crime prevention' was significantly developed and during which time the case for improved responses to domestic violence from criminal justice agencies was more strongly articulated. Part 3 then explores further policy developments in the period 2005 to 2010, when particular focus was placed on improving the successful prosecution of domestic violence offences. Throughout the chapter, the discussion will draw on existing policy evaluation literature to identify 'what works' in prosecuting domestic violence. The discussion will show that there

remains a distinct lack of clarity about whether the key interventions (including those being evaluated in this thesis) have increased successful prosecutions for domestic violence.

Phase 1: Roots of Change in the CJS: (1974-1996)

In the 1970s in England and Wales, the Government initially responded to issue of domestic violence by establishing the **Select Committee on Violence in Marriage 1974-1975**. The Committee gathered information from police forces across the country. The Metropolitan Police, for example, submitted the following evidence:

“It is a general principle of police practice not to intervene in a situation which existed or had existed between husband and wife in the course of which the wife had suffered some personal attack” (Select Committee on Violence in Marriage, 1975, p.375-376).

However, the police also acknowledged that they would intervene if a *serious* physical injury had been sustained. The police evidence to the Committee suggested that:

“The Offences Against the Person Act 1861, which in the main covers the whole field of this subject, has been in operation for many years now and the penalties and powers under that and other Acts appear amply adequate” (Evidence from the Metropolitan Police Force to the Select Committee on Violence in Marriage, 1975, p.377).

Despite the view of the police here that little, if any, change was necessary, the Committee concluded that the criminal law was not being applied appropriately to offences in the domestic context and argued the case for change. Chief constables were encouraged to review their practices in maintaining records and statistics of domestic incidents, to enforce the criminal law more

effectively and to provide further training for police officers in responding to reports and incidents of domestic violence (Select Committee on Violence in Marriage, 1975, p.xxvi – xxvii).

In 1984, the **Police and Criminal Evidence Act (PACE)** clarified the legal position of a married woman in relation to giving evidence against her spouse. Prior to 1984, a woman who had been the victim of a criminal offence by her partner (not legally married) could have been compelled to give evidence against him. However, as Edwards has explained:

“The wife, by contrast, until 1984 was not legally compellable. This marital exemption was explained by a concern to preserve the sanctity of marriage, which no amount of violence by husband against the wife was seen to vitiate” (Edwards, 1989, p.49).

As such, the PACE Act 1984, gave married women the same legal protection as un-married women.

The Home Office has long been responsible for establishing national priorities for local police forces. When Acts of Parliament are passed, the Home Office typically interprets these laws and issues guidance to chief constables in the form of Circulars. As has been discussed above, no significant changes were made to the criminal law regarding domestic violence prior to this time. However, as Chapter Two suggested, research by those such as Edwards (1991) into the policing of violence in the home, highlighted that the existing statutes had generally been under-enforced. Recognition of this by the Home Secretary prompted preparation in 1986 of the first Circular on **‘Violence against Women’ (HOC, 1986)**. As no specific changes had been made to the criminal law on domestic violence, the aim of the Circular was primarily to ensure adherence to the existing legislation. Yet, despite this intention, the Circular was seen by most commentators as, at best, a

tame response (Bourlet, 1990; Edwards, 1991). The following passage was, indeed, the only one in the Circular specifically focused on domestic violence:

“The Home Office recognizes the difficult and sensitive issues which may be raised for the family and for the police in cases of domestic violence, and opportunities for intervention by the police may in some circumstances be restricted by the reluctance of victims to provide evidence. He believes, however, that there must be over-riding concern to ensure the safety of victims of domestic violence and to reduce the risk of further violence, both to the spouse and to any children who may be present, after the departure of the police from the scene of any incident. Police officers will be aware of the power of arrest which are provided in Section 24 and 25 of the Police and Criminal Evidence Act 1984, and of section 80 of the 1984 Act, which provides for circumstances in which an accused person’s spouse may be a competent and compellable witness. Chief Officers may also wish to consider the need to ensure their officers are in a position to provide assistance to victims of domestic violence by advising them how to contact victim support organizations and local authority agencies such as social work and housing departments which may be in a position to offer aid to victims. Such advice should be offered in private and might be helpfully contained in a leaflet which could be given to the victim. The Home Secretary recognizes that the police had shown themselves sensitive to the needs to women who have been the victims of violent assault and have taken steps to ensure a sympathetic and helpful approach. He welcomes these initiatives” (HOC 69/1986, p.3).

Whilst the majority of police forces were not treating domestic violence as a high priority, a handful of areas were piloting new initiatives that explicitly sought to improve the police response. During the late 1980s, the Metropolitan Police Force developed a community-based response to domestic violence. This involved assigning a dedicated officer to deal specifically with domestic violence victims (known as **Domestic Violence Officers (DVOs)**). In the same vein, in 1989, the Northumbria Police Force developed its own initiative involving the establishment of a **Domestic Violence Unit (DVU)**, comprising a number of officers to deal specifically with domestic violence. Recognition of the success of such initiatives gradually led to them being recognised as models of ‘best practice’ for the police and indeed the 60/1990 circular (detailed below) advocated the establishment of dedicated DVUs for all forces.

In 1990, the Home Office issued a further Circular specifically entitled ‘**Domestic Violence**’ (**HOC, 1990**). This Circular sought to address criticisms of the preceding 1986 guidance, and instructed chief officers to liaise with other agencies; consider establishing Domestic Violence Units; devise a force policy on domestic violence; improve recording of incidents; recommend officers to avoid reconciliation; ensure officers are aware of their power of arrest and respond to every incident with some form of positive action; consider charging the offender; and, investigate the reasons why victims may have withdrawn their statement. (HOC, 60/1990, pp9-10)

In some contrast with Circular 69/1986, this one was generally well received by women’s advocates and researchers as it appeared to address some of the concerns with the police response to domestic violence, despite similar actions having been advocated by the Select Committee on

Violence in Marriage some fifteen years previously, and even though the Circular again only invited chief officers to ‘consider’ their implementation rather than ‘directing’ them to do so.

An initial key change to the existing criminal law in relation to domestic violence came in 1991 with the recognition that non-consensual intercourse in marriage should be defined as rape. This was an important, if overdue, change to the criminal law which finally challenged the ‘privacy’ of marriage.

In 1993, the CPS issued its first public statement of policy regarding domestic violence and how it would deal with such crimes. The statement began by explaining the process by which the CPS made its decisions on prosecution.

When deciding whether or not to prosecute an offender, the CPS must, in law, satisfy two conditions. Firstly, it must ensure that there is enough evidence to provide: “*a realistic prospect of a conviction against each defendant on each charge*” (HMCPSI, 2004, p.85). Prosecutors must ask themselves whether the evidence can be used in court, and if it is reliable. The CPS must be sure that, when a court is presented with the facts, the defence cannot discredit the evidence shown and so the reliability of witness statements and medical evidence is of fundamental concern.

Secondly, though perhaps more ambiguously, is the public interest test. In this case, prosecutors must ask themselves if there are: “*public interest factors tending against a prosecution which clearly outweigh those tending in favour*” ((HMCPSI, 2004, p.85). The Code for Crown Prosecutors contains a list of certain public interest factors which may militate against a prosecution, including the impact of a prosecution on the victim, or the defendant having put right the loss or harm that was caused (see CPS, 2004, p.10-11).

CPS officers are required to adhere to these guidelines when deciding whether to prosecute the cases presented to them. However, from the outset there was recognition within the organisation that crimes of the nature of domestic violence required additional considerations to be part of the decision-making process as well. Such considerations involved a set of special procedures to be followed should a victim decide to withdraw her testimony. The policy also required the police to obtain a statement from the victim, exploring the reason for withdrawal, whether there was any element of duress, and whether the initial statement had been true. The guidance to prosecutors also included significant detail on how to make a decision as to whether it was still in the public interest to prosecute, even if the victim did not wish to continue, suggesting that there would be occasions where the CPS should prosecute without the victim (now commonly termed a ‘victimless prosecution’), and highlighting the potential use of Section 23 of the Criminal Justice Act 1988, whereby a victim’s statement could be presented in court if the CPS could prove beyond reasonable doubt that the victim was unable to give evidence because of her fear of the consequences (Home Office, 1999, p.10-11). Yet despite this policy commitment, in a study conducted in 1995 by Burton (2000, p. 183), it was found that:

“In 29 of 36 cases where the complainant withdrew and the case was discontinued, there was other evidence, a confession or the statement of an independent witness that could have been used to continue the prosecution”.

Similarly, in 1998 Her Majesty’s Crown Prosecution Inspectorate (HMCPSI) reviewed the CPS response to domestic violence and found that, despite high discontinuance rates for domestic violence offences, there was little use of Section 23 (CPS, 1998).

In addition, the guidance suggested prosecutors should consider carefully the decision to compel a victim, taking into account the victim's safety, with the conclusion being: "*The Crown Prosecutor should take all these considerations into account before deciding to abandon a prosecution*" (Home Office, 1999, p.12).

Summary of Phase 1

As will be evident from the above discussion, the key momentum of policy change during this period was in policing. The Home Office received substantial criticism following its 1986 Circular, thereby revising it just four years later. However, decisions on implementation of the new policy framework remained firmly in the control of individual police forces, rather than being in the form of direct instruction from the government. The changes to criminal law simply addressed existing barriers to women being afforded protection, and the statement of policy published by the CPS, as discussed above, highlights the fact that other CJS agencies had not yet identified the need to develop their own national policy guidance around domestic violence (although the impact of this policy was questioned by Burton, 2000 and HMCPSI, 1998). As such, whilst this period saw an initial recognition of the argument for treating domestic violence differently – and as a crime – there was little in the way of effective direction to ensure this became the universal practice.

Phase 2: Championing Change in the CJS: (1997 – 2004)

In 1997, the national political landscape changed significantly with the election of the New Labour government. In the immediately following years, a number of key policy developments, particularly around crime prevention and crime reduction, were made, most notably the provision

of statutory responsibilities to local authorities and various other public agencies to reduce crime and disorder. As will be seen below, in this time period there was also clear recognition in central government of the need for improvements in the criminal justice systems' response to domestic violence. This recognition prompted a number of changes nationally, in terms of legislation and national policy, as well as significant steps being promoted within the police and CPS.

In 1997, the **Protection from Harassment Act** was passed providing measures in both civil and criminal law. The Act enabled the police to arrest a suspect after two incidents of harassing behaviour, or two incidents of putting someone in fear of violence. In addition to criminalising harassment, the Act provided for the granting of restraining orders following a conviction. These (civil) orders were similar to the existing Non-Molestation Orders whereby a perpetrator could be prohibited from making contact with the victim, or attending her address. However, since they were to be imposed by the criminal courts (either for a set time period or indefinitely), any breaches would constitute criminal offences.

In 1999, the Government published the first national policy document on domestic violence entitled: *'Living without fear: an integrated approach to tackling violence against women'* (Home Office, 1999). In this report, the Government acknowledged the on-going problems concerning the CJS's response to crimes of violence against women. For example, the report identified that the attrition rate (i.e. the proportion of cases reported to the police but which eventually fail to get prosecuted) was extremely high in cases of domestic violence (Home Office, 1999). The Government articulated that, since the police were the first point of contact in the CJS, it was important to address their treatment of these crimes. Accordingly much of the report focused on recommendations in relation to the police, including proposals to promote the role of DVOs,

and to ensure that the police did indeed meet their responsibilities under the Crime and Disorder Act 1998.

A fundamental shift in how police officers were to respond when attending a domestic incident came with the move towards **‘positive action’**. This policy shift sought to limit the discretionary powers of officers and enabled them to arrest the offender even if the victim did not wish them to do so. Maria Wallis (ACPO’s then spokeswoman on domestic violence), called for the police to review their policies and announced that: *“Officers will be disciplined if they can’t justify why they haven’t arrested offenders in domestic violence cases”* (Jenkins, 1999, p.10).

In conjunction with the above *‘Living Without Fear’* campaign (1999), the Home Office revised its Circular of 1990. In the new version, chief constables were each invited to consider a range of responses to domestic violence, including; assessing their own force policy; ensuring investigations are of a consistent quality; monitor repeat incidents of domestic violence; produce and implement a domestic violence policy; focus attention on the role of DVO’s; link in with other services in the community; address the link between domestic violence and child protection and, produce and monitor performance indicators (HOC 19/2000, pp12.13). The Circular also highlighted the need for special provisions to be made for minority groups, in particular, minority ethnic, religious and LGBT groups.

In 2001 the CPS policy statement regarding domestic violence was revised in more assertive terms.

As the report clarified:

“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” (CPS, 2001, p.1).

The revised statement detailed how the CPS were to make charging decisions, as well as considerations with regard to avoiding delay, deciding on bail, and the use of bind-overs.

It is interesting to note that in relation to evidence, the CPS stated that:

“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” (CPS, 2001).

Furthermore, in relation to deciding on charges, they suggested:

“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” (CPS, 2001).

In assessing the impact of this policy on CPS practice, a small number of policy evaluations were conducted following its publication. Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) conducted a review of domestic violence cases between 2002 and 2003. The resulting report identified a number of options open to prosecutors that were not being utilised. For example, the Inspectorate found only a handful of cases in which the option of Section 23 was considered,

with prosecutors suggesting that the application would not be accepted by courts:

“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” (HMCPSI, 2004, p.94).

In addition to Section 23, the Inspectorate reviewed the use of witness summonses. Whilst potentially inappropriate in many cases, a summons can be of use to a victim who wants to give evidence, whilst not wanting her partner to know she supports 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 the case to continue, whilst not being seen to support the prosecution” (HMCPSI, 2004, p.91).

Yet despite these possibilities, there was little to suggest in the 2004 report that prosecutors were encouraged to use summonses or warrants in this way.

Interestingly, one study did identify prosecution practices that were in line with the 2001 policy. In a 2004 research project in Croydon, Vallely et al discovered that *“More cases were proceeding in the absence of the victim and, significantly, perpetrators were still being brought to justice even in cases where the victim retracted”* (2005, p.7). This outcome was found to have been associated with improved evidence gathering by the police following extensive training, yet it still relied on the CPS to progress the prosecution without the victim.

In 2003, the Government published a revision to '*Living Without Fear*' entitled '***Safety and Justice – the Government's Proposals on Domestic Violence***' (Home Office, 2003). In this report the Government sought to address a number of problems with the criminal justice response to domestic violence that had persisted, specifically with the aims of; ensuring an effective police response when victims report; improving the prosecution of domestic violence cases and making sure that sentences reflect the crime; ensuring that victims are not deterred by the process; and, making sure that the civil and criminal law offer the maximum protection to victims (Home Office, 2003, p.26).

In focusing on the above issues, the report made a number of recommendations as to how these issues could be addressed. These included; making common assault an arrestable offence; issuing guidance to HMCS regarding the use of bail conditions for domestic violence cases; referring domestic violence to the Sentencing Guidelines Council to improve consistency; making breach of a non-molestation order a criminal offence; extending the use of restraining orders to be issued alongside any offence in the domestic context; establishing a register of domestic violence perpetrators; introducing domestic homicide reviews in order to learn future lessons, and finally, revising the law on homicide so that women who killed their abusers would not be treated unfairly in comparison with men who killed following 'provocation' (Home Office, 2003). These recommendations, and the issues they were intended to address, highlighted the fact that the Government at the time recognised the shortcomings of existing practices within the CJS and were prepared to take a more directive and pro-active approach. Furthermore, as this report was also a pre-cursor to new legislation, the Government invited feedback on their recommendations during the consultation.

Following the publication of ‘*Safety and Justice*’, the Government launched a three-month consultation process regarding a new Parliamentary Bill specifically addressing domestic violence. Responses were received from: victims; refuge workers; health services; and Women’s Aid, providing a range of views on the Report and suggestions for the draft legislation. Among the suggestions, several focused on the need for a common definition of what constituted domestic violence – recognising for example, that the CPS and police used different definitions from one another (Home Office, 2003).

The resulting **Domestic Violence Crime and Victims Act (DVCVA)** which received Royal Assent in 2004, made changes to both the civil and criminal law with the purpose of: “*making sure that the civil and criminal law offers the maximum protection to all victims to stop the violence recurring*” (Home Office, 2003, p. 11). Among the many new provisions detailed within the Act, the most relevant to criminal offences in the context of domestic violence were:

- Making the breach of a non-molestation order a criminal offence punishable by up to 5 years’ imprisonment.
- Making common assault an arrestable offence.
- Creating a new offence of causing or allowing the death of a child or vulnerable adult.
- Extending the provision of restraining orders to be granted upon conviction of any offence committed within the context of domestic violence (or upon acquittal of such an offence).

(Home Office, 2004).

These changes sought to address some of the priorities that had been articulated by the Government in both ‘*Living Without Fear*’ and ‘*Safety and Justice*’ – in particular, regarding a breach of non-molestation order becoming a criminal offence and extending the use of restraining orders. Whilst most victim-related agencies were encouraged to see changes to criminal law, and more realistic penalties attached to the relevant civil contraventions, there were also several criticisms of the new Act. In particular, many were concerned at the blurring of the boundary between the criminal and civil law, for example, by criminalising any breaches of a (civil) non-molestation order. As Hitchings (2005, p.94) suggested:

“This will mean that the criminal law courts will be dealing with what was originally a civil matter...and more power will be passed to the police, rather than the victim...As a result, victims of domestic violence will lose control over proceedings...I suggest this is a worrying development”.

For many interested parties, this was a particularly worrying change since previously, the civil law had been available to victims who did not wish to engage in a criminal prosecution. By combining the civil and criminal laws, it was feared that victims who had specifically not wanted the police to become involved, might well refrain from pursuing protection through the civil justice order.

In response to recommendations from the Home Office (HOC 2001) regarding how the police should be dealing with domestic violence, the Association of Chief Police Officers (ACPO) developed their own strategic guidance for police forces. This guidance was published in 2004 and revised in 2008. The guidance drew on ACPO’s advice on how domestic violence offences should

be dealt with from the moment the incident was reported. The priorities of the police in relation to domestic violence were also outlined as needing to be:

- *“To protect the lives of both adults and children who are at risk as a result of domestic abuse;*
- *To investigate all reports of domestic abuse;*
- *To facilitate effective action against offenders so that they can be held accountable through the criminal justice system;*
- *To adopt a proactive multi-agency approach in preventing and reducing domestic abuse”*
(ACPO, 2004, p.5).

The guidance set out the process to be followed by officers following any report of possible domestic violence , from how to deal with reports (and other associated offences), issues around deployment to the scene (including preserving the scene), their duty in relation to positive action, medical treatment and forensic medical examination of the victims, how to deal with counter-allegations, identifying risk, making referrals into voluntary sector support organisations, how to manage the investigation- including the forms of physical evidence to be collected, their responsibilities to victims, other sources of evidence such as statements from professionals, how to deal with the offender following arrest, charging standards (which detail the level of injury/evidence required for each category of offence) and using police bail (which can include conditions to restrict the movements of the offender before they are charged), as well as the role of specialist domestic abuse teams in investigating offences and protecting victims.

There is yet to be a published analysis of the quality of police investigations in domestic violence cases following the 2004 guidance. However, two studies conducted immediately prior to the guidance present differing approaches in different areas. In 2004, Vallely et al conducted an evaluation of two SDVC pilot sites (see part 3 of this chapter) in Caerphilly and Croydon. Whilst evidence-gathering did not improve in Caerphilly, in the Croydon pilot it was found that the quality of evidence available had significantly improved following a training programme for police officers:

“The CPS and Police have obviously implemented the HMCPSI recommendations on building cases without victim co-operation and have had significant successes” (Vallely, 2005, p.18).

A similar evaluation of five SDVC pilot sites (Cook et al, 2004), which included an analysis of police files, noted a lack of evidence-gathering beyond the statement of the victim:

“Once we looked at “enhanced evidence”, the level dropped appreciably...for example, the next most common type of evidence was a copy or transcript of the 999 tape (44%), followed by case exhibits (30%), statements from other witnesses (27%), medical statements (12%), and lastly forensic evidence (11%)” (Robinson and Cook, 2006, p.200).

This report also highlighted issues regarding the quality of officers’ witness statements, their lack of understanding of, and failure to use, victim personal statements (as found by Hester 2005), as well as officers not utilising the specialist knowledge of domestic violence officers nor seeking appropriate advice from CPS. These findings would seem to suggest that, immediately prior to the

ACPO guidance, there did not appear to have been much improvement in the quality of evidence-gathering and investigation.

Moreover, whilst ACPO's spokeswoman on domestic violence suggested that domestic violence be subject to 'positive action' in 1999, it was not until the issuance of the ACPO guidance in 2004, that this was officially endorsed. A small number of studies have sought to determine the level of arrest for domestic violence offences since the concept of positive action was introduced. One early evaluative study, was conducted as part of a wider Home Office research programme. The Crime Reduction Programme was undertaken between 2001 and 2003 and found varying rates of arrest amongst the forces involved, with some of the projects managing to increase arrest rates whilst in others, they fell (Hester and Westmarland, 2005).

However, in a 2008 review of Specialist Domestic Violence Courts, it was found that in 11 of the 23 courts who submitted data on police arrest rates, the police were arresting in an average of 80% of domestic violence incidents reported to them (Home Office, 2008a). This was likely to be related to the Key Performance Indicator introduced in 2005 whereby the police were set a target of making an arrest in 80% of domestic violence incidents. Similarly, Hoyle (2008, p. 325) described the impact of the KPI in Thames Valley Police:

“The arrest rate increased from 32% in the year 2003-4 to 58% in the following year...For cases involving domestic violence between intimate partners, the arrest rate has increased to approximately 84% in cases where a criminal offence has been alleged”.

This KPI was removed in 2007 and has not been replaced and, since then, there has been no known research to determine the impact on arrest rates. However, it would appear that, by introducing a KPI, the positive action policy was being adhered to in the above studies.

Summary of Phase 2

As the above discussion has shown, the early years of the New Labour government from 1997 saw a significant change in the criminal justice policy response to domestic violence. Not only was there a clearer leading intent from the Government but there were also a number of significant changes to policy and practice within the CJS, and particularly in the police. In contrast to the pace and tenor of change pre 1997, the early New Labour years were also marked by the emergence of a much stronger policy discourse on domestic violence and on how it should be dealt with by all statutory services. Despite this momentum, policy evaluations at the time suggested that police and CPS practice had not significantly improved, with varying rates of arrest and quality of investigation by the police persisting, and with little evidence to suggest cases were being progressed without the evidence of the victim.

Phase 3: Co-ordinating Change in the CJS: (2005 – 2010)

The following paragraphs chart the more recent developments of legislation, national policy and changes to policy within the police, CPS and Her Majesty's Courts and Tribunals Service (HMCTS; previously HMCS). As will be seen, this period saw the introduction of further policy interventions that were more specifically aimed at increasing the successful prosecution of domestic violence offences whilst recognising the importance of supporting victims through the

process. In particular, and very much to that end, this period saw the introduction of IDVAs and SDVCs, the two interventions at the centre of the empirical research component of this thesis.

In 2005, the CPS issued a further revision to their policy regarding prosecuting domestic violence. Whilst based largely on the 2001 statement, developments in legislation and the national policy context required amendments to their approach:

“Stopping domestic violence and bringing perpetrators to justice must...be a priority for the CPS. We are determined to play our part by prosecuting cases effectively and working within a multi-agency approach” (CPS, 2005, p.1).

Additions to the policy included guidance on accepting guilty pleas, on helping victims and witnesses to give evidence, sentencing, the introduction of special measures in court and the importance of addressing equalities issues around sexuality and disability.

A particularly significant development in supporting victims (of crime in general, not only of domestic violence) to give evidence came with the introduction of special measures in the Youth Justice and Criminal Evidence Act 1999 (YJCEA). This legislation introduced ‘special measures’ for victims and witnesses who were deemed to be vulnerable or intimidated. Vulnerability was defined in relation to witnesses under the age of 18 or those who were vulnerable due to a physical or mental disability. Intimidation referred to any victim who was the subject of a sexual assault (in which case special measures would be granted automatically), as well as those who had been witness to an incident involving knives or guns. However, the 2005 CPS policy suggested that intimidation could extend to cases of domestic violence if it was deemed by the court that the quality of the victim’s evidence would be affected due to fear of the defendant. The measures that

had been made available by the Act included pre-trial visits, separate entrances and waiting areas, screens to protect them from the defendant, giving evidence via a video interview, or in some cases giving evidence via video link from a different location. The decision of the CPS to regard victims of domestic violence as ‘Vulnerable or Intimidated Witnesses (VIWs)’ was an important, if overdue, change. Whilst it had been the case since the 1999 Act that a witness who was intimidated could be eligible for special measures, in reality, these were rarely applied to victims of domestic violence. As Burton, et al (2006), found in their review of the problems of identifying VIWs, domestic violence victims were rarely considered vulnerable, and in fact, more attention was paid to managing the expectation that their statements would be withdrawn, rather than trying to provide support through the process – leading the authors to conclude that such victims should be automatically eligible. Even now, however, there is only limited evidence as to the extent to which special measures are being granted in cases of domestic violence (a recent study by Coordinated Action Against Domestic Abuse (CAADA) having suggested provision in just 17% of cases that progressed to court (CAADA, 2012)).

When considering the impact that special measures can have on a victim’s commitment to the prosecution and on the quality of evidence presented in court, the research has, to date, been similarly limited. A study by Hamlyn et al (2004) sought to understand how well special measures were working for VIWs by comparing witnesses experiences of the CJS before and after the implementation of the YJCEA 1999. Here the authors found that special measures reduced the anxiety of VIWs –in particular in relation to having to face the defendant in the courtroom, as well as increasing their satisfaction with their treatment within the CJS as a whole. However, this

research was conducted mostly with young people under the age of 17 and indeed prior to all aspects of the legislation being implemented.

Furthermore, additional complexities would also affect the use of special measures. In this respect, authors such as Burton et al (2007) have commented on the potential conflicts between the idea of special measures for vulnerable victims and the fundamental principles of an adversarial criminal justice process such as is operated in England and Wales. For example, the principle of orality *“rests on the belief that juries are best able to assess the honesty of defendants and witnesses if they give direct oral evidence in court”* (Burton et al, 2007, p.16). Special measures that allow for evidence to be given via video-link or video-interview, may be seen as at odds with this principle. Such conflict between the needs of victims and those of due process in court, are explored in some detail by Doak (2005). Here, he explores the tensions associated with victims and the adversarial system in England and Wales, and suggests that in order for victims to have any meaningful role in the CJS, then the legal system would need to move to the consensus: *“that the effective resolution of criminal disputes requires that crime is not only viewed as an offence against society, but also as a dispute between the victim and offender”* (2005, p.315). That said, in a ‘mock’ rape trial conducted by Ellison and Munro (2014) the use of special measures was found to have no consistent impact upon juror evaluations of the victim’s testimony nor did they appear substantially to impact upon jurors’ perceptions of trial fairness.

In addition to the official guidance regarding use of special measures, the 2005 CPS policy also outlined the approach to be followed by prosecutors in relation to the acceptance of guilty pleas for lesser charges:

“If a defendant offers to plead guilty to a different and possibly less serious charge, we will only accept the plea if we think the court is able to pass a sentence that reflects the seriousness of the offence. When considering whether to accept a plea, we will, whenever possible, consult victims so that the position can be explained and their views and interests taken into account in reaching our decision” (CPS, 2005, p.17).

In this statement, the CPS also outlined its responsibilities regarding sentencing, in particular, by ensuring the court was aware of the full facts of the case, including the views of the victim contained in a Victim Personal Statement (CPS, 2005, p.29).

In the same year, 2005, the Labour Government published the **National Domestic Violence Delivery Plan**. This was an extension of the previous two national reports (*Living Without Fear*, 1999 and *Safety and Justice*, 2003) and over the following four years, the Government published an annual report detailing its (self-defined) progress in relation to the actions it had set itself the previous year. One of the first changes introduced by the National Report was a common definition of domestic violence. Prior to this, several Government agencies had different definitions, including the police and CPS. Following this report, however, all agencies worked to the same definition:

“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 or sexuality” (Home Office, 2005, p.7).

While the Delivery Plans did not focus solely on *criminal justice* approaches to domestic violence, the subject did contribute to a significant proportion of the recommendations. The overarching outcomes the Government intended to achieve were as follows:

- 1) *“Reduce the prevalence of domestic violence, particularly in high incidence areas and/or communities.*
- 2) *Increase the rate that domestic violence is reported, particularly in high incidence areas and/or communities.*
- 3) *Increase the rate of reporting (sic) domestic violence offences that are brought to justice, particularly in high incidence areas and/or communities as well as in areas with high attrition rates.*
- 4) *Ensure victims of domestic violence are adequately protected and supported nation-wide.*
- 5) *Reduce the number of domestic violence homicides”* (Home Office, 2005, p. 25)

In pursuit of these outcomes, the Government developed seven working objectives for the year ahead. In relation to the criminal justice system, the objectives were; to increase reporting rates for domestic violence; increase the rate at which offences of domestic violence resulted in sanctions or detection; and finally; to increase the rate of offenders brought to justice (Home Office, 2005, p.25-26). As these objectives demonstrate, central to the Government’s national policy was the principle of successfully prosecuting offenders of domestic violence. To this end, the Government introduced two specific interventions – SDVCs and IDVAs.

The Specialist Domestic Violence Court (SDVC) Programme

The SDVC programme lay at the heart of the National Domestic Violence Delivery Plan. During 2005/06, 25 SDVCs were established. By April 2007, this had increased to 64, and by 2009, there were 127 across England and Wales.

As defined in the first National Delivery Plan:

“When referring to a specialist Domestic Violence court, we are not referring to a court building or jurisdiction, but to a specialised way of dealing with domestic violence cases in the magistrates’ courts” (Home Office, 2005, p.16).

These courts were focused around one or both of two organising principles– clustering and fast-tracking. Clustering involved domestic violence cases being heard in one court – whether for pre-trial hearings, bail variation, pleas, pre-trial reviews, pre-sentence reports or sentencing. The idea of fast-tracking was aimed at ensuring the progression of domestic violence cases through the courts system as speedily as possible.

A further key element of the SDVC approach was the support provided to victims, as indicated in the following extract of the National Delivery Plan:

“We want to ensure that the courts themselves, both criminal and civil, recognise the difficulties and special concerns faced by victims of domestic violence when using the system. We also want to develop courts that put domestic violence victims at the heart of the process. To that end we will continue to develop specialist DV courts and aim to have 25 such courts set up by April 2006” (Home Office, 2005, p.16).

Specialist courts dealing specifically with domestic violence offences have been in existence in other countries since the late 1980s and early 1990s. It is helpful to explore the principles upon which they have operated before exploring how they have developed in the UK.

International Perspectives on Specialist Domestic Violence Courts

Specialist courts exist in a number of countries including the US, Canada and Australia. In the US in particular, these courts are well established – generally dealing with crimes such as drugs offences and domestic violence – where traditional criminal justice approaches have not necessarily been viewed as effective. As Eley (2005, p. 114) has explained:

“Like other specialised courts such as drug courts, specialist domestic violence courts have developed out of recognition that traditional adjudicative approaches were not working particularly well and that a more holistic approach could have benefits to tackling the problem. As a problem-oriented court, the main objective of a specialist domestic violence court process is victim safety”.

Here, Eley was describing a particular form of specialist domestic violence court – a ‘problem-solving court’. There are, in fact, a number of different forms that specialist courts have taken. These range from criminal only courts, civil only courts, combined civil and criminal courts and ‘problem-solving’ courts. There are also further variations within these different types of court. Criminal courts, (such as the Brooklyn Felony Domestic Violence Court) usually involve specially trained personnel, including prosecutors and judges, as well as advocacy services for victims. Whilst some courts only hear the case at first appearance stage, before committing the case to another court for further stages, others will deal with cases through all stages (and

appearances), including trials. However, as Burton suggests: “*Specialisation in the criminal court setting usually results in courts developing sentencing practices that take into account the need to hold perpetrators to account and keep victims safe*” (2006, p.368).

Such courts may have additional aims, for example, the K Court in Ontario, Canada, aims “*to increase the quality of the prosecutions, to increase the likelihood that a victim will cooperate with the prosecution and to improve service to the victims*” (Dawson and Dinovitzer, 2001, p.603).

The methods employed to achieve these aims can vary considerably. In the K court, these methods include having one prosecutor from start to end to ensure continuity for the victim as well as an in-depth understanding of the facts of the case. Prosecutors will also meet with the victim before the trial. In K Court, they identified the crucial role of evidence collection by the police – subsequently, prosecutors worked with the police in the first year to develop their Victim/Witness Assistance Programme (VWAP) which seeks to support victims regardless of whether they intend to support the prosecution. (Dawson and Dinovitzer, 2001).

Whilst literature on international court systems has suggested there are benefits in having criminal-only courts (see Plotnikoff and Woolfson, 2005), including enhanced satisfaction with the process, a greater chance of perpetrators pleading guilty, and the more reliable provision of support for victims, Burton (2006) has commented on a potential weakness in that it is impossible to address any civil law issues at the same time. However, she has also acknowledged the similar limitations of civil-only courts (such as the Quincy District Court in Massachusetts) in that they, conversely, cannot take account of any concurrent criminal proceedings.

In recognition of these limitations, courts such as the Clark County Domestic Violence Court have developed ‘integrated’ courts that handle both criminal and civil law cases, and as Burton comments: *“One key benefit of integrating the civil and criminal justice response to domestic violence is the prevention of inconsistent orders that might previously have been made in the separate systems”* (2006, p.368).

The other type of specialist domestic violence court is that of a ‘problem-solving’ court – and this can either be part of a criminal-only court or of an integrated court. The key defining feature of ‘problem solving’ courts, is that they move beyond traditional approaches to dispensing justice to a model of ‘therapeutic jurisprudence’. As Eley explains:

“In the prosecution of domestic violence cases, therapeutic jurisprudence seeks to increase the therapeutic consequence of law and then consistent with other important values, can reshape law and legal processes in ways to assist the accused and their victims” (2005, p.113).

In terms of how this translates into practice, Gover et al (2004) describe how it operates in Lexington County Court: *“Specifically, the prosecutor, investigators, judges, and mental health officials worked together in a coordinated approach that placed the primary emphasis on treatment options for defendants convicted of domestic violence offenses ”* (p.114). The focus on treatment for offenders is a contested issue, with Walsh (2001), for example, highlighting the fact that there is no strong evidence base regarding ‘what works’ in this respect. Interest in ‘problem-solving’ courts as a model has been greatly strengthened by experience of drug courts in the US, where offenders are mandated to attend treatment programmes. However, in the absence of clear

evidence as to ‘what works’ in influencing desistence among perpetrators of domestic violence, the value of such an approach has understandably been questioned (Burton, 2006).

As the above discussion has identified, international approaches to specialist courts have taken various forms. What unites the different approaches is the improved consistency of sentencing and the important role of victim advocacy. The majority of courts view victim safety as their ultimate priority (Fritzler and Simon, 2004), with some problem-solving court seeking to support and treat the offender in equal measure. As will be seen in the following discussion, the UK experience has largely focussed on criminal only courts with the focus being on victim safety.

The UK experience of SDVCs:

The national roll-out of SDVCs followed the evaluation of several pilot sites. The first began in Leeds in 1999, and was followed by Cardiff in 2001, then Wolverhampton and West London in 2002 and later pilots in Derby, Caerphilly and Croydon in 2004. The evaluation of these pilots highlighted a range of issues and benefits associated with a SDVC and in 2004 an evaluation was commissioned to bring together the findings from five pilot sites (Leeds, Cardiff, Wolverhampton, West London and Derby) to inform the nation-wide roll-out of SDVCs. As the authors of this report comment:

“Overall, our research indicates the notable and positive benefits of Specialist Domestic Violence Courts and Fast Track Systems in three key ways:

- *Both clustering and fast-tracking DV cases enhances the effectiveness of court and support services for victims.*

- *Both SDVC and FTS arrangement make advocacy and information-sharing easier to accomplish.*
- *Victim participation and satisfaction is improved and thus public confidence in the CJS is increased” (Cook, et al, p.3, 2004).*

It is helpful to explore some of the findings from the individual evaluations before discussing the comprehensive evaluation conducted by Cook et al.

The Wolverhampton SDVC was established in 2002, with the evaluation being published in 2003. The court chose to list domestic violence cases together and provided trained support services to victims. The aims of this SDVC were: *“improving criminal justice and support services to victims and survivors of domestic violence; more effective multi-agency working; and learning positive lessons from the innovative Leeds Inter-Agency Project”* (Cook, 2003, p.3). The positive outcomes of the evaluation suggested that reporting of domestic violence offences had increased, repeat victimization was 15% lower than the national average, professionals viewed it as having improved partnership working and victims felt it was a positive step forward – in particular the support provided to them. Having said this, a range of issues emerged to suggest that outcomes had not considerably improved:

“23% of the 171 cases that were prosecuted did not get to trial...Of the 77% that did progress to trial, a further 23% failed due to no evidence being offered...Therefore, in 47% of cases, the defendant was not effectively brought to justice” (Cook, 2003, p. 18).

Additional issues included: a high level of retraction statements (44%); 38 charges being reduced by the CPS (mostly from ABH to common assault); only 13% of defendants pleaded guilty and only 6 victims attended court on the day of the trial (Cook, 2003).

The evaluation of the Caerphilly and Croydon pilots was helpful in comparing two different models of SDVC. These courts were both established in 2004 with the evaluation running for 12 months. The Caerphilly SDVC was driven by the CPS and comprised an advocate, a CPS coordinator and a part-time administrator. There was a dedicated police officer assigned to the court, with special processes being established for Pre-Trial Reviews. In Croydon, the SDVC was driven by the magistrates' court and used an independent advocate to support victims; sought to improve the interface of the civil and criminal justice systems; included a dedicated sitting for pre-trial matters and sentencing; and, used specially trained prosecutors, magistrates and police officers (Vallely et al, 2005).

In Caerphilly, there was an increase in the number of cases progressing through court, these cases then progressed more quickly, attrition was reduced from 32% to 25%, more defendants pleaded guilty (an increase from 21% to 27%), guilty pleas on the day of the trial increased from 31% to 35%, and victim retractions decreased from 53% to 27% (Vallely et al, 2005). The evaluation suggested that having a CPS coordinator to act as a single point of contact for police and the advocate and having a dedicated administrator to correctly identify DV cases were important to the success of the pilot. However, it was the role of the advocate that was seen to have been pivotal:

“The advocate facilitated support for victims, enabled supportive retractions, informed decision-making (such as bail conditions) and availability of police information to the

court. In liaising between the victim, police and CPS, the advocate was able to provide better, earlier information so that prosecutors were better able to make discontinuance decisions and build stronger cases” (Vallely et al, 2005, p.4).

Interestingly, it was noted in the research that respondents felt the advocate should have been independent (rather than being a criminal justice professional) as this could have increased victims’ confidence. Despite this, the retraction rate halved during the study and this was found to have contributed to an increase in guilty pleas and convictions. However, issues were identified during this pilot, the most crucial of which being poor evidence gathering by the police – yet it was noted that in cases where there was additional evidence, this had increased the numbers of defendants found guilty at trial. In addition, sentencing practices were not viewed as particularly appropriate in Caerphilly with the use of financial penalties increasing during the pilot.

In Croydon, the number of cases proceeding through court doubled, evidence gathering improved greatly, attrition reduced from 36% to 20%, the percentage of defendants found guilty after trial increased from zero to 19%, more cases proceeded without the evidence of the victim (with perpetrators still being brought to justice) and the use of more appropriate sentences increased. It was suggested in the evaluation that training criminal justice staff had been instrumental in improving evidence collection by the police, and bail decisions and sentencing by magistrates. The impact of improved evidence-gathering was found to have increased the numbers of defendants pleading or being found guilty, as well as increasing the number of cases proceeding (successfully) without the evidence of the victim. As Vallely et al explain: “*Proceedings continued in nearly a third of cases and in almost all those cases, the perpetrator entered a late guilty plea, or was found guilty*” (2005, p.18). In addition, it was suggested that using trained and dedicated prosecutors

tended to improve the response of the CPS who were more likely to interact with the victim and also gained more experience in presenting domestic violence cases.

The independent advocacy support provided alongside this SDVC was seen to have been invaluable, in particular, for victims' decision to continue with the case, yet it was noted that more victims retracted during the pilot. Furthermore, advocates were found to have assisted better decisions regarding bail applications as up to date information had been provided to the court (Vallely et al, 2005, p.19).

Overall, the evaluation of Caerphilly and Croydon provided valuable insights into how different models of SDVCs could produce different outcomes. In Caerphilly, the coordinated response was found to have increased early and late guilty pleas, improved decision making by the CPS as a result of being kept informed by the advocate, reduced the number of cases being withdrawn and increased the safety and confidence of victims (Vallely et al, 2005, p. 72). In Croydon, the focus was on improving the response of each aspect of the CJS, with the police significantly improving evidence-gathering, which then impacted on prosecutors decisions, and ended with magistrates imposing a wider range of sentences (in the form of community orders). Both pilots, however, viewed victim advocacy as central to their success.

The generally positive evaluation of the five pilot sites (which involved a mixed methods approach of quantitative data analysis and interviews) provided the confidence for a nationwide roll-out of SDVCs (Cook et al, 2004, p.4). The report identified a number of indicators upon which to assess the SDVCs, these included: evidence gathering; guilty pleas; bail decisions; sentencing; special

measures and witness summonses. In relation to improved evidence gathering, this was seen as one of the biggest impediments to successful prosecutions:

“Evidence is vital for successful outcomes in domestic violence cases, yet in all the sites the majority of files contained only the basic components (victim statements, police statements, and police interviews of defendants)...The case files indicated that 78% of victims were injured by the defendant, yet case exhibits (such as photos), medical statement and forensic evidence were infrequently found in the case files (30%, 12% and 11% respectively)” (Cook et al, 2004, p17).

With reference to guilty pleas: *“Over half of the defendants in our sample initially pleaded not guilty to all or some of the charges, but by the final stage the number of not guilty pleas had been about halved”* (Cook et al, 2004, p. 17). The authors also conducted satisfaction surveys with victims at the conclusion of their case – the responses for which indicated that the support they received, as part of the SDVC, had increased their confidence and willingness to participate in the CJS (Cook et al, 2004, p.20).

The evaluation suggested that whilst decisions regarding bail (by magistrates) had been improved as a result of the SDVC, there were still issues with breaches of bail not being taken seriously (Cook et al, 2004, p. 18). Furthermore, one of the aims of a specialist court was to improve the consistency and quality of sentencing decisions, however, as the authors found:

“Even in these specialist court settings, sentencing domestic violence offenders most often took the form of fines or other monetary penalties...only 9 of 69 convicted defendants

received a custodial sentence, which on average was 12 weeks long” (Cook et al, 2004, p.19).

In relation to special measures, the authors (and respondents) expressed concern that domestic violence victims did not qualify for special measures as this would inevitably help to alleviate some of the concerns victims may have had about attending court (this was rectified by the 2005 CPS revised policy which supported domestic violence victims being viewed as vulnerable or intimidated). Finally, wide variation was noted with regard to the frequency of use of witness summonses, with many prosecutors reluctant to pursue this option.

In assessing whether SDVCs were maintaining the severity of charges to the point of conviction, the authors found some positive indicators:

“In the five sites, charging alterations and reductions were infrequent (less than 15% of cases) although when they did occur they were almost exclusively to do with Sect 47 Assault being reduced to Sect 39 Common Assault” (Cook et al, 2004, p. 14).

Considering the frequency with which charges appeared to have been reduced in earlier studies (see Cretney and Davis 1996 and 1997a), the signs here were of significant improvement.

Nevertheless, despite advocacy being provided for victims, the rate of victim withdrawal was still as high as 50%, this being a matter of some concern to the authors:

“Given the clear guidance about how to manage victim retraction in the CPS Guidance on Prosecuting Cases of Domestic Violence (2001), the quality of victim retraction statements

in the case files – like courts nationally, could be significantly improved” (Cook et al, 2004, p. 15).

There was also a lack of communication between CJ agencies and the victim, with decisions to accept pleas and bind-overs being made without consultation. Furthermore, as the authors suggested *“Victims had little input into pre-sentence reports, other than in Leeds, where the Probation Service has a policy to make contact with every victim to seek her input”* (Cook et al, 2004, p.19).

Following all the learning from the pilot sites studied, the authors made a number of recommendations for the police, CPS, courts and advocates, should the programme be rolled out nationally. Interestingly, these suggestions took the form of ‘criminal only’ courts rather than focussing on the ‘problem-solving’ approach of many US courts. These recommendations included:

- That the police second a specialist officer to court; that evidence gathering be improved through photographic evidence, training and checklists; that the police take statements from children where age appropriate; that risk assessments be used; that protocols be set up with partner agencies; and that retraction statements and victim personal statements be taken to the recommended standard.
- That the CPS provide specially trained, dedicated prosecutors in all SDVCs; that CPS share information about defendants and victims; that prosecutors communicate with victims directly; that CPS follow their own guidance about continuing with a case even if a victim has withdrawn their statement; that prosecutors assume victims will

withdraw and build their case accordingly; and that victims should only be summonsed following a thorough risk assessment.

- That courts ensure they have the necessary facilities for a specialist court - including private rooms and facilities for special measures; that there are childcare facilities available; that guilty pleas are most beneficial to defendants if submitted early on so as to avoid ‘delay tactics’; that bind-overs should not be used; that perpetrator programmes be used if they are deemed appropriate; and that special measures be planned for as they are of particular value for victims of domestic violence.
- That advocates are involved in all SDVCs to provide support to victims, keep victims informed, help coordinate information sharing and advise on the development of the court, and that advocates receive training on legal issues so they can provide accurate information to victims (see Cook et al, 2004, pp.13 – 16 for the full list of recommendations).

This all provided the clearest description of how a SDVC was intended to increase successful prosecutions and highlighted the need for co-ordination and co-operation from the police and CPS in order to make this happen. The report also stressed the importance of advocacy for victims as well as practical measures being available to increase the safety of victims at court.

The Impact of SDVCs on Increasing Prosecution Rates since the nationwide roll-out.

In 2008 a review of SDVCs was carried out to determine how they were functioning and ultimately whether the issues identified in the 2004 evaluation had been addressed. The review measured the SDVCs against the 2005-8 CJS Public Service Agreements (PSAs):

- *“Bringing more perpetrators to justice*
- *Improving the support, safety and satisfaction of victims*
- *Increasing public confidence in CJS”* (2008a, p. 4).

The methodology of this study involved a quantitative analysis of all CPS areas, both those operating as SDVCs and those without specialist courts. This enabled the review to compare the efficacy of SDVCs as opposed to other CPS areas. Having analysed the CPS data, the authors decided on six SDVC sites to visit, ranging from the best performing (in terms of successful prosecutions) and those with the lowest rates of successful outcomes. The intention was to identify the factors which contributed to the success or otherwise of the particular court.

The review found that the average rate of successful outcomes was 66% compared with their corresponding (non SDVC) area rate of 64%. It also noted wide variation in the performance of the different SDVCs, with one court achieving over 80% successful prosecutions (Home Office, 2008a, p.16). In finding that SDVC areas did indeed perform better than other CPS areas, the authors explained that:

- *“Of the 23 SDVC systems, ten achieved over 70% successful outcomes.*
- *Of 15 CPS areas, only one achieved over 70% successful prosecutions.*
- *This revealed that these SDVCs performed better than the non-specialist SDVCs within their CPS areas”* (Home Office, 2008a, p.17).

Having identified such wide variation in the performance of the SDVCs, the review used qualitative research methods to seek to understand what made certain SDVCs more successful in bringing perpetrators to justice, with the conclusions being:

- *“Strong multi-agency partnerships;*
- *Effective systems for identification of cases;*
- *IDVAs with a focus on supporting victims at court;*
- *Good trained and dedicated staff;*
- *Clustered court listing or a combination of cluster and fast-track court listings; and;*
- *Criminal justice perpetrator programmes”* (Home Office, 2008a, p. 6).

As well as identifying such key components of the better performing SDVCs, the review argued the importance of trained and dedicated staff, strong governance, a strategic forum (measuring performance and ensuring accountability) and commitment to meeting the needs of victims as essential further elements:

“Where the wider needs of victims, their children and particularly their safety were considered, alongside a determination to hold perpetrators accountable and ensure the court “performed” well, success was readily identifiable” (Home Office, 2008a, p. 24).

The role of the police and CPS in the SDVC Programme

As the recommendations from the 2004 SDVC evaluation (Cook et al, 2004) made clear, the role of the police and CPS is essential for ensuring more offenders are held to account through the criminal justice system. Furthermore, as the evaluation of the Croydon SDVC pilot (Vallely et al, 2005) discovered, effective practice by the police in terms of evidence-gathering, and having trained and dedicated prosecutors, can significantly impact on the successful prosecution of offenders. Having said this, there is little contribution from the 2008 review to understanding whether police and CPS practice continued to effectively support the outcomes of the SDVC.

The review did suggest that police practice was effective in arresting offenders in an average of 80% of domestic violence incidents reported. However, data was only available for 11 out of the 23 SDVCs being evaluated. In relation to evidence-gathering in the six SDVCs that were visited, the review explained that at one SDVC the subject of training was raised as an issue impacting on evidence-gathering, and also that: “*The extent to which alternative evidence (in addition to victim’s oral evidence) was used was unclear in one SDVC*” (Home Office, 2008a, p.33). But these were the only references to evidence-gathering by the police, and as such, the study did not conclude on the impact of practices within the police upon the rate of successful prosecutions.

With regard to CPS practice, the review found that, whilst dedicated prosecutors tended to be associated with better outcomes, it was often the case that less well trained agency staff were being used in some SDVC areas. However, no findings were reported in relation to other aspects of CPS practice, such as the frequency of charge reduction.

Independent Domestic Violence Advisers

International approaches to Victim Advocacy:

Before discussing the role of victim advocacy in the UK CJS, it is helpful to explore some of the international literature in this respect – particularly the US and Canada. The role of victim advocacy has been central to US policy for a considerable number of years – pre-dating the establishment of specialist courts. The first, and most well-known approach is the Duluth Model which aimed to ensure the dynamics of domestic violence were considered by all agencies and which placed the needs of the victim at its centre.

The Duluth Model arose from an awareness campaign in Minnesota between 1976 and 1980 that was initiated by local advocacy groups who sought to:

“Inform both the public and policy makers about the extent of domestic violence in the state, its life-long impact on women and children, and the problems women face when they turn to the system for help in escaping the violence” (Asmus et al, 1991, p.128).

By using advocacy groups in formulating the intervention, the Duluth Model produced policies that understood the issues women were facing when fleeing an abusive relationship and sought to counteract the power and control of the abuser, whilst fundamentally seeking a successful prosecution. It was recognised, however, that the success of the Model, was contingent on the role of advocacy groups in the prosecution process. As Asmus et al (1991, p. 154) suggest:

“Effective prosecution is increased as prosecuting attorneys develop cooperative relationships with advocacy programs. Through working one on one with victims of domestic violence, advocates can provide much needed information to the prosecutor...Advocacy programs can also assist the prosecutor by providing continuing advocacy to the victims of domestic violence”. .

Arguably, the impact of victim advocacy for the prosecution was not taken seriously by criminal justice agencies (in the US) until the Duluth Model. Following this, as Corsilles explains: *“When victims receive support from victim advocates and are relieved of the responsibility to press complaints forward, more victims end up cooperating with the state”* (1994, p.878).

This connection between advocacy services and a victim’s decision to continue with the prosecution has been fundamental to the commissioning of support services alongside specialist

courts (as seen in the Victim/Witness Assistance Programme (VWAP) in K Court Ontario). This court specifically sought to improve victim participation in the criminal justice process and therefore provided advocacy to victims in the form of the VWAP. Dawson and Dinovitzer, (2001) evaluated the model to determine the efficacy of such an approach and were particularly keen to understand the relationship between victim cooperation and successful court outcomes.

As they explain:

“The role of the VWAP is to provide victims with information about the court process, referrals to community organisations and government agencies, personal escort and support at trial, and support during meetings with the prosecutor” (p. 604).

They found that approximately 55% of all victims cooperated with the prosecution, and that a prosecution was 7 times more likely if this were the case. They also found that victim cooperation increased if the victim had met with a representative from the VWAP programme. Their findings seemed to suggest that support for the victim was crucial as the odds of prosecution were still very much associated with the victim attending court to give evidence. However, other benefits of supporting victims were also suggested, as Eley reports:

“Key informants believed that the VWAP made a significant contribution to changing the established practices of victims of domestic violence courts of recanting and increasing non-cooperation as the case progresses towards prosecution” (2005, p. 120).

In addition to the above examples, further research in the US has shown the vital role of victim advocacy for reducing the impact of secondary victimisation. Campbell (2006) for example, investigated the experience of victims of sexual abuse who reported to the police, comparing

those who had the support of an advocate, with those who did not. She found that victims who had an advocate were more likely to have a police report taken, were more likely to have the investigation taken further, were less likely to be discouraged from filing a police report, were less likely to be told that their case was not serious enough to pursue, were less likely to be questioned about their prior sexual history and were less likely to be asked if they had responded sexually during the attack (2006, p.36). Similarly, Maier has suggested that: *“Rape victims advocates’ provision of assistance and support can mitigate the trauma victims feel as a result of professionals who do not believe them or who blame them for their victimization or fail to give them proper information or support”* (2008, p.787).

If, as this research suggests, victim advocates can improve women’s experience of the CJS, then this creates another important potential benefit. For example, Cattaneo and Goodman (2009) sought to understand the impact of empowerment (in the court process) on a victim’s depression, quality of life, fear, and intention to use the system again (in the context of domestic violence). In defining their understanding of ‘empowerment’ the authors explain:

“An empowering experience would be one where the victim felt she has been able to express her wishes and saw those wishes reflected in decisions or responses at various points in the court process” (2009, p.484).

The study found that women who had participated in the ‘Victim-Informed Prosecution Project’ were less likely to be experiencing depression at a 6 month follow up, were less likely to still be living in fear, were more likely to have felt empowered by the court process and were more likely to use the court process in the future (Cattaneo and Goodman, 2009).

Studies such as these suggest an important role for victim advocacy, not only in terms of minimising the impact of secondary victimisation (common to victims of both sexual and domestic violence) but also to increasing their long-term safety and well-being.

Victim Advocacy in the UK:

In the UK, the concept of Independent Domestic Violence Advisors (IDVAs) was first formally advocated by Government in the 2005 National Action Plan. However, the function had existed for much longer – indeed, since the beginning of the refuge movement in the 1970s. In this respect IDVAs were simply a more contemporary development of a form of specialist support that had been provided in community refuge and outreach services. As the Government acknowledged: *“IDVAs are not a new idea, there is strong evidence from existing projects that they are effective in terms of outcomes for the victim and in terms of cost efficiency”* (Home Office, 2005, p.9). Moreover, the concept of supporting victims through the CJS had been a significant part of policy development since the 1990s when the Home Office had first promoted the establishment of Domestic Violence Officers. Several studies exploring the role of DVOs, suggested a direct link between the support provided by a DVO and a woman’s decision to support the prosecution (Cretney and Davis 1997a, Grace, 1995).

In 2000, the Home Office funded a Violence Against Women Initiative (VAWI) as part of its Crime Reduction Programme (CRP). This initiative funded a variety of projects that aimed to reduce attrition rates for domestic violence, with some projects specifically focusing on ‘narrowing the justice gap’ (a target established in the 2004 Spending Review) by increasing the number of cases that reached court (Hester and Westmarland, 2005, p. 56). In a project based in Bradford, for example, which involved intense advocacy work with women around legal and housing issues:

“Data was available that indicated the importance of accompanying women experiencing domestic violence to court as witnesses...a guilty plea was entered in half of the cases where the victim was accompanied (8/16 50%) compared with only one fifth in the cases where the victim was not accompanied (23/108, 21%)” (Hester and Westmarland, 2005, p.59).

In the Hammersmith and Fulham project, which focused on training magistrates and police officers, the findings were less encouraging, with conviction rates rising by only 1% over the duration of the project (Hester and Westmarland, 2005, p.61). Having said this, the proportion of custodial sentences did increase at this project, suggesting that magistrates had been influenced by the training they had received.

In Northampton, a ‘one-stop shop’ was developed to provide a holistic support service to women and involved close multi-agency working with the police, advocacy workers and the CPS. The findings were particularly encouraging:

“Overall, it appears that the project had an impact on increasing conviction rates and thus in reducing attrition through the courts, with a conviction rate nearly twice that of a comparison group of all cases heard at the Magistrates’ Court” (Hester and Westmarland, 2005, p. 63).

Furthermore, in this study it was found that the level of victim withdrawal had fallen significantly to just 11% (Hester and Westmarland, 2005, p.64); much lower than the average rate of 44% recorded in the 2004 HMCPSI report. Whilst these projects made an important connection between the support provided to victims by advocates, and an observable increase in victim participation, the proportion of guilty pleas and conviction rates, they did not identify with any

clarity exactly *how* the support impacted on these outcomes. Nevertheless, it was as a result of such findings, that the Government made a commitment to ensure the role of victim advocacy was placed at the heart of its new SDVC programme.

Accordingly, the Government agreed to fund advocacy services across England and Wales in the form of Independent Domestic Violence Advisors (IDVAs). The IDVA role was defined according to seven key principles: independence (from statutory services); professionalism achieved through intensive training; a focus on safety options and crisis intervention; supporting victims assessed as high risk; working in partnership with other voluntary and statutory services; and working to measurable outcomes in terms of reducing rates of victim withdrawal (Home Office, 2005, p.10).

It is important to note here that, within the seven principles, there was particular reference to the IDVA role being to support ‘high risk’ victims of domestic abuse. Accordingly, the issue of how to identify and manage high risk cases (in relation to domestic violence) took on particular significance in the early years of the new century – leading to a further policy development around the same time- Multi-Agency Risk Assessment Conferences (MARACs). Although with their objectives being specifically focused on risk assessment rather than on increased prosecution rates (and so is therefore outside the scope of the Domestic Violence Court Advisory Service (DVCAS) that has formed the core of the empirical research in this thesis), MARACs are relevant in terms of their implications for the role of IDVAs in practice.

Multi-Agency Risk Assessment Conferences

The idea of multi-agency conferences developed out of a pilot in Cardiff, where, under the leadership of the police, a group of statutory and voluntary agency representatives (including,

social services, women's safety workers (later to be IDVAs), victim support, health representatives (midwives, health visitors, child protection nurses and hospital staff as appropriate), housing services, probation service and education) were brought together to share information in order to gain clearer understanding of victims' situations. In this way, the aim was to develop responses that would be better tailored to the needs and goals of individual victims and their children (as well as considering issues concerning management of the perpetrator). The key task of such MARACs was to construct and implement a risk management plan that would ensure professional support for all those at risk and that reduced the risk of harm (Home Office, 2009a, p.32-33).

The relationship between SDVCs, IDVAs and MARACs

The wider introduction of MARACs in light of the Cardiff initiative, inevitably had ramifications for the IDVA role in that, whilst the 2005 National Delivery Plan had defined the IDVA role as being focused in the SDVC, by 2006, the Resource Manual for SDVCs (Home Office, 2006a, p.24) was proposing that the IDVA role should also be central to the MARAC process:

“In Cardiff, 80% of the actions agreed at MARACs are progressed by IDVAs. In the context of the meeting itself, their role is to keep victim safety and the safety of any children central to the process”.

However, the same manual also clearly defined the role that IDVAs should play in supporting the SDVC:

“The IDVA can be a key point of contact for a victim who is a witness in a trial. Because of the independent nature of the IDVA role, they can continue to work with the victim through the

court process and after. The end of the trial is often not the end of the abuse or harassment”

(Home Office, 2006a, p.22).

Moreover, the manual suggested that IDVAs take the role of keeping the victim informed of developments in their case, ensure that civil remedies are put in place if the criminal court cannot protect her, ensure victims are treated in accordance with their rights (under the Code for Victims) and support victims to complain if statutory agencies have not fulfilled their obligations (Home Office, 2006a).

The IDVA, therefore, was now seen as having a dual role – on the one hand supporting victims going through the CJS process, whilst, on the other, supporting those at imminent risk through the MARAC process. Largely because of resource constraints and the pressures and tensions of these dual roles, many IDVA services have focused on *either* supporting victims through the SDVC, or supporting the victims who were subject to MARAC discussions, with the majority finding themselves drawn more towards the MARACs. As a result, little is known in practice about the effectiveness of IDVAs working within a SDVC (i.e. the DVCAS model that is of central concern in this thesis) and particularly in increasing the successful prosecution of domestic violence offences.

The Contribution of IDVAs to the SDVC

Perhaps the most significant published analysis to date of the IDVA role as part of the SDVC was included in the 2008 SDVC review, and this indeed, highlighted the lack of clarity regarding the role of an IDVA. As the authors commented: “*Although IDVAs focus primarily on victim safety some SDVCs noted that this resulted in more victims staying in the court process*” (Home Office,

2008a, p.30). Here, the SDVC role was presented almost as an unintended effect of IDVAs rather than being a key purpose. Furthermore, the review identified an important duality in the outcomes achieved by SDVCs:

“In many SDVCs there was a polarisation between successfully prosecuting cases and successfully improving the safety of victims. The best SDVCs addressed both and developed a unified approach across agencies” (Home Office, 2008a, p. 24).

While this might seem somewhat contradictory, it reflected the fact that the IDVA services in that particular review were working primarily with MARACs, meaning that the role of supporting women through the CJS was only a minor element. However, the review’s authors did acknowledge that the courts with the highest percentage of successful prosecutions were those where victims had been provided support at court. Accordingly, the findings suggested that it was not just the fact that a victim was working with an IDVA which impacted on prosecution rates, but more the type of support being offered by IDVAs – in particular, the focus on court support.

Further evidence to emphasise this point was noted in terms of the difference between courts who chose ‘clustering’ as opposed to ‘fast tracking’ their DV cases. Where courts had clustered their DV cases, the IDVA would typically become involved from the first appearance onwards, whereas with ‘fast-track’ courts, their involvement tended to be at the trial stage only, which was generally perceived as being too late for effective intervention:

“SDVCs that solely heard trials risk losing the focus on the victim by the time the case reached trial...Issues such as special measures and victim summoning had not been addressed prior to the trial date and the general picture was a lack of any focus on the

support for victims and their encouragement to engage with the court process” (Home Office, 2008a, p. 36).

In contrast to these issues, the courts that clustered their DV hearings demonstrated greater responsiveness to the victim’s needs:

“In one of the SDVCs visited, IDVAs identified that the cluster court, staffed by dedicated personnel was a source of reassurance to victims needing to give evidence. In another cluster system, more victims were attending court and the cases were getting through more quickly” (Home Office, 2008a, p.36).

Taken overall, these findings suggested that courts which were organized in such a way as to provide support to victims from the earliest opportunity (rather just at the trial) resulted in more victims persisting with the court process and, as other evaluations have shown, the better the early-stage support, the higher the proportion of guilty pleas (Cook et al, 2004 and Hester and Westmarland 2005).

Understanding the precise nature of such potentially causal connections is clearly very important to the development of better practices in responding to domestic violence within criminal justice, with the key challenges being to identify exactly what it is about *how* support is provided that promotes victim engagement, and also precisely *how* such engagement might impact on the decisions of defendants to plead guilty – issues that are examined in detail in subsequent chapters of this thesis.

In addition to the SDVC review, three other evaluations of IDVA services have been published, each based on a multi-site design (comprising four or more sites). The first of these was a review by Robinson (2009, p. 5) and took the form of a process evaluation:

“The overall aim of the work is to assess how Independent Domestic Violence Advisor (IDVA) services have been implemented in various settings and the perceived impact they have had with regard to providing support to victims of domestic violence”.

This was a qualitative study involving visits to four sites and a total of 87 interviews were conducted.

The second such evaluation was conducted by Howarth, et al. This large scale evaluation was designed to determine the profile of victims accessing IDVA services, the types of interventions mobilised on behalf of victims, and the effectiveness of these interventions for victim’s safety and well-being (Howarth et al, 2009, p.5).

In this study, seven IDVA services were evaluated, ranging from one with just a single full time IDVA, to another with a team of twelve. Some of the services had only recently been established, while others had been operating for more than 30 years. The research here was carried out over 27 months and focused on quantitative data entered onto a database. IDVAs gathered data (n 2567) at the point of referral to a service (time 1) and where possible, data (n 1247) were gathered on a second occasion (time 2) – either at the closure of the case or after 4 months of engagement. As part of the research, IDVAs themselves conducted short ‘exit’ interviews with victims (n 411) in order to gather information on the key factors that had impacted on their safety during the period of intervention. Finally, a small group (n 34) of victims were re-contacted 6 months after the

closure of their case in order to examine the sustainability of any changes made with respect to safety and well-being (2009, p. 6).

The third evaluation was conducted by Coy and Kelly (2010, p.9). As the authors explain:

“The core of this evaluation is an exploration of the contribution IDVA schemes make to the Co-ordinated Community Response (CCR) that has been at the heart of Westminster government policy for four years”.

This evaluation focused on four IDVA services in the Westminster area of London, with a methodology that involved the analysis of quantitative data collected by the IDVAs into a bespoke database and qualitative data in the form of service user feedback and interviews with IDVAs and partner organisations (2010, p. 11).

Whilst these three evaluations certainly contributed much to a better understanding of how IDVA services have developed since their inception, they did not, however, directly address the key question for this thesis of the role and effectiveness of IDVAs in increasing the successful prosecution of domestic violence offences. Robinson’s evaluation briefly commented on the impact IDVAs can have: *“IDVA support was viewed as a necessary precursor to having successful court outcomes; for example, reducing retraction, giving better evidence, and obtaining convictions”* (2009, p.16). Coy and Kelly’s evaluation, which included a court based IDVA service, similarly explored the type of support provided by IDVAs, including attending court, informing women of their rights in relation to the CJS and addressing women’s needs holistically. However, neither discussed in any detail the question of impact on court outcomes, and as the authors conceded: *“At the inception of the four schemes, the IDVA model was firmly embedded in*

the criminal justice system, although...this diminished in importance over the evaluation period” (2010, p. 81).

The ‘Independence’ of IDVAs

A further issue to be considered relates to the ‘independence’ of IDVAs. As the 2005 National Delivery Plan suggested, IDVAs were intended to be ‘independent’ from statutory services. This intention was based on the assumption that women were more likely to engage with someone whose aims were not associated with the prosecution, but were instead focussed on their safety. The rationale is familiar to other areas of the criminal justice system where the voluntary sector plays an important role in working with offenders as well as victims.

For example, the role of the voluntary sector in working with offenders has a long history and has developed to encompass a number of services. As Mills et al describe:

“VSOs (Voluntary Sector Organisations) currently provide a variety of services, including advice and advocacy, spiritual guidance, mentoring and peer support schemes, and they perform supervisory functions through organisations such as Independent Monitoring Boards” (2011, p.193).

The most common role for the voluntary sector in supporting offenders relates to resettlement programmes where the aim is to reduce re-offending by ensuring that prisoners have some form of stability upon their release from prison. Whilst it may be assumed that voluntary sector organisations working with victims as opposed to offenders would experience rather different issues, an analysis of the literature suggests this may not be the case. The benefits of, and barriers to, voluntary services working with victims and offenders are largely the same.

Hucklesby and Worrall (2007) have summarised the benefits associated with voluntary organisations providing prisoner resettlement, suggesting they have a wide range of expertise and can meet the varied needs of offenders; that offenders from Black and Minority Ethnic (BME) communities may be more likely to approach them for support; that they can be more flexible in their approach and less constrained by bureaucracy; that they are grounded in communities and can use those links to improve the resettlement process; that their staff are committed and enthusiastic and finally, the fact they can support offenders who do not wish to engage with statutory services (2007). Despite recognised benefits of the independence of the voluntary sector in working with offenders, in the case of IDVAs, autonomy over commissioning, combined with a lack of understanding regarding the need for ‘independence’ has led to many local authorities and police areas funding IDVAs that are part of the CJS.

Robinson (2009) came across such examples in her process evaluation of IDVA services and concluded that not only was it the ‘independence’ of IDVAs that made them so effective, but that in order for their independence to be maintained, they should be located and managed by domestic violence projects (as opposed to being funded by or co-located with statutory services). Similarly, Coy and Kelly (2010) evaluated IDVA services across a range of settings and found that IDVAs located in statutory services (the police and A & E) were seen as creating barriers for women, whereas the IDVAs based in a women’s organisation specialising in BME communities, reached some of the most marginalised women and received self-referrals as a result. Having said this, the IDVAs based in statutory settings received more credibility in a multi-agency environment than those in community based organisations (Coy and Kelly, 2010).

Interestingly, some the difficulties and barriers faced by VSOs working with offenders and victims are also familiar. For example, Hucklesby and Worrall (2007) have identified that for those organisations who campaign as well as providing services, this can impact on how they are understood by the prison service – making working relationships tense as prisons see the organisations as being on the ‘side’ of prisoners. This tension between advocacy and service delivery was investigated by Cairns et al (2010) who sought to explore the challenges faced by organisations who were acting as both advocates and service providers. The authors found that all but one of the organisations were not actually funded to provide advocacy services, yet this was still defined as a fundamental aim of the service. Advocacy was undertaken at a range of levels, from the individual level of advocating on behalf of a service user, to seeking to advocate on behalf of groups or communities by trying to influence policy makers. It was also the case that advocacy was undertaken by a range of personnel, from the Chief Executive through to project workers. However, organisations articulated a number of difficulties associated with this dual role, the most fundamental of which related to increasing demand versus decreasing funding, which impacted on the resources available to be effective advocates. The second issue concerned the increasing likelihood that the agencies being challenged were the same agencies funding the voluntary organisation, leading to authors to comment that: “*the existence of a funding relationship made MPOs (Multiple Purpose Organisations) performance of an advocacy role sometimes inappropriate*” (Cairns, 2010, p.201). This is an emerging issue for IDVA services, in a climate when funding for IDVA services is increasingly being provided by the same statutory services that the IDVAs are likely to be challenging.

A particularly interesting development in the context of prisoner resettlement has been the growing nature of accredited programmes for service delivery and the difficulty that smaller organisations face in being able to achieve the necessary requirements. This is of increasing concern in the domestic violence sector where accredited training programmes for IDVAs are a pre-requisite for much available funding. Furthermore, voluntary organisations providing resettlement support in prisons have found that: *“While governor grades often accept that VCS organisations have a valuable role to play in the provision of services in prisons, rank-and-file officers sometimes do not”* (Hucklesby and Worrall, 2007, p.185). This is a familiar barrier for domestic violence organisations whose importance is often undermined by criminal justice personnel – especially if they are not associated with the statutory sector (see Coy and Kelly, 2010).

Developments since the Introduction of SDVCs and IDVAs

In 2006 the Sentencing Advisory Panel (SAP) conducted a review of sentencing policy in relation to domestic violence from which new guidance was developed. As the guidelines suggested:

“This guideline makes clear that offences committed in a domestic context should be regarded as being no less serious than offences committed in a non-domestic context. Indeed, because an offence has been committed in a domestic context, there are likely to be aggravating factors present that make it more serious” (SGC, 2006, p.i).

The guidelines highlighted the types of issues that might be classed as aggravating factors, including abuse of trust and abuse of power, the vulnerability of the victim, impact on children, use of child contact to instigate an offence, proven histories of violence or threats of violence in the domestic setting, history of disobedience to court orders and whether the victim had been forced

to leave their home. Important though these guidelines were in addressing afresh the sentencing of DV offenders, it was also the only specific policy development affecting the courts and, sadly, no known research studies have followed the guidelines up to examine the extent to which they have been applied and impacted on sentencing behaviour.

Two years later, in 2008, ACPO issued a revised version of its policy document on the investigation of crimes of domestic violence. Whilst the main priorities were unchanged, a number of changes were to be noted – in particular, reference to the introduction of IDVAs and SDVCs. In relation to IDVAs, the ACPO guidance described the IDVA role as being to support high risk victims (i.e. those who had been the subject of MARACs (2008, p.88)). In addition, it argued that the role of an IDVA “*allows police officers to carry out essential policing functions at the fast-track and investigative development stages, while providing a support mechanism for the victim*” (2008, p.88). Furthermore, the revised policy document stated that IDVAs should be kept informed of changes in police practice and regularly involved in briefings – suggesting there should be close working relationships between the police and IDVA services.

Interestingly, when discussing the SDVC, the ACPO document suggested that the courts should assign IDVAs to victims – it did not, however, specify that only high risk victims would be supported (as would be the case if IDVAs were only assigned through the MARAC process) – again highlighting the lack of clarity about the role of IDVAs across the CJS. In summarising the purpose of an SDVC, ACPO (2008, p.107) suggested the following:

“The SDVC programme aims to increase the number of domestic abuse incidents reported to police that result in a trial; reduce the number of cases dropped before a case comes to

court, and increase the number of convictions. It also focuses agencies to improve the gathering of evidence, so that prosecutions can still be pursued even if the victim opts to withdraw from a case”.

Beyond this single reference to SDVCs, no further guidance was proffered on how the police should interact with either IDVAs or the SDVCs to increase successful prosecutions.

Turning to the Crown Prosecution Service, a fourth revision to the CPS policy on prosecuting domestic violence cases was issued in 2009. The main additions here included new guidance on responsibilities to keep victims informed, the possible use of civil (rather than criminal) law, responsibilities in relation to child protection, the introduction of SDVCs and IDVAs, and the CPS role in community engagement.

These additions followed much the same principles as previous CPS policies, particularly in relation to decisions about prosecuting cases without the evidence of the victim. However, in this new version, reference was made to changes in the law which allowed for bad-character evidence (as shown by previous convictions) to be presented in court:

“There are strict legal rules of evidence which govern whether a suspect’s previous convictions or other evidence of bad character can be used in court. We have to bear these rules in mind when we are deciding whether we can proceed with a case” (CPS, 2009, p.24-25).

Perhaps surprisingly, the law in relation to ‘hear-say’ evidence, whereby a statement made by the victim to another person could be used as evidence, was not addressed. Both bad character applications and ‘hear-say’ evidence (as established in the Criminal Justice Act 2003) came into

effect in 2005, and it is noteworthy that even in 2009, the language in the above quote suggests they were not considered as particularly helpful in prosecuting cases without the victim.

Furthermore, despite the Government's commitment towards IDVAs and SDVCs, and encouragement for the CPS in prosecuting domestic violence, it was surprising that only cursory mention was made of each within the revised policy. As with the ACPO guidance, the CPS policy similarly referred to IDVAs working with high risk victims, while also stating that victims of DV would be supported in the SDVCs by IDVAs. Interestingly, unlike the ACPO guidance, which had proposed that IDVAs should be considered by the CPS as expert witnesses, the CPS's policy document made no such recommendation.

Once again, there has been no known follow-up research on the application of such revisions to CPS policy, although, in 2012, it was still the case that a third of all unsuccessfully prosecuted domestic violence cases were related to issues with the victim's evidence (CPS, 2012). This seemed to imply that the objective of achieving more 'victimless prosecutions' had not necessarily been achieved. Furthermore, the relationships in practice between CPS, IDVAs and SDVCs has remained an obvious gap in knowledge, and with no known studies having been conducted.

Summary of Phase 3

The period since 2005 has seen significant developments, not only in the policies of criminal justice agencies, but perhaps most significantly, through the introduction of two entirely new policy initiatives, respectively in the form of SDVCs and IDVAs. In developing these, the Government's aim was specifically to increase the successful prosecution of domestic violence offences. The assumptions upon which each was based, included the need for better trained and dedicated staff

to deal with DV victims, for more practical measures to address victim safety at court and most importantly, the desire to ensure the provision of support that was independent from statutory agencies.

Chapter Summary

This chapter has shown how criminal justice policy responses to domestic violence have developed over the last 40 years. Over that time, recognition gradually grew that crimes of domestic violence were not being dealt with adequately in the CJS. Accordingly, a series of policy developments and new initiatives were rolled out, each aiming to address perceived problems. These policies ranged from increasing the number of cases charged (by improving arrest rates and the quality of investigations), increasing the number of cases that reached prosecution (by enabling prosecutors to pursue cases without the victim), and increasing the number of cases that culminated in a conviction (by improving the court's handling of domestic violence issues, as well as placing the safety of victims at the centre of the process).

The evidence base regarding these policy developments, whilst limited, was found to be stronger in some areas than others. In respect of the police and CPS, little has been learned about how well the police currently follow the positive action policies that have been developed or about the extent of adherence to ACPO's guidance for investigating reported incidents of domestic violence. Furthermore, apart from one example cited by Vallely et al (2006), very little evidence has been compiled to suggest that the CPS actively seeks in practice to prosecute without the evidence of the victim.

In seeking to understand the impact of IDVAs on increasing successful prosecutions, previous research has suggested a positive link between supporting victims through the CJS, (which increases their engagement with the process), and positive impacts in terms of more guilty pleas and higher conviction rates (Vallely, 2005, Cook, 2003, Hester and Westmarland 2005). However, this research was conducted prior to the introduction of IDVAs as a policy initiative, and the reasons explaining these positive links are still not understood.

Research evaluating SDVCs found benefits in terms of higher successful prosecution rates arising from a specialist approach to justice for domestic violence cases which includes trained and dedicated personnel, strong multi-agency working, clustering of DV cases, and the provision of practical measures that seek to address the safety of victims (including safe waiting rooms). However, the precise process by which these measures might in practice increase prosecutions has not yet been satisfactorily addressed in the published literature. One of the main flaws in the existing literature has been the tendency to focus on SDVCs and IDVAs as separate initiatives, rather than seeking to understand their inter-relationship.

A further omission from the literature has been consideration of the role of the police and CPS in supporting the work of a DVCAS - a surprising state of affairs given that the 2004 SDVC evaluation emphasized the important role of the police and CPS in supporting the work of SDVCs, and Vallely's (2005) findings on the positive impact that better evidence-gathering could have on improved court outcomes.

In addition, the literature in Chapter Two suggested that the context in which offences of domestic violence are committed is central to the perceived inadequacy of criminal justice responses. In

particular, the literature has suggested that agents of a patriarchal legal system have been unable and unwilling to protect female victims of crime. Therefore, any attempt to evaluate policy initiatives in the field of domestic violence must take into account the context in which they are implemented. Accordingly, this thesis uses the framework of Realistic Evaluation (1997) to identify firstly, the *combined* impact of IDVAs and SDVCs (a DVCAS) on increasing successful prosecutions, secondly the role of the police and CPS in supporting the DVCAS, but most importantly, to explain *how* any outcomes (positive or negative) are achieved and in what contexts they occur.

CHAPTER FOUR:

METHODOLOGY

This chapter presents the methodological framework that was used to evaluate firstly, whether the policy intervention of a DVCAS had resulted in more offenders being held accountable for their crimes, and secondly, whether the policies of the police and CPS supported (or otherwise) the work of these initiatives. As indicated in Chapter 1, in order to evaluate these interventions, the thesis employed the framework of Realistic Evaluation (RE) as developed by Pawson and Tilley (1997). RE is not concerned with assessing *overall* policy success or failure, instead it seeks to answer the following questions: What works for whom, in what circumstances and in what respects?

Part 1 of this chapter begins by considering the development of evaluation studies, identifying how different ontological and epistemological approaches have restricted the use of evaluation and how theory based approaches such as Theories of Change and Realistic Evaluation have developed in response to such restrictions. The discussion then moves on to discuss RE in more detail, including how it has been used in other research, and the benefits and difficulties that have been encountered. The chapter argues that RE not only offers an appropriate framework for evaluating criminal justice interventions such as the DVCAS, but also that it allows for the establishment of causality in a single-site design by placing issues of context central to the research process. Having explored the justification for RE, Part 2 of the chapter presents the research design and how this has been implemented before presenting the initial ‘programme theory’ which guided the empirical research.

Part 1: Selecting a Methodology

History of Evaluation

Evaluation has a vital part to play in both the natural and social sciences. In public (and social) policy, the task of evaluation begins with a social problem, and seeks to determine how successful (or otherwise) have been the efforts (or interventions) to address it. Whilst public policy evaluation is still a relatively immature subject, debates on how it is best approached have been longstanding. Such debates range from what the objective of evaluation should be - overall policy success or identifying causal mechanisms - to the methods that should be employed - quantitative randomized controlled trials to discourse analysis (see Van der Knapp, 2004 and Taylor and Balloch, 2005 for a discussion of these debates). The next section will briefly discuss these debates in order to provide a backcloth against which a preferred approach was chosen for this thesis.

Positivist Approaches

The beginnings of evaluation studies within social and public policy emerged from much the same principles as scientific evaluation. As McEvoy and Richards (2004, p.411) suggest:

“Historically, positivism has been the dominant paradigm within evaluation research and evaluators have traditionally sought to make objective assessments of the extent to which services have fulfilled their stated goals”.

As with many fields of the social sciences, the influence of naturalism led to an understanding of evaluation as a ‘scientific’ enterprise. This approach to evaluation was based on a foundationalist ontology, which assumes there is a ‘real’ world that exists independently of our knowledge of it,

and a positivist epistemology that suggests it is possible to ‘know’ about this world through direct observation.

The implications of such an approach are that the researcher is an ‘outsider’, capable of objective observation. The chosen methods typically rely heavily on quantitative data and, often on controlled experiments too. Shadish, Cook and Leviton (1991) termed these evaluators, ‘first-stage’ theorists. Such theorists included Scriven and Campbell, who were described as preferring the most robust scientific methods – in particular randomized controlled trials. In explaining the relationship between researcher and researched for example: “*They advise evaluators to maintain distance from stakeholders so as to avoid compromising the evaluation’s integrity*” (Shadish et al, 1991, p.71). These principles have had a significant impact on the type of evaluations which have then ensued. Such types were likely to involve the study of more than one group – at least one where the intervention would be at work, and the other(s) as ‘control group(s)’. The assumption here would be that if the constitution and circumstances of the groups were sufficiently similar, then any differences in outcomes achieved could be considered the result of the intervention. This successionist view of causation assumes causality can only be established on the basis of what is observed (see Hume 1739).

Whilst the logic can be appreciated, critics of such approaches applied in social policy contexts have argued that it may be unrealistic to presume the same criteria can be met as in the natural sciences. In particular, in the social sciences, it has often been suggested, people, unlike inanimate objects, do not necessarily react and respond in the same way even in a common environment. Furthermore, just because an intervention has produced certain outcomes in one study, the same may not hold if replicated in another, because the context may be different.

Interpretive Approaches

In stark opposition to the scientific, empirical, approach to evaluation, lie interpretive approaches such as social constructivism:

“A fierce controversy rages within academic evaluation theory between scientific realists, who argue for the possibility of an independent reality capable of objective description, and social constructivists, who argue that all knowledge is contextual, relative and subjective (Taylor and Ballloch, 2005, p.1).

This fundamental dichotomy mirrors much of the wider social sciences, with interpretive approaches to evaluation being based on an anti-foundationalist ontology that denies the existence of a reality independent of our knowledge of it, and an interpretive epistemology which therefore rejects scientific observation. The implications of an interpretive approach for evaluation are that there can be *“no neutral/factual/definitive accounts to be made of the social world”* (Pawson and Tilley, 1997, p.21). Furthermore, there can be no generalisation from one context to another, and, for this reason, no evaluation can expect to establish causal links or derive results that can automatically be transferable to other areas. The implications for methodology are perhaps not surprisingly, a distrust of empirical data and scientific reasoning, and instead, a tendency to focus on qualitative methods that seek to determine individuals’ understanding of their environment.

A Dichotomy in Policy Evaluation

With such divergence between the perspectives of evaluators, it is not surprising that the field of evaluation has generated much distrust from the policy making and academic worlds. With a scientific approach that simply quantified the difference between point A and point B, and an

interpretive approach that merely *described* the route between them, it became clear that a fundamental aim of evaluation – the desire to learn from social policies – was not being met by existing approaches. As Stame has explained; “*Generalizations are not easily drawn and it is not clear how lessons learned at the local level can be used at the higher level*” (2004, p.59). The inability of evaluators to be able to explain *how* an intervention led from point A to point B has been termed the ‘black box’ problem (see for example, Suchman 1967, Weiss 1972, Wholey 1979 and Chen 1989). In response to this problem, several theorists have discussed ‘white’ or ‘clear’ box evaluations (see below) whereby theory was introduced to help make sense of empirical investigations, and ultimately identify how interventions have led to the observed outcomes. The use of theory to assist in explaining social phenomena can be seen to align more closely with a realist philosophy.

Realism - Bridging the Gap

Bridging the gap between these polar paradigms of positivism and interpretivism, lie ‘realist’ approaches. Whilst realists agree with positivists that there is a real world to be observed, they argue that we cannot know about this world through direct observation alone. Instead, “*Realism’s key feature is its stress on the mechanics of explanation*” (Pawson and Tilley, 1997, p. 55-56). The realist understanding of causation is fundamental to its approach, and arguably, its defining feature. Realism believes that what causes something to happen has nothing to do with the number of times it is observed happening. In opposition to the successionist view of causation, comes a generative understanding. This understanding suggests that there is a ‘real’ connection between causal events, but that the explanation between them relies on identifying causal mechanisms: “*Explanation depends instead on identifying causal mechanisms and how they work, and discovering if they have*

been activated and under which conditions” (Sayer, 2000, p.14). In order to identify such causal mechanisms, realists argue that the theory of a social programme must be central to its evaluation. For example, Pawson and Tilley (1997, p. xiii) explained their preference for scientific realism on the basis that:

“Nowadays, the philosophy of science is avowedly post-empiricist and rests on a view of explanation which is not simply driven by ‘method’ and ‘measurement’, but which suggests a more extensive role for ‘theory’”.

Theory in Evaluation

Among the first to introduce theory into evaluation were Chen and Rossi (1981). Rossi in particular placed a great importance on understanding the theoretical underpinnings of social programmes in order to alleviate social problems. Whilst he advocated the use of experiment in order to establish relationships between variables, he stressed the need to incorporate theory in order to understand the causal mechanisms at work. As Pawson and Tilley (1997, p. 26) summarised:

“What they (Chen and Rossi) suggest, therefore, is that the evaluator should use prior knowledge of the varying circumstances of the delivery of any programme and of its track record and build this into the investigation”.

Following on from Chen and Rossi came the work of Carol Weiss (1972) who was responsible for the foundations one of the leading theory based approaches to evaluation ‘Theories of Change’. This approach, later developed by the Aspen Institute (1995), highlighted the importance of unearthing the assumptions and tacit understandings of those involved in programme delivery.

Weiss stressed the importance of determining how each of the different stakeholders understood the intervention and how they believed it would work.

The increasing popularity of theory based approaches to evaluation can be seen to have resulted initially from the inevitable consequences of a ‘black-box’ evaluation that could offer very little in the way of explanation about causal mechanisms. Yet a further justification emerged with recognition that interventions had become increasingly complex and, as such, an evaluation that aimed to judge the *overall* ‘success’ or ‘failure’ of a programme, would inevitably provide little insight into the particular aspects that had been seen to make a difference: “*The aim of theory-driven approaches to evaluation is to get inside the ‘black box’ of a programme and to identify how and why interventions work in particular circumstances*” (McEvoy and Richards, 2003, p.415).

A further justification for the use of theory in evaluation lies in the assistance it provides in generalising from one site to another. With a successionist view of causation and the ‘what works’ approach, it is assumed that if an intervention is transferred from one site into a sufficiently similar site, then the outcomes will hold. This, however, is rarely the case, and so approaches such as RE place a crucial importance on identifying the contexts that can be seen to have facilitated the observed outcomes – and in doing so, it becomes possible to transfer best practice across sites, as long as the necessary contexts have been articulated.

The Importance of Politics for Evaluation

Whilst seeking to open the ‘black box’ of a policy intervention is the starting point for most theory-based approaches to evaluation, the rationale goes much further. Theory based approaches enable

a much stronger connection to be made between the interventions being assessed and the policy making process. Whilst this connection to the political was advocated by Weiss in the 1970s (e.g. Weiss, 1972), it is only in more recent years that the political arena has sought to integrate the findings of evaluation into the policy making process, and so perhaps legitimise decisions. It is this connection between policy and research that makes the introduction of theory into evaluation potentially so valuable. Van Der Knapp describes the benefits of theory-based approaches: *“Deliberately taking the assumptions and objectives on which policy programmes are based as a starting point, may enhance the set-up, implementation, delivery and utilization of evaluation research”* (2004, p.17). But whilst this may sound an attractive proposition, it is not necessarily a straightforward task in practice:

“A phenomenon every evaluator will be familiar with is the apparent lack of theoretic background some policy programmes display. It is not exceptional for objectives to be stated in such vague terms as to be virtually meaningless. In addition, the mechanisms through which policy measures are expected to achieve stated outcomes are frequently left unspoken” (Van Der Knapp, 2004, p. 25).

Whilst there are certainly different viewpoints on how to address and overcome such issues in theory-based approaches to evaluation, there is broad agreement on the need to articulate and understand the theory of a social programme in order to evaluate it - and the rationale is easily understood – those employing an intervention to help alleviate a social problem, are likely to have some idea as to how and why they think the intervention will work. As Clarke and Dawson (1999, p. 31) have suggested:

“No matter what the programme context, those responsible for designing and implementing a programme will not only have some idea of what they hope to achieve (i.e. the desired outcomes) but will also have some notion as to how they expect a programme to actually produce the desired impact”.

Understanding why policy makers have chosen a particular intervention necessarily becomes the starting point of the evaluation. With regard to domestic violence for example, the government must firstly believe that this is a social problem worthy of an intervention to reduce it, and more importantly, it must have some idea as to how it intends to do so.

The increasing popularity of theory based approaches to evaluation can also be seen as a consequence the plethora of types of interventions that the government has been introducing, and the associated rhetoric of ‘evidence-based policy’ (i.e. formulating policy on the basis of sound evidence):

“Alongside the support for such programmes has come an increased emphasis on evidence-based practice and a demand for the accountability of public spending. Programme evaluation has, therefore, flourished and is increasingly expected to provide formative learning for individual programmes and lessons for future policy implementation as well as to address questions of ‘what works’” (Blamey and Mackenzie, 2007, p. 442).

The drive towards identifying ‘what works’ was strongly promoted following the election of New Labour in 1997. Their commitment to making policy on the basis of sound evidence (as opposed to ideology) led to renewed interest in the field of evaluation and in order to produce evidence that could indeed inform policy decisions, there was a move away from traditional methods-driven

evaluations to theory-based approaches. However, as Sullivan (2011) suggests, the findings from complex theoretical evaluations do not necessarily meet the requirements of policy makers looking for a succinct policy justification.

Theories of Change

Whilst theory-based evaluations may have commonalities, their approaches vary significantly. In order to give context to the selection of RE for this thesis, it is helpful firstly to give consideration to the popular alternative - Theories of Change (ToC) evaluation, which crucially, involves an understanding of causality.

A ToC approach is ideally undertaken from the initial planning stages of a social programme. The idea is to work with all of the stakeholders who might be involved in the intervention, and for them to contribute to, and agree upon, the ToC for that programme. In developing the ToC, there particularly needs to be agreement from stakeholders, on the following areas:

- *“Identification of the long-term outcomes that the initiative seeks to achieve.*
- *Identification of the interim outcomes and contextual features that will be required to meet these longer-term outcomes.*
- *Specification of the activities that will be put into place and the contextual requirements to realise these interim outcomes.*
- *An explicit recognition of the resources that will be required to turn these goals into reality”.*

(Mackenzie and Blamey, 2005, p.113)

For Connell and Kubisch (1995), who have developed the ToC approach, there are seen to be three key strengths; these being to: “*Sharpen programme planning, facilitate decisions concerning the prioritization of evaluation questions and methods, and can reduce the problems associated with causal attribution*” (Mackenzie and Blamey 2005, p. 151). Whilst these strengths are important and indeed attractive to an evaluator, the difficulties to be overcome often outweigh these.

First and foremost, the approach can cause difficulties for the evaluator in terms of boundaries; with their role potentially being confused with those of project staff, implementation staff and staff involved in performance management. There are also other boundaries that can be difficult to define, for example, when a ToC is to be considered fully developed. Most social programmes are likely to experience various modifications and reviews in the early stages which may alter the overall ToC. However there has to be a cut off point for the process to work effectively. In addition, a ToC needs to be considered both at the strategic and operational level, involving a larger number of stakeholder views to be considered.

A further issue to consider with the ToC approach is that of attributing causality. Commenting on this issue, Mackenzie and Blamey suggested that: “*the information detailed in a prospectively specified plan can be used as an explanation for subsequent changes in predicted outcomes*” (2005, P.162). The essential idea is that, at the outset, stakeholders should outline what they expect and wish to be achieved and the methods by which these plausible plans will be put into effect. Then, if the intended outcomes do come to fruition, this it can be deemed, will have been because of the intervention, and causality will have been established through a well-defined, thought-out and agreed-upon process and which can then be followed through to the end of the intervention when the actual outcomes have been realised.

There have been few ‘text-book’ examples of a ToC approach to evaluation being applied in public policy contexts (see Connell and Kubisch 1995, Mackenzie and Blamey 2005, Sullivan et al 2002). This state of affairs probably has much to do with the complex nature of many such interventions and the fact that evaluations have often been commissioned after the interventions have been initiated, thus obviating the prior identification of a ToC. An evaluation by Mackenzie and Blamey (2005), however, did find that the approach led to improved planning and therefore implementation, on account of the clarity it ensured with regard to what people were doing and why. Nevertheless, they also commented on the slow and difficult process involved in identifying the ToC, as well as the other difficulties cited above. Furthermore, regarding the establishment of causality, they failed to find the ToC approach significantly better. Indeed, in their overall conclusion they even questioned the added value of improved planning and implementation of policy interventions – the one main benefit they had identified. In an attempt to address such difficulties, some authors have taken a more hybrid approach to evaluation and combined their ToC approach with other methods, notably with Realistic Evaluation (see Carroll et al 2005), to which we now turn.

Realistic Evaluation

RE, as originally developed by Pawson and Tilley (1997), is, as indicated earlier, less concerned with assessing policy ‘success’ or ‘failure’, and more about addressing questions of ‘what works for whom, in what circumstances and in what respects?’ As Pawson (2003, p. 473) has explained:

“Interventions work when the resources on offer (material, cognitive, social or emotional) strike a chord with programme subjects. This pathway from resources to reasoning is

referred to as the programme ‘mechanism’. Realist evaluation is thus fundamentally about unearthing and inspecting vital programme mechanisms”.

Here it is important to understand precisely what the authors meant by a ‘programme’; this involving four principles.

- Programmes are Theories - *“They begin in the heads of policy architects, pass into the hands of practitioners and, sometimes, into the hearts and minds of programme subjects”* (Pawson and Tilley, 2004, p.3). Essentially, programmes involve a value judgement, firstly, about what is deemed to be a social problem and secondly how this problem may be addressed.
- Programmes are Embedded – By this, it is meant that any programme operates within existing social systems, and as such, RE seeks to *“take heed of the different layers of social reality which make up and surround programmes”* (Pawson and Tilley, 2004, p.4).
- Programmes are Active – programmes require individuals to participate, and this participation will vary amongst the population depending on the understanding of participants, *“this means that an understanding of the interpretations of programme participants is integral to evaluating its outcomes”* (Pawson and Tilley, 2004, p.5)
- Programmes are Open Systems – this is vital to take into account for any social programme. An intervention cannot be implemented in a vacuum, free from outside interference. It is necessary to take into account the social, political, economic and technological changes, to name a few, which will have an impact on any social programme.

Four concepts are used in RE to understand social programmes; mechanism, context, outcome-pattern and context-mechanism-outcome pattern configuration.

- Mechanism: In RE, the evaluator assesses which processes may enable a programme to operate. Programmes themselves do not bring about change, it is the resources that are made available which enable this change. Mechanisms therefore, “*describe what it is about programmes and interventions that bring about any effects*” (Pawson and Tilley, 2004, p. 6). The presumption in RE, in terms of what works for whom and in what circumstances, therefore is that programmes and the measures they introduce, will trigger different mechanisms.
- Context: As with a ToC approach, context is essential to the realist evaluator: “*Context describes those features of the conditions on which programmes are introduced that are relevant to the operation of the programme mechanisms*” (Pawson and Tilley, 2004, p.7). In RE it is assumed that context will either help or hinder particular programme theories, and therefore the evaluator needs to be able to identify such contexts.
- Outcome Patterns: Due to the fact that programmes are likely to operate in a variety of contexts, and with varying mechanisms, the outcome-patterns are also likely to be varied in nature. As Pawson and Tilley have suggested: “*Outcome-Patterns comprise the intended and unintended consequences of programmes, resulting from the activation of different mechanisms in different contexts*” (2004, p.8).
- Context mechanism outcome patterns configuration: “*CMOCs comprise models indicating how programmes activate mechanisms amongst whom and in what conditions, to bring about alterations in behavioural or event or state regularities*” (Pawson and Tilley, 2004,

p.9). Essentially, this is a model which combines the mechanism, context and outcome-pattern findings of the evaluator to provide a way of explaining what works for whom, in what circumstances and in what respects.

Realistic Evaluation in practice

A number of applications of RE are to be found in the published literature(see for example, Leone 2008, Rycroft-Malone et al 2010, Byng et al 2005, Greenhalgh et al 2009, Evans and Killoran 2000, Tilley 2004). Earliest use was in the criminal justice arena, with one of the originators of the approach, Nick Tilley himself being a criminologist, and this being a setting in which the focus on evidence-based policy making and ‘what works’ has been especially strong. As Clarke and Dawson have suggested (1999, p. 93): “*Professional practitioners working with offenders to reduce offending behaviour need to be able to establish which types of treatment are best suited to which types of offenders*”. As a result, much of the early RE research was focused on interventions aimed at prisoner rehabilitation, property marking, and burglary reduction initiatives (Pawson and Tilley 1997). However, there has also been a growing body of research using RE in the health and social work arenas where similarly there is need to ensure that the considerable sums of public money devoted to different medical and supportive treatments, therapies and other interventions are spent wisely.

Whilst those using RE have recognized the benefits of the framework, in particular, the opportunity for deeper understanding of the ways in which programmes work (and for whom), a number of difficulties have also been highlighted. One of the most pervasive has been the challenge of defining what might constitute a ‘mechanism’: “*There appears to be some ambiguity about the*

meaning and uses of mechanism-based thinking in both the social science and evaluation literature” (Astbury and Leeuw, 2010, p.363). This challenge is not confined to RE, as it also affects other theory based approaches where the aim is to identify underlying causal mechanisms. Astbury and Leeuw have suggested that, in much of the current literature, mechanisms have been confused with descriptions of program activity. Similarly, Rycroft-Malone et al (2010, p.11), highlighted potential confusion in defining a mechanism, and particularly in distinguishing it from context: “*A particular challenge in this study was being able to clearly define mechanisms, and distinguish between what was a mechanism and what was a context*”.

Marchal, et al (2012, p.207) have conducted a systematic review of studies in the health care arena that have used a RE approach and encountered with some frequency much the same problem with defining mechanisms: “*We found...that sub-categories of interventions or intervention modalities are often presented as ‘mechanisms’*”). In addition, their review highlighted significant differences between the various evaluations reflecting the lack of clear methodological guidance. While perhaps a consequence of the relative infancy of the approach, Pawson and Tilley have themselves been advocates of a plurality of approaches and, as Rycroft-Malone et al have suggested: “*In our experience, Pawson and Tilley provide a set of RE principles, rather than methodological rules, or steps to follow*” (2010, p.3).

Three particularly interesting applications of RE outside the criminal justice arena are those by Evans and Killoran (2000); Greenhalgh et al (2009); and Byng, Norman and Redfern (2005). Evans and Killoran used the approach to examine a two year Health Education Authority programme and to test different models of partnership working, and involving “*a range of qualitative methods including, semi-structured interviews with key stakeholders and non-*

participant observation” (p. 125). Such use of qualitative methods was also a characteristic of the study conducted by Greenhalgh et al, (2009) that evaluated a major health change initiative in inner London, using ethnographic observation, semi-structured interviews, and document analysis and other contemporaneous materials (p.391). In commenting on the benefits of a RE, the authors suggested that it: “*can draw useful lessons about how particular preconditions make particular outcomes more likely*” (Greenhalgh et al, 2009, p. 392).

The study by Byng, Norman and Redfern (2005) evaluated Mental Health Link, a facilitated programme aimed at developing systems within primary care and links with specialists to improve care for patients with long-term mental illness. The difference here was that, rather than having a sole focus on qualitative methods, they combined qualitative data (gathered from interviews) with a randomised controlled trial. Whilst also recognizing the benefits of a RE, like others, Byng et al also encountered some difficulties:

“While carrying out the interviews it became obvious that for each outcome being studied there were many potential ways of constructing CMOs...this was very different from the diagrams, so dominant in Realistic Evaluation, where single mechanisms and contexts were brought together to illustrate the theoretical framework” (Byng, Norman and Redfern, 2005, p.88).

The issue of how best to present CMO configurations and, indeed, what exactly they might represent, has been highlighted by many authors. As Marchal et al’s (2012, p.203) systematic review noted:

“In practice, some authors apply the CMO configuration merely as a tool to describe sub-elements of the intervention and the context; this use of the CMO as a descriptive frame does not lead to the identification of the causal links between the intervention and the outcome, and the role of the context and mechanism”.

Nevertheless, despite such difficulties, and in particular that of correctly defining mechanisms (as opposed to contexts or interventions), deciding on the most appropriate method to follow, and developing and presenting meaningful CMO configurations, the benefits of using RE have generally been recognized as outweighing the problems. As Marchal et al (2012, p.208) concluded:

“Realist evaluation presents a useful approach but...its principles should not be slavishly adhered to, we also believe that to fully realise the potential of this approach, more clarity is needed concerning the definition of mechanisms and context and how the configuration of context, mechanism and intervention can be described and assessed. Only more and well-documented empirical and conceptual work will allow us to better understand how this can be done”.

Selecting Realistic Evaluation

Such a conclusion proved reassuring for the researcher, who selected RE as her preferred methodological framework. Among the reasons for such a choice, the most fundamental concerned its approach to establishing causality. However, additional advantages were seen to concern the role of the researcher, and the process of identifying a programme theory. These three issues are elaborated upon in turn in the succeeding paragraphs.

Establishing Causality

The main advantage of RE over other more positivist approaches lies in its ability to understand causation through a focus on exactly what it is about programmes that make them succeed or fail. In this respect, two key tasks in RE are identifying the mechanisms for change and the contexts in which they occur. Pawson and Tilley have also emphasised the importance in RE for identifying what it is about programmes that leads to change. These tasks begin with theorizing about the potential mechanisms that are created by the intervention, the possible contexts which will either work for, or against the mechanism, and from there the approach can proceed to test the mechanisms and contexts via empirical research. Causation is thus established by understanding ‘how’ the intervention has led to the observed changes (i.e. how the intervention has enabled actors to make choices within a particular context). The result should then be an evaluation that can understand how a particular intervention has worked within a particular context.

As a result of such understanding, RE was considered a particularly appropriate method for this thesis and its evaluation of a particular intervention in response to the problem of domestic violence. As we saw in Chapter Two previous research has highlighted the potentially significant negative impact of individual decision making by the police, CPS and courts in response to incidents of domestic violence (especially with regard to the decisions whether or not to arrest and to pursue a prosecution). As indicated, a number of government initiatives have been aimed at curtailing individual autonomy and ensuring more standardized procedures are followed by way of response. For example, a ‘positive arrest’ policy was introduced that mandated that police officers must arrest in all domestic violence cases when the evidence suggested that an offence had indeed been committed. Similarly, the guidance promoting ‘victimless prosecutions’ (i.e. prosecutions

despite the absence/consent of the victim) also sought to address another longstanding reason for variance in decision-making by officials. However, as the literature review chapter identified, even with such new guidance, it would not necessarily follow that all individuals would automatically follow governmental expectations and disregard their own judgments and prejudices. More than this, indeed, the literature has highlighted just how a patriarchal legal system has continued to account for a range of responses within and between the criminal justice agencies. The fact that RE can take account of both the possible actions (mechanisms) of different individuals within the CJS as well as the potential constraints or facilitating factors (context) they may face is arguably its most beneficial feature. In this thesis, then, the choice of RE as principal method for evaluation reflected above all its ability to identify what it is about a DVCAS, and about the complex interactions between different individuals here, that either succeeds or fails to lead to more successful prosecutions for domestic violence offenders.

The Role of the Researcher

A second important justification for the use of RE, as opposed to other theory based approaches (such as ToC), lay in its treatment of the role of the researcher. With ToC approaches, the evaluation, as indicated, is typically driven by stakeholders, with their understanding of theory being deemed the most important. In RE, however, decisions are: “*based on the existing evidence base and evaluator knowledge and experience rather than on the relative importance placed on the theories by implementers*” (Blamey and Mackenzie, 2007, p. 447). The fact that RE creates the potential for making use of the researcher’s own experience was an important factor in choosing this evaluation method. The researcher has been a practitioner in the field for over 12 years, having previously worked as a Domestic Violence Officer in the police area in which the research was

conducted, and at the time of the research, she was employed as a manager in the same organisation as the IDVA service being evaluated. Whilst such ‘insider’ status created challenges in terms of objectivity and the risk of pre-conceived ideas influencing the research, it also meant the researcher had not only first-hand insights into the mechanisms and contexts involved in the particular interventions being evaluated but also the potential to carry the findings and lessons learned into practice and into further local policy development. (Such a connection between practitioner knowledge and the utility of research is discussed by Bensimon et al 2004).

Identifying the Programme Theory

An important issue when adopting other approaches such as Theories of Change is the extent to which stakeholders and policy makers are able to articulate the process by which the interventions are intended to achieve their outcomes before embarking on the change. However, since the evaluation in this thesis has taken place several years after the interventions (the DVCAS comprising a SDVC and an IDVA service) were established, it was of course impossible to obtain prior agreement on the programme theory. Furthermore, as stated in Chapter Three, the policy literature does not fully articulate the process by which a DVCAS working alongside the police and CPS might increase successful prosecutions. For this reason, the task of developing the programme theory had by necessity to be undertaken as part of the thesis preparation – further underlining RE as the most appropriate framework.

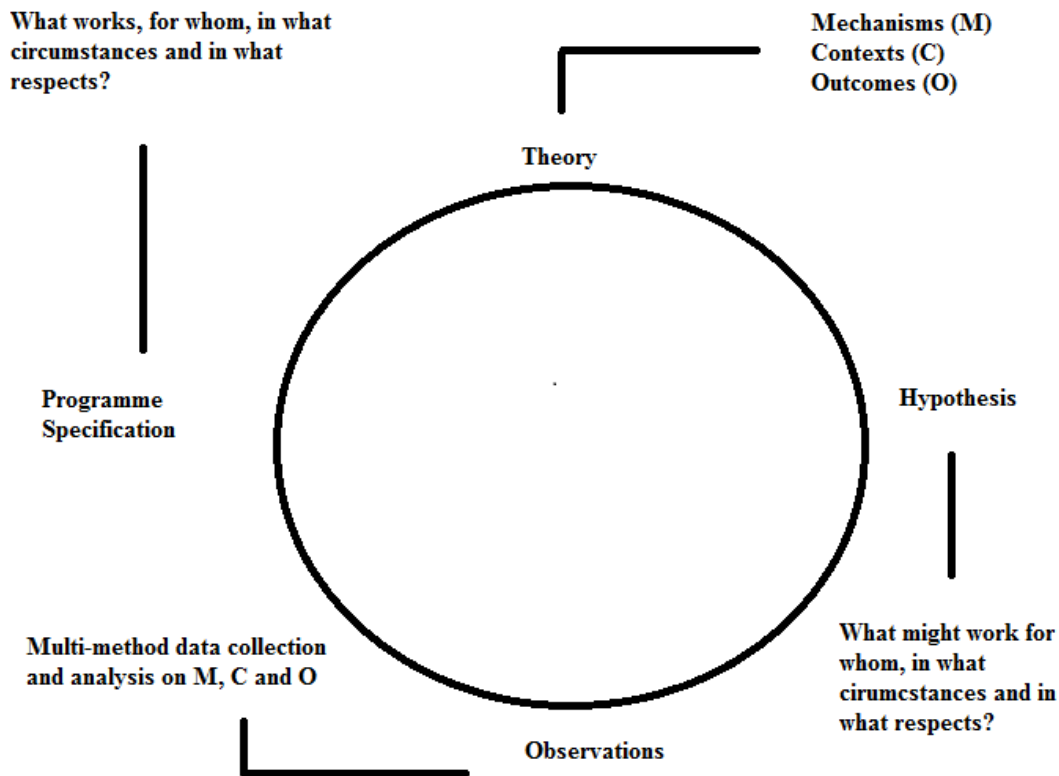
Part 2 of this chapter will now explore how the framework of RE has been applied in practice and introduce the particular programme theory that has indeed been developed here.

Part 2: Research Design

Applying Realistic Evaluation

The starting point for the application of realistic evaluation in this research was the development of a ‘programme theory’ to show the potential mechanisms that may be created by the intervention of a DVCAS operating alongside the police and CPS, the different contexts in which they might operate and the particular outcomes that might be expected as a result. Once these had been established, the next task was to choose the most appropriate methods by which to test the mechanisms and contexts. This process is summarised in the diagram below.

Diagram 1 – The Realist Evaluation Cycle, (Pawson and Tilley 1997, p.85),



Accordingly, this discussion will show how the RE framework was implemented throughout the thesis, from identifying an initial programme theory, choosing a data source to test it, gaining access to the data, analysing the data, and refining the programme theory until a final model was reached to show what worked, for whom, in what circumstances and in what respects. To begin, however, it is necessary to explore the practitioner-researcher standpoint from which this thesis has been conducted and the implications this has both for the research process as well as the conclusions it draws.

Practitioner-Research

Practitioner-research, also referred to as ‘insider’ research, as discussed earlier, is an approach that receives intense support and criticism in equal measure. There are a growing number of examples of individuals conducting research within and of their own organisations – particularly in the social policy arena. Whilst a number of benefits are to be derived from conducting ‘insider’ research – in terms of access, understanding, knowledge production and utility – various challenges are also raised – particularly with regard to ethics, role confusion, subjectivity and organisational politics. The following discussion will examine these issues in further detail in the context of the particular research for this thesis.

Declaring a standpoint

As already indicated, the IDVA service being evaluated in this thesis is based in the same organisation in which the researcher is also a manager. Furthermore, the researcher was previously employed as a Domestic Violence Officer in the same police area in which the research has been undertaken. Such ‘insider’ status has undeniably impacted on every aspect of this thesis – from

the decision to start the PhD, the research questions under investigation, through to the design, analysis, interpretation of data and ultimately the conclusions that have been reached.

Declaring this standpoint is an important part of the process when undertaking practitioner-research. Unlike more traditional approaches, where the researcher is seen as a ‘neutral observer’ and therefore considered to be ‘objective’, researching one’s own organisation, as Heugten (2004, p.215) has suggested “*inevitably leads to concerns about bias and subjectivity*”. For some, the threat of bias and subjectivity, immediately negate the validity of practitioner-research, with Morse (1998, p.61) suggesting that:

“It is not wise for an investigator to conduct a qualitative study in a setting where he or she is already employed and has a work role. The dual roles of investigator and employee are incompatible, and they may place the research in an untenable position”.

Padgett (1998) has also warned against such an approach, but went further in suggesting that practitioner-research is inherently unethical and lacks rigour (issues explored further on in this Chapter). There are, however, those who suggest that the ‘insider/outsider’ dichotomy is not necessarily as absolute as it may at first sound, with authors such as Taylor (2011, p.6) suggesting that: “*As a cultural participant, one can never assume totality in their position as either an insider or as an outsider, given the boundaries of such positions are always permeable*”.

Despite the above warnings against ‘insider’ research, a number of authors in different fields, including human geography (DeLyser, 2001), social work (Coy, 2006, and Durham, 2002, Heugten, 2004) and criminal justice (Young, 1991) have purposefully chosen to study their working environment. As DeLyser explained:

“Flying in the face of all that good advice, some researchers, like me, find topics close to home, or close to our hearts-topic so compelling we can’t leave them alone-and we try to find ways to use our ‘insider’ status to help, not hinder, in-sights” (2001, p.442).

For those who have undertaken ‘insider’ research, numerous benefits have been suggested – as Taylor (2011, p.6) has summarised:

“Such advantages include: deeper levels of understanding afforded by prior knowledge; knowing the lingo or native speak...closer and more regular contact with the field...(and) quicker establishment of rapport and trust between researcher and participants”.

Furthermore, commenting on the validity of various examples of practitioner-research, Brannick and Coghlan (2007, p.72) suggested that:

“Insider research, in whatever research tradition it is undertaken, is not only valid and useful, but also provides important knowledge about what organisations are really like, which traditional approaches may not be able to uncover”.

Every choice of methodological approach brings proponents and critics. However, by selecting to be a practitioner-researcher, there are additional ethical, practical and methodological challenges that must be addressed if the integrity of the research is to be maintained.

The Ethics of Practitioner-Research

The issue of ‘ethics’ is central to any research involving people. Researchers are increasingly being asked to consider the impact of their research design on those they are studying – ensuring that the safety and well-being of participants is appropriately addressed. However, the issue of ethics in

practitioner-research is often far more complex than in studies where the researcher is an ‘outsider’, not least because of the existing relationships between researcher and researched (ahead of, during and after the research). Such complexity requires those with ‘insider’ status to extend the ethical practices they are obliged to follow as a practitioner into their role as researcher. As Redwood (2008, p. 118) has suggested:

“Ethical behaviour is, to a large extent, defined through regulation and codes of practice. In the case of human service practitioners’ research with, on, or for patients/service users, ethics demands that they are, at the very least, protected from harm”.

For those who have conducted research as practitioners, a range of ethical challenges have had to be confronted – some of which are familiar to ‘outsider’ researchers, while others are particularly applicable to those researching from ‘within’. Coy (2006) for example, was employed as an outreach worker with female sex workers and chose to research the link between young women who had been in the care system and who later became sex workers. Participants were identified and approached through her role as an outreach worker, a selection process that unquestionably raised ethical dilemmas, as Coy suggests: *“The women’s welfare was the paramount concern both epistemologically and practically; for the researcher and the outreach worker”* (2006, p.420).

As a result of wanting to ensure that her responsibilities as an outreach worker were not undermined, Coy (2006) described having supported a woman (Tanya) who met the criteria for participation in her research, but for whom it was not ethically appropriate to approach due to her vulnerability: *“Working with Tanya exemplified the recognised power imbalance that suggests that researchers should ‘protect’ participants by assessing their suitability to participate”* (p.422).

A further ethical dilemma for Coy (2006) related to her decision to pay participants for their time. This is an issue familiar to many researchers, and whilst some would argue that payment represents a commodification of the participant's knowledge, others would suggest that it recognises the value of the participants experience and understanding (Head, 2009).

In a project with a similar relationship between researcher and researched, Durham (2002) assessed the impact of child sexual abuse on seven young men whom he had also supported in his role as a social work practitioner. Commenting on the benefits of this relationship, Durham (2002, p.438) suggests that:

“My previous social work involvement with the young men who participated in this study had established a level of trust. This was central to their decision to take part and enabled them to feel safe in discussing personal and sensitive issues”.

Whilst this may well have been the case, Durham failed to explain whether his participants had articulated their decision in this way, or whether this was his interpretation. Furthermore, Durham went on to suggest that:

“The young men who chose to take part did so, with a full understanding of what to expect, knowing that they would be offered open choices and support throughout and for some time after their participation” (2002, p. 438).

Whilst this is certainly the ideal, it seems quite unlikely that any research participant, in whichever context, agrees to take part with a *full* understanding of what to expect. Therefore, a statement such as this, without any attempt to substantiate it, raises ethical concerns in the context of

practitioner-research where there is an existing power imbalance between the practitioner and service user, not to mention the relationship of researcher and researched.

Whilst Coy (2006) and Durham (2002) both researched vulnerable people with whom they had existing relationships (as a practitioner), the issue of ethics (in particular regarding how participants were identified) was addressed to differing extents. The issue of failing adequately to address ethical dilemmas for ‘insider’ research was identified in a systematic review of practitioner-research in the field of social work. As the authors explained: *“Few papers offered any considerations arising from potential or actual dilemmas relating to their dual roles as practitioners and researchers”* (Mitchell, et al, 2010, p.17).

Failing to recognise the additional power imbalance associated with practitioner-research ultimately undermines the integrity of the project. For the author of this thesis, whilst the relationship between researcher and researched was not based on support worker and service user, there are still important power imbalances to be addressed – with the researcher being *a* manager (although not *the* manager) of the IDVAs being interviewed, being the colleague of the IDVA service manager, and being answerable to the Chief Executive and Assistant Chief Executive of the organisation.

In addition, whilst ethical issues are usually considered at the start of a research project and mostly relate to data collection, authors such as Redwood (2008, p. 135) stress the importance of ethics being considered throughout the research process:

“Thinking about ethics should not be limited to the state of data collection, where the relationship between researcher and researched is closest. It spans the process from the

questions we ask about our practice and those we seek to serve, our assumptions about how knowledge can be produced and which methods are most suitable, to the analysis of data and the language and style we use when producing the final research text”.

The ethical challenges faced during each stage of this research design will be discussed in subsequent sections.

Research Design and Data Analysis

Researching as a practitioner can entail significant benefits for both the research design and data analysis. These benefits are most commonly associated with access to the field (DeLyser, 2001), the level of understanding that comes from knowing the research domain so closely (Redwood, 2008), and the rapport and trust that is usually so easily established with participants (Coy 2006).

Furthermore, Coy (2006, p.427) describes the benefits she identified during the data analysis stage:

“The outreach role enabled me to frame the interview transcripts with knowledge of women’s lives, relationships, and thought processes that augmented the analyses, a privilege denied to researchers who meet the participants only in the context of an interview setting”.

Yet despite these practical benefits there are some potential pitfalls to be avoided. For example, whilst ‘primary’ access is considered to be a significant benefit to ‘insider’ research, it may be the case that the researcher does not have sufficient status in the organisation to allow them ‘secondary’ access (see Brannick and Coghlan, 2007).

In addition, there is a significant possibility for ‘insider’ research that those being interviewed may assume the interviewer knows the answers and so do not provide the necessary information (Porteous, 1988). Similarly, as Brannick and Coghlan (2007) suggest, this may work the other way, with interviewers making too many assumptions and so not probing as much as they would if they were unfamiliar with the organisation.

Interestingly, Nielsen and Repstad (1993) suggest that some of the above pitfalls can be overcome when ‘insider’ research is conducted by a manager in the organisation (as is the case for this thesis):

“Managers have knowledge of their organisation’s everyday life. They know the jargon. They know the legitimate and taboo phenomena of what can be talked about and what cannot...When they are inquiring they can use the internal jargon, draw on their own experiences in asking questions and interviewing, be able to follow up on replies, and so obtain richer data” (cited in Brannick and Coghlan, 2007, p.69).

The Importance of Reflexivity

As a result of the closeness associated with practitioner-research, and the potential criticisms of being ‘too close’ and therefore lacking ‘objectivity’, there is a requirement on the ‘insider’ to go through a process of constant reflection. As DeLyser (2001) explains:

“From the moment I decided to study Bodie, I strove to be conscious of complex roles and relationships, in an ongoing and fallible reflexive process. From dawn till dark and beyond, every (personal) interaction potentially became research” (p.446).

Whilst the term ‘reflexivity’ is apparent in virtually all practitioner-research, there is not always a discussion of its meaning, or the impact it has on the findings of the research. Redwood (2008)

has explored this issue in some detail, and in his experience, suggested that it was: “*used as an imaginary ‘cure’ for the researcher’s processes of meaning-making and as a device for better knowing as if it were possible to cancel out the researcher’s subjectivity*” (p.134-135). A more practical definition is offered by Brannick and Coghlan, (2007):

“In considering an insider-research project, potential researchers, through a process of reflexivity need to be aware of the strengths and limits of their preunderstanding so that they can use their experiential and theoretical knowledge to reframe their understanding of situations to which they are close” (p. 72).

Essentially, reflexivity ensures that practitioner-researchers are open and honest about their close relationship to the field, and acknowledge when they are using their own experiences to question, understand and interpret their findings.

The Utility of Practitioner-Research

It is clear from existing studies that most practitioner research arises from a desire to improve policy, practice or both. This is not surprising, considering that those within an organisation are likely to have an opinion on how policy and practice can be improved. This focus on producing research for a purpose was identified by Mitchell, et al (2010) in their systematic review:

“Concern for enabling impact went beyond the publication and dissemination of their research findings. For some, influenced by action research models, it was an integral part of the research process rather than a post hoc phase or product...For others, it became part of the research process due to their close links to a practice base” (p.19).

Indeed, the purpose of this research was fundamentally driven by a desire to inform both policy and practice in relation to the successful prosecution of domestic violence offences.

The Politics of Practitioner Research

One further issue to be considered when conducting ‘insider’ research relates to the politics of researching one’s own organisation. These issues can range from the individual level of personal relationships to the wider concern of organisational politics. At the individual level, DeLyser explains:

“For insider researchers interviewees often remain friends or co-workers, people with whom the researcher continues relationships. They read the published results- and see how they are represented” (2001, p.446).

This undoubtedly creates a dilemma for the researcher – who must be accurate in their representation, whilst at the same time being conscious of how their research will impact on those who have participated. As Brannick and Coghlan (2006) suggest:

“Insider researchers have to deal with the dilemma of writing a report of what they have found and dealing with the aftermath with superiors and colleagues if they do, on the one hand, and doctoring their report to keep their job on the other” (p.71).

Once again, the ‘closeness’ of practitioner-researchers to their participants, and their dual role as both employee and researcher, entail distinct challenges for ‘insider’ research – in particular regarding the conclusions that are reached and the implications they may have. However, no research is immune from politics and, for those conducting research as ‘outsiders’, there are always going to be expectations from commissioners and participants that will have to be negotiated.

Having discussed the particular challenges that being an ‘insider’ creates for the research process, the discussion now turns to how the framework of RE has been applied in this context.

Developing a Programme Theory

A programme theory describes what is it about an intervention that has the potential to produce particular outcomes and the contexts that may be needed for these outcomes to occur. The initial programme theory in this research was developed following a comprehensive analysis of academic literature, policy literature, as well as the knowledge and experience of the researcher. The hypothesised programme theory then provided a framework to guide the empirical research, including data collection and analysis.

Identifying a series of mechanisms became central to the development of the programme theory. These mechanisms needed to describe what it was about the interventions that created the potential for change. It was important for the programme theory to be grounded in existing evidence as opposed to being biased towards the experiential knowledge of the researcher. The policy literature presented in Chapter Three was particularly helpful in this respect. For example, certain links have already been made between the support provided to victims and their engagement with the court process (which has then been linked to an increase in guilty pleas). Furthermore, it has been suggested in various SDVC evaluations (see Vallely et al, 2005, Cook et al, 2004, Home Office, 2008a) that having trained and dedicated personnel has also impacted on successful court outcomes. In attempting to understand the role that the police and CPS have in these interventions, Vallely et al (2005) found evidence to suggest that training police officers can impact on their approach to evidence gathering, the result of which being increased guilty pleas and convictions.

Having said this, the majority of the literature regarding police and CPS practices has tended to identify what was not working rather than what was. Nevertheless, this can still be helpful in formulating hypotheses about whether the policies and practices create the potential for change.

Having developed a series of mechanisms, RE requires the researcher to hypothesise about the contexts that would be needed to enable the mechanisms to come into effect. Again, it was important that contextual factors experienced by the researcher did not dominate the programme theory. Here, the academic literature contributed to a range of contextual factors potentially impacting on programme mechanisms. For example, with regard to police arrest rates, research (Hester and Westmarland, 2005, HMCPSI, 2004, Hoyle, 2008) suggested that these varied considerably across different areas of the country, and that the introduction of Key Performance Indicators had significantly increased the proportion of offenders being apprehended. These factors suggested the existence of local contextual factors affecting how effectively a ‘pro-arrest’ policy was being implemented. Similarly, the literature also identified specific barriers to new policy initiatives on domestic violence being implemented, with issues of patriarchy, police culture and resource issues all being associated with low arrest rates (see Dobash and Dobash, 1979, Edwards, 1991, Faragher, 1979, Wright, 1995). Findings on such negative contexts enabled the researcher to hypothesise about potential enabling contexts – for example, where officials understand the gendered nature of abuse - and about how these might assist potential mechanisms, in this instance, with police officers and prosecutors seeking to protect victims rather than viewing them as somehow responsible for what has happened to them. Having analysed the existing evidence base, the knowledge and experience of the researcher helped to identify further contexts, as well as hypothesising about the outcomes to be expected as a result of the potential mechanisms.

By bringing these elements together under the framework of RE, a set of mechanisms were developed that hypothesised what it might be about the combination of IDVAs and SDVCs (a DVCAS) and the policies of the police and CPS that could create the potential for increased prosecutions, the contexts that could facilitate these mechanisms, and the outcomes that would be expected as a result. These mechanisms and the initial programme theory are presented at the end of this chapter.

Refining the Programme Theory

Prior to testing the initial programme theory, the decision was taken to conduct a small number of preliminary interviews to ensure that the mechanisms and contexts being tested were the most appropriate. It was hoped that a representative from the police, CPS, court and IDVA service would be interviewed to obtain a representative sample. Due to the researcher's professional contacts, it was not difficult to identify individuals who might be approached. Requests were made in writing with a standard letter (Appendix 1) detailing the research and purpose of the interview. Whilst the police, court and IDVA service agreed to be interviewed on an informal basis without the requirement to complete a full research application at this point (as the full research design was yet to be decided), the CPS would not agree to a preliminary interview. Therefore, the individuals interviewed included a police officer with strategic responsibility for domestic violence, a legal court clerk with responsibility for domestic violence and the Assistant Chief Executive of the IDVA service.

The interviews were semi-structured and based around seven topics (see Appendix 2); this format being chosen to allow for open and exploratory discussion on the particular themes of the programme theory (Smith, 1995). Specifically, the themes covered the role of the organisations in relation to the prosecution of domestic violence cases, and respondents' views on: the CJS's response to such offending; the various governmental interventions in this context; their organisations' decision making processes in relation to DV cases, and suggestions for improvements. Each interview was prefaced by an outline of the research, the researcher's professional background, and an overview of the purpose of the interview. Interviewees all gave their consent to the interview (subject to the usual confidentiality clauses) and for the discussion to be recorded for subsequent transcription and analysis purposes (see Appendix 3 for a sample interview transcript).

An inductive approach to the interview analysis was adopted in order to allow important issues to emerge, as opposed to narrowing the focus too heavily on any pre-conceived outcomes, especially given the 'insider' status of the researcher. As advocated by Smith (1995) a thematic qualitative analysis of the interviews was undertaken as opposed to a quantitative approach which "*Would be to waste the opportunity provided by the detail of the verbatim interview data*" (Smith, 1995, p. 9). The findings were then compared with the initial programme theory to establish the appropriateness of the mechanisms and contexts. Then, following some minor refinements, attentions moved on to the testing phase.

Testing the Programme Theory

Identifying a Data Source

As a result of this thesis being conducted by a practitioner-researcher, the primary data source had already been identified – this being the formal records of an IDVA service based in a SDVC. (The author chose to anonymise the IDVA service and magistrates’ court in order to protect confidentiality). While, as indicated in Chapter Three, many IDVA services around the country align closely with MARACs, the service chosen for this study has been providing a court-based support service in their local magistrates’ court since 2005. The remit here is expressly to support women who are the victims of domestic violence offences and who are, as a result, required to attend court. As the service is based in a women’s organisation then women are the only recipients of the service (male victims would be supported by the national charity Victim Support and its court-based Witness Care Unit). Although based primarily in the magistrates’ court, the IDVAs also provide support in the Crown Court for victims whose cases are transferred there. Unlike many other IDVA services around the country, the service in this City does not confine its attentions to high risk victims but supports all female victims.

Further detail regarding the demographics of women who accessed the IDVA service during 2009/10 and 2010/11, suggested that the service was accessible to women from a range of communities in the study area. Over the two year period, 54% of women accessing the service were from BME communities. South Asian women and Black African and Caribbean women were the most represented (constituting 35% and 11% respectively), with a small percentage of Eastern European (3%) women and women from mixed ethnic backgrounds (5%). In relation to the age

range of women accessing the service, this was consistent between years, with slightly under half (44%) of all women aged between 21-30, and nearly a third (30%) aged between 31-40 (with 9% of women aged 16-20, 14% of women aged 41-50 and 3% of women aged 51+). In 2009/10, the percentage of women with children was 68% which increased to 72% in 2010/11, and finally, 99% of women over both years identified as being heterosexual – with all women in the sample having been the victim of DV from a current or former male partner. (Appendix 4 provides further details of the IDVA service and the SDVC).

This long-established court-based IDVA service was considered a particularly appropriate case study through which to understand what it is about a DVCAS that can impact on prosecution rates.

However, there were still decisions to be made regarding any secondary data sources, such as police and CPS records, interviews with victims and the potential of selecting a comparison site. In relation to the police and CPS, the researcher did submit a formal request to the police. However this was rejected after a period of time. Due to the time and resource constraints associated with being a part-time researcher, it was decided that making a subsequent application for access to CPS files would be unrealistic. In addition, the option of interviewing victims themselves was rejected on the grounds that doing so at the time of a court hearing (the obvious contact opportunity) might risk interfering with the judicial process. Even doing so following the outcome of the case was also considered potentially unsatisfactory, not least because of the risks of compromising the victim's safety from the perpetrator. Finally, while a comparative study with other courts (e.g. without an IDVA service) might have seemed an obvious methodological approach to follow, this was not considered necessary because of the choice of RE as the framework for evaluation.

As the earlier discussion has shown, the development of a programme theory to show what it is about the interventions that creates the possibility for change (mechanisms), combined with the contexts that would either assist or prevent the mechanisms from achieving their aims, ought to lead to an explanation of outcomes and show what had worked, for whom, in what circumstances and in what respects. The empirical research was thus based on a single site design and the use of the framework of RE to address the issues of attribution commonly associated with such an approach. However, the findings have been compared to national and local data for domestic violence prosecutions and with the findings from previous research. This has provided the means for examining the difference between outcomes in the IDVA sample and those noted in other studies. Whilst the choice of a single case study may seem at first sight somewhat limiting from the point of view of generalisability of the findings (Giddens 1984, Sherman et al, 1992), as Flyvbjerg (2006) has argued, selection of the *right* case study can add to its generalisability (p.226), and :

One can often generalize on the basis of a single case, and the case study may be central to scientific development via generalization as supplement or alternative to other methods. But formal generalization is overvalued as a source of scientific development, whereas “the force of example” is underestimated (Flyvbjerg, 2006, p.227).

Accessing the Data

Accessing the IDVA case files inevitably raised a number of ethical and practical issues around confidentiality and the safety of victims who had been supported. For most researchers, access to such data would almost certainly require prior anonymisation of the case files, and such a

requirement would probably be considered too resource-intensive to contemplate, therefore precluding use of such records. In the case of this research, however, the author being employed at a management level in the same organisation as the IDVA service, meant such requirements for anonymisation and protection of confidentiality were less of a barrier (since the researcher was already bound by rules of confidentiality as an employee). Nevertheless, a formal research request was submitted and this had to be agreed by the Chief Executive before access to the files could be granted (see Appendix 5 for the research proposal). Agreement was given on the basis that no files would be removed from the premises and no details identifying individual victims would be recorded on any paperwork/computer files. These files were then stored in a locked filing cabinet during the analysis period and shredded once the findings had been written up. The datasheets that were removed from the premises (and which contained no identifying details) were also stored in a locked filing cabinet belonging to the researcher, along with the Dictaphone and interview transcripts. The documents that were stored electronically (including interview transcripts and excel spreadsheets) were stored on a password protected PC. Agreement to the research also permitted the conduct of interviews with the IDVAs and their manager subject to individual consent.

The employment relationship of the researcher to the organisation was one that would inevitably raise ethical issues (Costley and Gibbs, 2006) as well as practical benefits (Mercer, 2007, Bensimon et al, 2004). Potentially, the position of the researcher as a manager might risk unduly influencing the decision of IDVAs to be interviewed and, indeed, their responses (Mercer, 2007). Furthermore, the findings from the research could also (potentially) impact negatively on the IDVAs as providers of support to victims; an issue highlighted by Costley and Gibbs (2006) in arguing for an ‘ethics

of care' when conducting research as a practitioner. Whilst these were indeed significant potential concerns, the researcher was careful to make clear to all those invited to participate that this was a voluntary activity and that all responses given in the interviews would be treated in strict confidence with regard to their employers. That said, it was also made clear that total anonymity in the final thesis could not be guaranteed as others reading the research may be able to identify particular comments to an individual. In order to create the distinction from this being a work-related request, the researcher sent an email to the intended participants from her personal email account. Furthermore, in order to help with their decision, the IDVAs received information prior to the interview which included the findings of the empirical analysis as well as the areas to be discussed with them. Providing such detail may have alleviated concerns regarding participation as the purpose of the interviews was made clear.

Only one IDVA declined to be interviewed (and this for the stated reason of time constraints). This may suggest that the terms of voluntary participation were well understood and accepted, yet it must also be acknowledged that the participants who agreed probably did so out of some sense of obligation. Nevertheless, when conducting the interviews, the responses certainly suggested keenness on the part of participants to share their experiences. Furthermore, echoing the experiences of authors such as Coy (2006) and Redwood (2008) the working relationship and level of trust between the researcher and the interviewees was generally felt (by the researcher) to have enhanced, rather than constrained interview responses since participants recognised the researcher was conversant with the language and knowledgeable about the working arrangements (so permitting use of familiar acronyms etc. without further explanation) (Mercer, 2007). Whilst the power imbalance between the researcher (as a manager) and interviewees may well have prevented

them from being as open about the realities of their experiences (as they may have been with a colleague or outsider), it was apparent that many of the IDVAs used the interviews to air some of their frustrations about their roles, understanding and trusting the researcher's need to appreciate such issues and, through the research, perhaps seek to address them (reinforcing the view of Nielsen and Repstad (1993) that being a manager can enhance 'insider' research). This is not to suggest that the position of the researcher (as a manager) did not have any impact on the responses of IDVAs, but rather that the IDVAs were still relatively open regarding their experiences.

Identifying the Sample

In order to build as complete a picture of the CJS as possible in a timely manner, completed cases (closed cases) were analysed over two separate time periods. For the first of these, the analysis of case files commenced in January 2011 and focused on all cases that had been completed (closed) during the period April 2009 to March 2010. For the second period, the focus was on closed files in the period between April 2010 and March 2011. The decision to focus on and compare findings for these two time periods reflected the fact that at least two significant changes took place in 2010 with potential implications for the IDVA service. First was the general election and the transfer to coalition government at national level, and second was a major reorganisation of the police force in the study area, including disbanding of the force's domestic violence unit and revision of working arrangements in relation to victims (discussed in more detail in Chapter Six).

The number of closed files for the two year-long time periods exceeded 500 cases, so it was decided to work with a more manageable sample size of not more than 100 files for the two years (i.e. roughly 50 per year). This amounted to a 15% sample being taken for 2009/10 (with 48 case files)

and a 25% sample for 2010/11 (with 47 case files). All files were stored as PDF documents according to their unique reference number (i.e. in numerical order) and by the year they had been closed. The samples were drawn at random by choosing every 7th scanned file for 2009/10 and every 4th for 2010/11.

Analysing the Data

An initial small sample of case-files were examined to ascertain the type of information provided in each and to establish the broad patterns of data that had typically been recorded by the IDVAs. Whilst the amount and quality of recorded information tended to vary between different IDVAs, there was a clear minimum standard of information on each case-file (covering, for example, details and circumstances of the offence, history of the relationship between victim and perpetrator, the outcome of the case, and with considerably fuller details provided in many of the case-files). During this stage of the research, the prior knowledge of the researcher proved invaluable. The language used by the IDVAs was familiar, acronyms and technical terms were understood and, most importantly, the in-depth knowledge regarding policy and practice for the police, CPS, court and IDVA service, enabled the researcher to build a picture of what was happening, as well as what should have been (according to national and local policy).

To capture this information effectively, a data table was compiled based on common information from each sampled case file and organised in relation to the important aspects of the programme theory that had been devised (this table being presented in Appendix 6). Following transcription from each case file, the information was transferred onto four Excel spreadsheets labelled 2009/10 successful (cases in which there was a successful prosecution through guilty plea or conviction)

and unsuccessful (cases that were dismissed, withdrawn or found not guilty) and 2010/11, successful and unsuccessful. These spreadsheets enabled data analysis (including comparatively) according to the outcomes of the cases and the time periods in which they were completed (closed).

Interviews with IDVAs and their managers

When identifying key personnel to interview, it was intended that both the police and CPS would be approached to participate. However, as mentioned earlier, a formal research request to the police was declined (it was explained because changes in the criminal justice system at the time (both nationally and locally) had impacted on the resources of the police to commit to such requests). Instead it was decided to focus on the perspective of the IDVA organisation and interviews were requested with eight individuals - 5 IDVAs, the IDVA manager, the Assistant Chief Executive and the Chief Executive. A Participant Information Sheet (Appendix 7) was provided to each individual prior to their decision whether or not to participate. As can be seen, the sheet also provided an overview of the interview topics to be discussed, and also a number of findings from the case file analysis that had been conducted prior to the interviews. Some of the interview questions (see Appendix 9) were particularly designed to enhance understanding of *how* the mechanisms achieved the outcomes identified from the case-file analysis and, as with the preliminary interviews, followed a semi-structured design. Others were designed to highlight the context issues that either prevented or enabled the programme mechanisms. Questions focused on exactly how the IDVA service worked with the criminal justice agencies, including the SDVC, and how the service was perceived to have impacted on the roles of the police and CPS, how they worked with the SDVC, and the effects on court outcomes. Again, the prior knowledge of the researcher was fundamental to identifying the key issues and relationships that needed to be

explored. For example, two key lines of analysis included the change in government in 2010 and the reorganisation of the police force in the study area in the same year – both of which had begun to impact on the IDVA service at the time of the research but may not have been considered by a researcher external to the organisation. The interviews were also helpful in clarifying a number of issues and queries arising from the case file analysis and its support or otherwise for the initial programme theory, for example, concerning the impact of the victim attending court on the likelihood of a guilty plea by the defendant (which was not necessarily clear from the case file analysis alone), or the success of ‘victimless prosecutions’.

When conducting the interviews, it was important to be mindful of the potential for ‘blind-spots’ – in particular with regard to the researcher failing to probe specific points, or for interviewees not answering as fully as they might have done for an ‘outsider’. Being alert to such issues ensured that the researcher was adequately prepared for the interviews, in particular regarding the specific issues that needed to be discussed, as well as ensuring that the IDVAs were as expansive as possible on particular points that might well have only been familiar to the interviewer.

Reflecting their more senior positions and more strategic perspectives, a slightly revised interview schedule was used for the IDVA manager, the Assistant Chief Executive and Chief Executive (see Appendix 10), with additional questions about the strategic direction of the IDVA service and SDVC, the nature of multi-agency working in the study area, and the underlying principles and development of the IDVA service in the city.

In total the seven interviews generated some 6 hours of interview recordings, which were subsequently transcribed (using a paid-for professional transcription service) and with the

completed files transferred into a secure Dropbox account (see Appendix 11 for a sample interview transcript).

The transcripts were then coded in relation to particular themes (see Auerbach and Silverstein, 2003) as derived from the initial programme theory on a single data table. Comments from the interviews that related to each theme were then added to the data table so that all comments relating to each particular theme were grouped together.

Refining the Programme Theory

In this way, by combining the case file analysis with the interview analysis, it was possible to build a more refined programme theory. The first stage of this process involved identifying the outcomes that had been found to have supported the intended aims of the interventions. The second stage then sought to explain *how* the mechanisms led to the outcomes by examining what the empirical research had added to an understanding of the mechanisms. The final stage in the process involved identifying the different contexts in which the mechanisms had led to the outcomes. Whilst the above analytical processes worked well in accounting for the positive outcomes, such as increased guilty pleas and conviction rates, a different approach proved necessary for the unintended outcomes, including low arrest rates and significant levels of attrition. In instances where the identified outcomes appeared to contradict the intended ones, the analysis involved exploring firstly what mechanisms *should* have been realised and then seeking to identify the contexts that had prevented them being achieved.

Initial Programme Theory

This final section of the chapter describes the four mechanisms that were hypothesised as having the potential to increase the successful prosecution of domestic violence offences, and the contexts that would enable this to occur. Table 1 presents the overall initial programme theory that guided the empirical research.

Empowered Criminal Justice Actors: Policies that encourage ‘positive action’, it is hypothesized, create the potential for individuals to actively pursue domestic violence offenders by creating a culture where arrest and charge are considered necessary. Being empowered to pursue domestic violence cases can then impact on the extent to which evidence is gathered as well as how seriously breaches of bail conditions or restraining orders are taken. Whether this happens will be dependent on the individual and their circumstances – for example, if an officer does not believe domestic violence is a ‘real crime’ they are unlikely to actively pursue such cases. Furthermore, if the management of the police officers does not support the positive action policy, this will prevent individual officers from implementing it.

Supported Victims: IDVAs, it is hypothesized, create the potential for making victims feel safer about attending court which can impact on their decision to attend and give evidence, as well as improving the quality of their evidence. This can then impact on the defendant’s decision to plead guilty for fear that if the victim has arrived at court, she will give her evidence and their sentence will be harsher. Whether this happens will also be dependent on context – for example, if the IDVA service is not regularly based in court or given the credibility to liaise with the CPS regarding

special measures, then this will affect the level to which they can adequately support a woman at court.

Robust Evidence: Investigative guidance from ACPO and a push for victimless prosecutions from the CPS, it is hypothesized, creates the opportunity for individual officers and prosecutors to gather as much evidence as possible to support the case. This evidence can then impact on the defendant's decision to plead guilty, it can encourage the victim to remain engaged in the system (by reminding her of the severity of the incident) and it can allow the CPS to charge and prosecute without the evidence of the victim. Whether or not this occurs will depend on whether the time and resources are made available for evidence collection to occur.

Specialist Delivery of Justice: Finally, the introduction of SDVCs, it is hypothesized, creates the potential for practical measures to be utilised by IDVAs and court staff (including a private waiting room, using the side entrance and special measures) which can help women feel safer when deciding to attend court and thereby increase attendance rates. In turn, this can impact on the decision of defendants to plead guilty, and ensure more cases are convicted as a result of the victim testifying. Furthermore SDVCs create the potential for expertise and specialism's to develop for the staff involved in the court setting (including prosecutors and magistrates). This expertise can then impact on the decisions of prosecutors to continue with cases without the victim and sustain the charges to conviction, and can help magistrates in sentencing more appropriately. Whether these opportunities are realised will depend on how well individuals in the system understand domestic violence, whether agencies work well together regarding practicalities and whether the CPS and HMCS assign trained dedicated staff to the SDVC.

Table 1: Initial Programme Theory

Mechanisms triggered by the interventions.	Contexts that enable the mechanisms to come into action.	Outcome if the mechanism is triggered in the right context (all of which contribute to the outcome of improved successful prosecution rates for DV offences)
Empowered Criminal Justice Actors – criminal justice personnel can pursue cases of domestic violence vigorously and without the evidence of the victim IF:	<ul style="list-style-type: none"> • Domestic violence is subject to performance monitoring. • Policies on domestic violence cases are clear and communicated to all staff. • Communication between police and CPS is effective. • Resources (inc financial) are made available to fully investigate offences. <p>(Which can lead to..)</p>	<ul style="list-style-type: none"> • Better quality of investigation. • Less reliance on the victim's statement. • Victimless prosecutions.

Supported Victims – support provided by IDVA's can encourage more women to continue with the prosecution IF:	<ul style="list-style-type: none"> • Multi-agency procedures are in place. • Effective referral systems are in place. • Communication between support services and criminal justice agencies is clear and effective. • There is clear understanding and appreciation of the support provided by IDVA's. • Victims are able to access safe accommodation that is financially viable. • Women's safety concerns are addressed by the police. <p>(Which can lead to..)</p>	<ul style="list-style-type: none"> • More victims attending court. • Less women retracting. • More offenders pleading guilty.
Robust Evidence – can improve the quality of the investigation IF:	<ul style="list-style-type: none"> • Resources are made available for evidence to be collected. • Police officers are able to dedicate time to collecting evidence. • CPS advise officer's on further evidence that can be collected. <p>(Which can lead to..)</p>	<ul style="list-style-type: none"> • Guilty pleas at an early stage. • Victimless prosecutions. • Fewer offences reduced at charge.

<p>Specialist Delivery of Justice can:</p> <ul style="list-style-type: none"> • Enable more victims to give evidence through the use of special measures, a private room at court, use of side entrance, and support of the IDVA at court; • Improve the legal arguments used by prosecutors (through training and experience); • Improve communication between criminal justice agencies; and • Improve the sentencing of DV cases by magistrates (through training and experience), IF: 	<ul style="list-style-type: none"> • All criminal justice personnel understand the dynamics of domestic violence. • There is effective communication between police, CPS, witness services and the IDVA. • The SDVC model is integrated into the court's policies and procedures. <p>(Which can lead to..)</p>	<ul style="list-style-type: none"> • More guilty pleas at court. • More case 'found guilty'. • Improved consistency of sentencing of DV offenders. • Fewer cases withdrawn at court. • Fewer cases where the offence is reduced as part of a plea acceptance.
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Chapter Summary

This chapter began by exploring how different approaches to policy evaluation have developed according to different ontological and epistemological perspectives. Having discussed the challenges of evaluation studies and the development of several theory-based approaches, the chapter then focused in more detail on two approaches in particular – those of ToC and RE. The main justification for choosing the RE framework was explained in terms of its focus on context, its approach to the treatment of causality and suitability arising from researcher knowledge and insights on the processes at work. The second part of this chapter then proceeded to show how the RE framework was employed by a practitioner researcher, starting with the development of a programme theory (and subsequent refinement), and then identifying a data source, both from case-files and through practitioner interviews to test it. Finally, the initial programme theory was introduced to outline the key hypotheses guiding the empirical research, and to which we now turn in the next chapter.

CHAPTER FIVE:

FINDINGS PART 1

The findings of this thesis are presented in two chapters that correspond to the two research questions that underpin the research. This chapter analyses the impact of a DVCAS on increasing the number and proportion of successful prosecutions, while Chapter Six then analyses the role of the police and CPS in supporting the DVCAS in this regard. As will be shown in this chapter, a DVCAS has an impact both on the individual victims it supports, in terms of enhancing rates of participation in the CJS (and particularly through giving evidence in court), as well as on the criminal justice process as a whole in terms of improved judicial outcomes and the use of a wider and more effective range of sentencing options.

As a result of the findings here, the initial programme theory (as presented in the preceding chapter) was refined to reflect more precisely *how* the mechanisms led to the observed outcomes. Accordingly, at the end of the chapter, a revised version of the programme theory is presented. A series of case studies are also presented in both chapters to highlight particular areas of effective or ineffective practice (although all identifying features of these case studies have been anonymised to protect confidentiality).

Before presenting these findings, however, it is helpful to clarify the use of terminology. Throughout this chapter, the outcome of cases is referred to in terms of ‘successful’ and ‘unsuccessful’ cases. This is terminology that was widely used in government circles around the time the DVCAS was launched to refer to the outcomes of cases – respectively those in which a

conviction was secured and those ending without one, which could be for one of the following reasons:

- The alleged offender is released without charge by the police.
- The alleged offender is cautioned for the offence (this requires an admission of guilt which will be recorded on the Police National Computer for five years; though does not constitute a prosecution).
- The offender is charged and taken to court, but the case is dismissed before trial.
- The case is dismissed at the trial because of evidential problems or with the victim's statement.
- The alleged offender is found not guilty by magistrates or by a jury (in the Crown Court).
- The offender is offered a Bind-Over, which is an agreement that he will remain of good behaviour for a determined period of time, and for which any breach will result in a fine.

In addition to increasing the rate of 'successful' prosecutions, a DVCAS was also intended take into account the safety and satisfaction of victims outside of the court process and beyond. As the 2005 National Report explained:

"We want to ensure that the courts themselves, both criminal and civil, recognise the difficulties and special concerns faced by victims of domestic violence when using the system. We also want to develop courts that put domestic violence victims at the heart of the process" (Home Office, 2005, p.16).

The 2008 SDVC review included 'improving the safety and satisfaction of victims' as an indicator of success. Accordingly, this thesis also focused on the sentencing of offenders; the justification

being, that if offenders were prosecuted but only received a nominal punishment, this would probably fail to satisfy the victim or to make them feel safer. In contrast, if the offender was issued with a Restraining Order preventing further contact, this would be likely to enhance the victim's sense of safety upon leaving court.

The role of a DVCAS in increasing successful prosecutions

Three overarching outcomes emerged demonstrating a positive impact of the DVCAS on increasing successful prosecutions. These outcomes included enhanced victim participation, better court outcomes, and a comprehensive use of sentencing options. This section begins by exploring the outcomes in more detail before moving on to explain how they were achieved (mechanisms) and the contexts in which they occurred.

Enhanced Victim Participation

As indicated earlier, research into the prosecution of domestic violence cases has long cited the rate of victim withdrawal as a key impediment to successful outcomes. Indeed the CPS in their policy for prosecuting domestic violence specifically referred to the often 'reluctant victim'. As they proposed:

“It will usually be necessary for the victim to give evidence in court. We recognise that many victims of domestic violence will find this very difficult – sometimes because they fear for their own or their children's safety. It is also possible that the victim may have an emotional attachment or feel loyalty to the defendant” (2009, p. 19).

According to the CPS 2009/10 Crime Report, 50% of unsuccessful cases were due to ‘victim issues’ (CPS, 2010, p.26). In this respect, Table 2 is particularly revealing. Firstly, only 16 victims completed a retraction statement (17% of all cases). This figure is significantly lower than the 33% of domestic violence cases that failed in 2011/12 nationally because of victims either retracting their statements or failing to attend court (CPS, 2012, p. 19). Additionally, the figure is in stark contrast to those contained in the HMCPSI report for 2004 that reported victim retractions in some 44% of domestic violence cases (HMCPSI, 2004) and the 2004 SDVC evaluation whereby 50% of victims withdrew their support (Cook et al, 2004). Therefore, this finding suggests a higher rate of victim participation in the IDVA sample, compared to previous research and national figures. Furthermore, as Table 2 shows, whilst 20 victims initially requested to make a retraction statement, only 16 went on to do so. This suggests that, during the period of support, several victims found the courage to continue with the prosecution.

Table 2–Victim retraction statements requested and completed (2009/10 and 2010/11)

	Successful	Unsuccessful	% of cases
Requested Retraction Statements	4	16	21%
Completed Retraction Statements	2	14	17%

A further indicator of the impact of IDVA support on increasing victim participation can be seen in Tables 3 and 4, here relating to the numbers of victims who attended court and gave evidence. As Table 3 shows, over the two year period, only 5 out of 76 victims who were required to attend

court failed to do so. This equates to an attendance rate of 93% (somewhat higher than the national average of 88% (CPS, 2012)). Furthermore, as can be seen in Table 4, in the ‘successful’ samples only 1 victim out of 24 declined to give evidence, whereas in the unsuccessful sample half of the victims who were expected to give evidence actually did so. These figures suggest two things. First, they present a different view of victim participation in the criminal justice system from that usually portrayed in domestic violence cases; in particular, demonstrating the potential of IDVA support to sustain victim participation rates within the criminal justice system. Second, they highlight the fact that without the testimony of the victim, cases are twice as likely to be unsuccessful.

Table 3 – Victims required to attend court and victims attending voluntarily (2009/10 and 2010/11)

	Successful	Unsuccessful	% of cases
Victim required to attend court	51	25	80%
Victim attends court voluntarily	49	22	93%

Table 4 - Victims required to give evidence and victims giving evidence (2009/10 and 2010/11)

	Successful	Unsuccessful	% of cases
Victim required to give evidence	24	22	48%
Victim gives evidence	23	11	71%

The fact that more victims were required to attend court (and did so without the request of a summons) in the sample of successful cases suggests a positive link with the court outcome. In addition, the higher number of victims who gave evidence in the successful sample similarly suggests that giving evidence is indeed a potentially significant factor in the outcome of cases of this nature.

Better Court Outcomes

Two outcomes were identified during the case file analysis that could be seen to contribute to an increase in the level of successful prosecutions. These were: the proportion of guilty pleas on the day of the trial, and; the percentage of offenders found guilty by the courts (compared to national and local data).

Overall, the percentages of successful outcomes for the samples were respectively 56% for 2009/10 and 70% for 2010/11 (averaging out at 63% over the two years) – the 2009-10 figure being somewhat below the national average for domestic violence prosecutions, which has remained at 72% for the last three years (of cases that reach court). Interestingly, however, the successful

prosecution rate (for all domestic violence offences) heard at the magistrates' court in the study area has persistently remained lower than both the national and local area average (Wills, 2009). For example, between April and December of 2010/11, the successful prosecution rate was only 59%, suggesting firstly, some problems in achieving successful outcomes in the study area, and secondly, that the particular sample drawn from the IDVA files for this research, contained a much higher than expected proportion of successful cases for 2010/11. It is therefore important to explore the nature of successful prosecutions in the samples in order to identify the impact of the DVCAS in their achievement.

Guilty pleas at trial stage

As can be seen from Table 5, almost all the defendants in the samples initially pleaded not guilty to their charge(s). Here it is pertinent to bear in mind that, under the officially-approved magistrates' courts sentencing guidelines, perpetrators who plead guilty at their first appearance receive a 1/3rd discount on their sentence (the maximum possible), although if they plead guilty on the day of the trial they are less likely to receive such a reduction (though they might still receive a lesser sentence than had there been a trial and their guilt proved).

Table 5 - Pleas made by Defendants (Successful Cases) 2009/10 and 2010/11

	N=60	% of cases
Initial Plea – Not Guilty	57	95%
Final outcome – Guilty Plea	40	66%
	N=40	% of cases
Guilty plea at trial stage	35	88%

Interestingly, as can be seen from Table 5, the fact that 88% of defendants changed their plea to guilty on the day of the trial, suggests that the high rates of victim participation noted above, did indeed have a significant impact on the decision of defendants to change their plea.

Offenders ‘found’ guilty

The second issue to highlight was the percentage of defendants for all offences found guilty by the magistrates’ court in the study area - this averaging out at 33% for the two years, compared with a figure of just 13% specifically for domestic violence cases between April-December 2010/11 in the study area (and with a figure of just under 10% for such cases nationally in both 2009/10 and 2010/11). This would certainly suggest that the cases in the IDVA sample had a greater chance of success at the trial stage, not least because of greater certainty about the sufficiency of available evidence (see Table 6).

Table 6 – Successful Court Outcomes (2009/10 and 2010/11)

2009/10	N=27	2010/11	N=33
8 found guilty at trial	30%	12 found guilty at trial	36%
19 pleaded guilty.	70%	21 pleaded guilty	64%

Comprehensive Use of Sentencing Options

A third overarching outcome indicating the positive impact of the DVCAS in terms of increased successful prosecutions of domestic violence offences related to the range of sentencing options used by the judiciary. Whilst a prosecution is deemed successful regardless of the sentence imposed, a specific aim of the DVCAS was an increase in the safety and satisfaction of victims, and for which the pattern of sentencing would be an important consideration.

The figures in Table 7 indeed show a wide range of sentencing outcomes imposed on domestic violence offenders, with many being used in conjunction with one another (e.g. a restraining order and compensation). In the case of suspended prison sentences, these were typically accompanied by a supervision order or a community order requiring oversight by the probation service for a set period of time. Here it is also noteworthy that in September 2009 the law changed to allow courts to issue restraining orders for any offence (upon conviction or acquittal). Thus, as shown in Table 8, the fact that 8 orders were granted immediately following this change, with the number

increasing to 24 in 2010/11, suggests that those involved in the SDVC - i.e. the IDVA, the prosecutor, and the judiciary - did indeed make use of the additional provision to protect victims beyond finalisation of the cases.

Table 7 – Sentences for successful cases (2009/10 and 2010/11)

Sentences	Total
Fine	3
Community Sentence (including supervision orders, IDAP, alcohol abuse, sex offenders, English course, curfew	58
Suspended Sentence	14
Custodial Sentence	29
Ancillary Orders (including compensation and restraining orders)	67
Deported	1
Conditional discharge	1
Recall to prison	1

Table 8 – Restraining orders requested and granted

2009/10		2010/11	
Requested	Granted	Requested	Granted
10	8	26	24

The pattern of outcomes summarised in Table’s 7 and 8 would certainly suggest that the DVCAS in the study area had a positive impact on the number/proportion of ‘successful’ prosecutions between the two years, and also when compared with national statistics and findings from previous research. However, whilst the identification of such outcomes would be interesting in itself, it was only through a more detailed analysis and understanding of how they were being achieved that it became possible to appreciate more precisely ‘what works and why’ in this context.

Achieving the Outcomes: Identifying Mechanisms

In applying the Realistic Evaluation framework, the concern in this thesis was, as indicated, not only with identifying the outcomes, as discussed above, but also with understanding what it was about *how* the DVCAS operated in accounting for such results. Accordingly, the analysis identified three distinct and contributory mechanisms. These were respectively labelled ‘Supported Victims’, ‘Specialist Delivery of Justice’ and ‘Coordinating the CJS’ and are discussed more fully in the succeeding paragraphs.

Mechanism A: ‘Supported Victims’

It was clear from both the case file analysis and the interviews with service providers and their managers, that the fundamental aim of the IDVA service is to make women and children safe. Whilst focused around the impending court case, the support on offer, however, is not the sole focus for the IDVA. In practice, IDVAs work with the victim to understand and engage with them to address a range of issues they may be facing. Furthermore, IDVA safety planning does not stop at the trial, the work with victim’s aims to address their long term safety, recognising that many victims feel less safe after the court case when bail conditions will have ended and the statutory agencies are no longer involved. In addition, IDVAs were expected to be clear with victims that their support was not contingent on their proceeding with the prosecution. Indeed, it was apparent from the case-files that IDVAs regularly support victims in withdrawing their statements if this is the course of action they wish to take. As will be seen in the subsequent discussion, the emotional and other practical support provided by IDVAs, and the encouragement for victims to make their own choices (including withdrawing their support for the prosecution), were all clearly reflected in the high levels of participation discussed above.

Emotional Support

Probably one of the most important aspects of the IDVA service is the emotional support they provide to victims to enable them to go through a court process. Interviews with the IDVAs highlighted the considerable range of concerns and barriers that victims faced when going through this process. These included:

- Fear of repercussions should the offender be sent to prison;
- Pressure from children not to go to court;
- Concerns about mental strength for the process (perhaps especially for victims with mental health issues);
- Concerns that aspects from their past will be used against them;
- Worries about what the defendant may say about her in open court, given that he knows her intimately;
- Concern about feeling exposed;
- Concern at not having the language to talk about what he did to her;
- Worries about repercussions from the community;
- Fears of interrogation;
- Fear of being made out to be lying, exaggerating or malicious;
- Concerns regarding the impact on the children;
- Concerns about bringing shame on the family;
- Fear their children will be taken away.

The methods used by IDVAs to allay such fears were identified from the interviews to be wide and varied, but it was clear that a number of common principles for practice underlay all such approaches. These included: ‘support’, ‘believe’, ‘validate’, ‘non- judgemental’, ‘choice’, ‘confidence’, ‘time’, ‘space’ and ‘options’.

Addressing Victim's Wider Needs

The case studies highlighted the fact that victims were dealing with a range of issues, not just criminal proceedings. In this respect, it has long been recognised that many victims who call the police do not do so because they particularly intend or want to prosecute the offender (see Cretney and Davis 1997, Ford, 2003). Dialling 999 is not necessarily an indication that a victim is ready to leave an abusive relationship and the support provided by IDVAs should take account of the victim's entire situation and assist in relation to all possible issues and associated options.

Some such issues that were prevalent amongst the samples of cases analysed in this research included a perpetrator pursuing child contact, the involvement of social services, and the need for the victim to receive support from other agencies (as well as from the IDVA). It was thus important in this research to seek to determine whether circumstantial issues such as child contact, the involvement of social services, or the receipt of additional support from other agencies might impact on victims' participation in the court process and therefore on the outcome of the case (see Table 9).

Table 9 – Additional issues faced by victims (2009/10 and 2010/11)

	Successful	Unsuccessful	% of cases
Perpetrator pursuing child contact	16	17	35%
Social services involvement	20	15	37%
Victim receiving additional support.	30	11	43%

Child Contact

Child contact was certainly a significant issue for victims in both samples, and indeed, it is frequently the case that, despite involvement in criminal proceedings, defendants continue to apply for child contact, whether with the intention either to intimidate the victim or to prove they are a good father, in so doing adding pressure to the victim not to pursue the case.

Social Services Involvement

As evident from Table 9 a significant number of the victims who were supported by IDVAs were also involved with social services. This reflects the fact that every incident of domestic violence reported to the police is automatically screened by social services who, in conjunction with the police and health services, have to decide whether or not to undertake an initial assessment of the family. In the study area, domestic violence is a factor in over 90% of Serious Case Reviews (which seek to learn lessons from the death or serious injury of a child) suggesting a strong

connection between the incidence of domestic violence and the death or serious injury of a child. This can easily translate into situations where victims are told they must continue with the prosecution or risk losing their children because they are deemed unable to protect them if they resume their relationship with the perpetrator. Consequently, victims who are involved with social services often feel under added pressure and may therefore require intense support not only to deal with the criminal case but also to reassure and satisfy social services as to the level of protection they are able to provide for their children.

Additional Support

It was also evident that whilst most victims in the case studies were being supported by the IDVA in a typical manner, many were also receiving special additional support. Mostly this was being provided by the Outreach Team in the same organisation as the IDVA service, who provide such additional support in relation, for example, to housing, personal safety, child care/access, benefits, debt, and emotional support. The research highlighted the fact that, not only were many victims dealing with the possibilities of being at the centre of a criminal case, but also that they might simultaneously be struggling to find secure housing, cope with social services demands, resolve financial difficulties (e.g. any debts that may have been incurred by the perpetrator), obtain legal advice regarding child contact, as well as ensuring their own personal safety and for their children; and all at a time when they would feel most vulnerable (immediately after separation). In the ‘unsuccessful’ sample significantly less numbers of victims were receiving additional support (approximately 30% of cases) than in the ‘successful’ sample. Such a finding only underlines the argument for more holistic support for victims in order for them to feel able to pursue a criminal case.

Support Regardless of Prosecution

At this point, it is pertinent also to consider the IDVAs' approach to retractions of statements of evidence. Here it was clear from the interviews that IDVAs were familiar with the process for making a retraction statement, and also with the possible implications. IDVA 2 explained how she worked with victims who might wish to retract:

“...Women believe that if they retract the pressure will be taken off them. Without support they don't understand the bigger picture. If a woman says she wants to retract it is about exploring what the reasons are behind that and what she thinks she is going to achieve by retracting. Is it because they are reconciled? In terms of safety and being scared to give evidence then it is about looking at the bigger picture and why she is scared and how we can alleviate that fear. Does she need to be moved, go to a refuge, to look round the court or have special measures? Without that support that may not be explored with her so her only option is to retract out of fear. We can try to take away some of that fear so they won't retract....”

All of the IDVAs acknowledged being candid with victims that a retraction of their statement did not necessarily mean the end of the process. They would explain to them the possibility of still being summonsed by the court and that, if this happened, they could expect the support to continue. Due to their commitment to the principle of a non-judgemental and client-led approach, the IDVAs were very clear that they would support victims in retracting their statements if this was clearly what they wanted. As SM 2 explained:

“...A woman might decide at some point to retract and not engage. And it’s not our role to persuade her not to do so. I think it is our role to say what the options are if she does, what could happen etc; but what we fundamentally recognise is that if we have a non-judgemental approach and leave our doors open to victims then they will come back to us. And I think that’s been proved correct with the IDVA service over the years that we’ve operated. And that actually not judging women and putting blocks in their way, or forcing them to continue with something that they don’t feel comfortable with, actually helps her address the domestic violence in the longer run – even though it seems contradictory at that point in time. Because that recognises that domestic violence can be a lifelong thing; it doesn’t end, even with conviction, going to prison. And we have to recognise that we will work with women over that time...”

Considering the expectation that IDVAs would make it clear to those they supported that they would respect whatever decision they made, it was particularly noteworthy that so few victims did in fact choose to retract their statements. Again, this serves to emphasise the effectiveness and non-judgemental nature of the support being provided.

Summary of ‘Mechanism A: Supported Victims’

The ‘Supported Victim’s Mechanism’ could be seen to have impacted on the level of victim participation by addressing not only the immediate safety of victims but also their wider needs. The fact that victims were supported regardless of their intention to attend court created the potential for victims to feel their safety was the priority, rather than simply the securing of a conviction. As IDVA 1 commented: *“...I will say to a woman, ‘Let’s go do the retraction, I’ll help you with that’...”* Furthermore, by addressing the wider issues for victims being supported, IDVAs

were able to engender a level of trust in which a number of victims were prepared at least to consider an appearance at court, rather than disregard it as impossible.

The impact of this mechanism was evidenced firstly by the level of guilty pleas submitted on the day of the trial. For example, 66% of successful outcomes were as a result of the perpetrator pleading guilty (and with 88% of them doing so on the day of the trial). This suggested that the presence of the victim at court, (regardless of whether they intended to give evidence) was likely to have an impact on the offender's decision about a plea. Second, the impact of the 'Supported Victims' mechanism was evidenced by the high level of attendance of victims at court who were willing to go into the witness box, and in the impact this had on court outcomes. Here, for example, some 33% of defendants were found guilty by magistrates, suggesting that victims' evidence mostly supported positive outcomes of the cases. Table 10 summarises the impact of the 'supported victims' mechanism.

Table 10: Supported Victims Mechanism

Mechanism	Outcomes
<p>Supported Victims</p> <ul style="list-style-type: none"> • Support provided by IDVAs encouraged more victims to remain engaged in the CJS by addressing their safety needs, as well as other practical problems they may have been facing. The support was not contingent on victims supporting the prosecution and so enabled victims to not feel pressured into attending court. The impact of this support can be seen in the following outcomes: 	<p>Enhanced Victim Participation:</p> <ul style="list-style-type: none"> • Only 17% of victims retracted – down from 44% (HMCPSI 2004) before IDVAs and SDVC were introduced. • 93% of victims attended court – higher than the national average of 88%. • 75% of victims required to give evidence did so (not captured nationally). <p>Better Court Outcomes:</p> <ul style="list-style-type: none"> • 93% of defendants initially pleaded not guilty. At court, 67% of successful outcomes were down to perpetrators pleading guilty. 88% of these were a change of plea on the day of trial – suggesting the presence of the victim at court had an impact on their decision (this data is not captured nationally). • 33% of successful outcomes were due to perpetrators being found guilty following a trial. This is in comparison to only 13% of defendants being found

	guilty at the study area's Magistrates' Court during Q1-3 of 2010/11. And in comparison to a national average of just under 10% of defendants 'found' guilty after trial.
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Mechanism B: ‘Specialist Delivery of Justice’

The ‘specialist delivery of justice’ mechanism impacted positively on court outcomes in two main ways. First was by facilitating the support provided by IDVAs in addressing victim safety – for example, allowing the victim to use the side entrance on the day of the trial; provision of a private room in which to wait before being called into the courtroom, and the availability of ‘special measures’ (e.g. screens to the victim being seen/seeing the defendant or defence witnesses in the courtroom, or provision of evidence via a video link to the courtroom). Second, was through greater expertise on the part of prosecutors and magistrates through specialist training in dealing with domestic violence cases.

Enhancing Safety at Court

The decision by female victims to attend court and give evidence is one frequently fraught with concerns. Many worry about seeing the perpetrator in court, about seeing their friends and relatives before or after the trial, about having to answer intimate questions in an open court, about being spotted by the perpetrator’s associates on their journey to and from court, about the adequacy of any child care arrangements and so forth. The support of IDVAs is expected to address such concerns in a number of ways, such as arranging a pre-court visit, using the side entrance on the day of the trial and arranging for special measures in the court room. As will be seen below, the ability of IDVAs to provide support in such ways ought to be facilitated by the existence of a SDVC, and which itself aims to respond to such worries and reduce fear of the process for those attending court and giving evidence.

Use of Special Measures

In addressing the concerns of victims particularly around giving evidence, the most widely used option is agreement to a request for 'special measures'. These are intended to make the process of giving evidence less traumatic for the victim as they enable the victim to avoid facing the defendant in court. As indicated in Chapter Three, the most common is the provision of screens that shield the victim so that only the judiciary and clerk can see them, but, as described, an alternative is the facility to give evidence via video link. IDVAs are expected to discuss special measures at the earliest opportunity and then liaise with the Officer in Charge or the Witness Care Unit (who must take a statement and submit it to the CPS who formally make the application to the court). As Table 11 illustrates, the majority of applications for special measures are granted (92%), suggesting that CJS practitioners are generally understanding of the concerns of victims, of the potential importance of special measures in affecting their decision to give evidence and, indeed, in facilitating the giving of evidence when the time comes. This is a particularly significant finding considering the difficulty that domestic violence victims usually encounter when requesting special measures (Burton et al, 2006 and CAADA 2012).

Table 11 – Special Measures requested and granted (2009/10 and 2010/11)

	Successful	Unsuccessful	% of cases
Special Measures requested	36	17	56%
Special Measures granted.	35	14	92%

Indeed, the interviews with IDVAs highlighted the importance of special measures for a victim's decision to attend court. Respondents all felt that screens were a significant benefit for victims especially because they would ameliorate their concerns about being intimidated by the perpetrator or their supporters in the public gallery. Several respondents also argued that special measures should be automatically provided in domestic violence cases to ensure as many victims as possible felt able to attend (as suggested by Burton et al, 2006). However, the data also revealed several instances where requests for special measures had not been granted, as with Sheila's below:

Box 1: Case Study 1 – Sheila

Sheila was assaulted by the offender and further assaulted a few days later after he found her at a temporary address. Both matters were reported to the police. On the day of the trial it transpired that both offences had been listed separately and both the IDVA and Witness Care Unit were not aware of the second assault charge. This occurred because the second assault happened in a different division of the study area's police force and it had not been picked up by their Public Protection Unit (PPU) and so no referral had been made to the IDVA. Furthermore, the Witness Care Unit (WCU) for that division did not attempt to make contact with Sheila. As no request for special measures had been made for the second trial, the request on the day was refused by the magistrates, despite them being granted for the morning trial. Sheila still chose to give evidence and the offender was found guilty on both counts.

Support at Court

In addition to special measures to protect the victim from seeing the defendant in court, other elements of support provided by the IDVAs in relation to court appearances also aim to make the experience less intimidating. As Table 12 shows, the IDVAs supported all victims who attended court on the day of their trials. This, indeed, is a fundamental aspect of their role, and some IDVAs sit alongside the victim whilst she is giving evidence (acting as a 'Mackenzie Friend'). Many victims also took up the option offered by IDVAs of a pre-court visit; this usually being arranged some weeks before the trial to enable them to acquaint themselves with the court environment, to see the layout of a courtroom, have the opportunity to familiarise themselves with the process and

to ask questions. IDVAs also often offer victims the use of a side or back entrance door to the courthouse on the day of the trial to facilitate their safety and to avoid contact with the perpetrator or his associates (subject to arrangement with the Court Security Service). Importantly, moreover, whilst making such arrangements, the IDVAs would typically talk through the way in which proceedings will be conducted in court - who will be able to see them, in what order different parties will speak, what they should do if they do not understand something, and what practicalities to plan for, such as the journey to and from court and any childcare arrangements to be made.

Table 12 – Court support offered by IDVAs (2009/10 and 2010/11)

	Successful	Unsuccessful	% of Victims Attending Court
Support provided at trial	49	22	100%
Pre Court Visit taken	30	14	62%
Side entrance used	43	20	89%
Civil order pursued during process.	10	7	24%

The interviews with IDVAs also highlighted how they themselves assessed the impact of their support on the victim's decision to attend court and to give evidence. IDVA 1 responded as follows:

“...We have appointments face to face and we go over and over again what’s going to happen in court...were she’s going to be. We do the pre-court visit, I think that makes a huge plus towards a woman’s confidence, she’s seen the courtroom, she’s come with you before, she knows you’re going to meet her. So she’s standing in the box, she’s not as intimidated. We’ve managed to talk through and offer her special measures which she doesn’t often get offered from other agencies... As soon as you’re scared, we try and get special measures. So she’s in court, she’s got special measures and she just has...I believe she has an ability to go through with her evidence because we have encouraged her on the positives of it, we’ve explained to her if she can do it how it’s going to affect her self-esteem that she’s managed to perhaps stand up to him. ... Or she goes in the box when she wouldn’t have because we’ve said to her, “If you want to do it and I’ll go with you and I’ll stand there with you.” And that always goes a huge way as well...”

Similarly, IDVA 2 described her approach to helping victims in the following manner:

“...In an ideal scenario if you had that referral at police bail you could build up the relationship with that woman before it came to court. You can conduct pre-court visits, talk about the screens and get the ball rolling for housing and safety. She would know that in coming to court there were plans in place and back up-plans with ‘non-mol’s’ (non-molestation orders). Everything is there as a safety net. When she comes to court she uses the back entrance, is in a secure room and has someone with her in court. If that is all in place that is the perfect scenario and is how you get a woman to give evidence...”

The IDVAs were also very clear that their role was to advocate for victims during the process and to ensure they ‘get the very best from the CJS’. In order to achieve this aim, they particularly emphasised the importance of keeping victims informed at all points during the process – something made easier at the study area’s magistrates’ court because of the presence there of an IDVA on a daily basis. They also argued the importance of making sure the victim’s voice was heard, by liaising with all relevant agencies on their behalf, and ensuring good understanding of the court process to boost confidence.

The first aspect of the ‘Specialist Delivery of Justice’ mechanism could thus be seen to have impacted on the level of victim participation as a result of addressing victims’ particular concerns around attending court and giving evidence. The fact that IDVAs were able to use a private waiting room, to arrange for victims to use a separate entrance, to request special measures and to arrange pre-court visits, meant that some of the more fearful aspects of giving evidence were addressed with the result that more victims felt able to continue with the process. In turn, the impact of increased victim participation was shown to have a direct effect not only on the decision of many defendants to plead guilty but also on the chances of a prosecution proceeding because the victim felt able to give evidence in court.

Developing and Utilising Experience

That said, the mechanism of the ‘Specialist Delivery of Justice’ extends beyond the practical facilities of special measures, separate entrances at court and private waiting rooms, and also includes the less tangible (but no less important) elements of specialist expertise and experience

within the CJS for domestic violence casework and which would similarly impact upon court outcomes and sentencing.

Expertise of prosecutors

Many perpetrators of domestic violence, when charged with the offence, tend to believe that the victim will withdraw their support for the prosecution because they will be too scared to give evidence against them. Interestingly, however, this research found that, if the victim attended court, the perpetrator was more likely to plead guilty for fear that the victim would indeed give evidence and that the sentence imposed if found guilty would be more severe. Having seen this happen all too often, IDVAs would normally make it clear to victims that, simply by attending court, the perpetrator might well be persuaded to admit guilt, albeit for a lesser sentence. IDVA 2 described her experiences in this respect as follows:

“...If you have got a woman that is focused about giving evidence and has turned up a prosecutor can relay that to that defence and say “We have good evidence and a good case otherwise we wouldn’t have charged him. Our victim is here and is ready to go. This will be an effective trial.” Often defence solicitors will then say “I will have another talk to my client. As she has now turned up that puts another slant on it. We didn’t think she was coming.” In a high percentage of cases if you can get the woman there you have got more chance of a guilty plea than if she retracts or if you don’t know whether she’s going to turn up...”

Such knowledge of how defence solicitors are likely to advise their clients following a victim’s attendance at court, is regularly used by prosecutors as a bargaining tool, irrespective of whether

or not the victim is willing to give evidence. With an attendance rate for victims in this sample being close to 100%, it was clear how well established and effective this tactic had become in the study area, and with such a positive impact on the plea decisions of perpetrators.

Expertise of Magistrates

The comprehensive use of sentencing options apparent in the sample also suggested that the magistrates in this Specialist Domestic Violence Court were generally more attuned to the issues and specific nature of domestic violence by the time of the research, compared, for example, with findings from earlier research studies (see, for example, Gilchrist and Blissett 2002). This would suggest that the magistrates' court had indeed changed as a result of the 'Specialist Delivery of Justice'. Moreover, a further indicator of the more comprehensive use of sentencing options was the fact that a particularly high proportion of the restraining orders requested were indeed granted; again suggesting that magistrates were familiar with the recent change in law in this regard and understood its importance for the safety of victims.

Summary of Mechanism B 'Specialist Delivery of Justice'

As the above discussion and Table 13 show, in addition to facilitating the safety of victims at court, the 'Specialist Delivery of Justice' mechanism was also mobilised by a range of actors within the CJS, notably by IDVAs, police officers, Witness Care Unit, prosecutors, and magistrates. For example, an application for special measures would normally involve the IDVA in discussing the option with the victim, with a WCU officer to make a note on the file and request the statement from the officer, the officer in the case to take the statement, the prosecutor to make the application to the court and finally the magistrate who would decide whether or not to accept the application.

When these procedures are followed and the responses of parties mutually supportive, the outcomes, the research found, were more likely to include special measures being granted, increased victim participation, more defendants pleading guilty as a result of victims attending court, including many on the day of the hearing when the CPS prosecutors make it known to the defence that the victim is indeed in the building and ready to give evidence. Similarly, more defendants are found guilty as a result of better supported victims, and with magistrates using the full range of sentencing options available to them to ensure positive outcomes for victims.

Table 13: Specialist Delivery of Justice Mechanism

Mechanism	Outcomes
<p>Specialist delivery of justice.</p> <ul style="list-style-type: none"> • The availability of special measures, private rooms at court, support of IDVA's in court, all helped to alleviate victims' concerns about giving evidence which impacted on their participation. • Magistrates understood the importance of DV victims being treated as 'vulnerable or intimidated' witnesses and granted applications for special measures. • CPS lawyers were more experienced in DV cases, and were aware that if they suggested the victim would give evidence (because she had attended), then the defendant was more likely to plead guilty. 	<p>Enhanced Victim Participation:</p> <ul style="list-style-type: none"> • Only 17% of victims retracted – down from 44% (HMCPSI 2004) before IDVAs and SDVC were introduced. • 93% of victims attended court – higher than the national average of 88%. • 75% of victims required to give evidence did so (not captured nationally). <p>Better Court Outcomes:</p> <ul style="list-style-type: none"> • 93% of defendants initially pleaded not guilty. At court, 67% of successful outcomes were down to perpetrators pleading guilty. 88% of these were a change of plea on the day of trial – suggesting the

<ul style="list-style-type: none"> • Training of magistrates combined with more experience of sentencing DV cases led to more consistent sentencing and the use of restraining orders. 	<p>presence of the victim at court had an impact on their decision (this data is not captured nationally).</p> <ul style="list-style-type: none"> • 33% of successful outcomes were due to perpetrators being found guilty following a trial. This is in comparison to only 13% of defendants being found guilty at the study area's Magistrates' Court during Q1-3 of 2010/11. And in comparison to a national average of just under 10% of defendants 'found' guilty after trial. <p>Comprehensive use of Sentencing Options:</p> <ul style="list-style-type: none"> • Wide range of sentencing options used. • 86% of restraining orders requested, were granted. • There was a 34% increase in restraining orders requested from 2009/10 to 2010/11.
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Mechanism C: ‘Co-ordinating the CJS’

Not only do IDVAs support victims to provide for their safety and a wide range of other needs, and make the most of improvement measures recently introduced as part of the ‘Specialist Delivery of Justice’, but they also support the criminal justice system by taking on a coordinating role to ensure that victims’ needs are met and the process works effectively with their interests at heart.

Taking Care of Practicalities

In this respect, IDVAs carry out a number of roles that seek to improve the functioning of the CJS. The first of these is to ensure that practical issues such as statements requesting special measures and Victim Personal Statements have been taken, and, if required, ensuring that interpreters have been booked.

As a result of their understanding of the importance of special measures to a victims’ decision to give evidence, the IDVA service has also made it a priority to check that police officers and the Witness Care Unit have indeed taken statements for special measures. If, for example, a statement is not taken on time, the CPS may be unable to make a further request until the day of the trial. This may then impact on victim’s decision to attend court as their concerns about seeing the defendant might seem to have been inadequately addressed. Such issues were highlighted by Vicki’s case (case study 2), yet the fact that 91% of requests for special measures in the sample were in fact granted, suggests that the practicalities around applications were being addressed for the vast majority of victims at this particular court at least.

Box 2: Case Study 2 – Vicki

Vicki was assaulted in public and a witness called the police. The Officer In Charge (OIC) had been asked to take a statement for special measures but this had not been done. On the first day of the trial there were no special measures in place. However the case had to be adjourned because the defendant had been arrested for breach of bail the night before and the CPS had not been informed. Before the second trial date, the IDVA enquired with WCU regarding the request for special measures but there was still no statement. By the date of the second trial, special measures had been granted and Vicki was allowed to give evidence via video link.

Developing and Applying Experience

Within the context of the mechanism of ‘Coordinating the CJS’, IDVAs use their knowledge and experience (gained from their court-based position) to advise victims about the possible outcomes of court hearings. For example, because IDVAs regularly observe defendants pleading guilty when they see the victim at court on the day of the trial, they are able to apply such experience and knowledge to encourage other victims to attend court. Possibly, this accounts for the 93% attendance rate in the case study sample data. Their knowledge and experience of sentencing practices is also important as they endeavour to provide victims with realistic expectations about the final outcome of their cases so that there is neither reluctance to continue for fear the offender will receive a lengthy prison sentence, nor surprise or disappointment if the sentence is a community order following a first offence.

Furthermore, it was evident from the interviews with IDVAs just how much understanding of the criminal justice process they have typically amassed, particularly as a result of being based within the court, and how this was likely to impact on the nature of support they provided to victims. For example, IDVA 1 explained the types of evidence required to support a conviction, as well as her understanding of how the victim physically attending court can impact on the likelihood of a guilty plea:

“...I always say to them, “There is a good chance if you just arrive in the building you won’t have to give your evidence here because he will plead guilty and you will get your Restraining Order...”

IDVA 2 also described her understanding of possible sentences in domestic violence cases, and how the circumstances of the assault, combined with any previous convictions, would have the most significant impact on sentencing – again underlining the IDVA’s desire to give victims as much information as possible about the process so that informed decisions can be taken. As she explained:

“...If they haven’t got a criminal record I will tell a woman not to expect a prison sentence. If they have not got violence on their record, the nature of their injury in the woman’s words is a minor injury, it was not a prolonged attack and was not in front of children, then the expectation is that he will get a community punishment...”

Whilst this knowledge of the CJS in itself is important, it is how the IDVAs utilise it that matters most in generating successful prosecutions. For example, it was evident from some case files that, because the IDVA understood what constituted evidence, she was then able to identify where there

might still be further evidence to be collected – for example, in one case, a victim attended her GP because of the injuries sustained in an assault, but the officer in the case was not aware of this fact. In this case, the IDVA was able to relay the relevant information to ensure the evidence was indeed collected. Similarly, IDVA 3 described having requested a police officer to re-attend a victim's address to take a statement regarding an assault:

“...So this is when I was calling the police then and saying, ‘well, have you got a record of this?’ And they were saying, ‘our log number’s such and such’. And I went, ‘But have you taken a statement?’ And they were like, ‘oh well, we don’t see one.’ I went, ‘okay, so this woman was hit on the legs with a hammer. Can you go and take a statement from her.’ Anyway, they did, but it was only because I was saying, ‘can you go and take the statement.’ And the woman was saying, ‘oh no, I signed the notebook’. That’s just not enough, it’s just not enough...”

IDVAs understood the importance of corroborating evidence being presented to the court, and therefore sought to ensure that each case was as strong as possible. As will be seen in Chapter Six, such action was an attempt to address issues with the police approach to evidence gathering (in particular, the failed mechanism of ‘robust evidence’).

Facilitating Communication and Improving Coordination

As a result of being physically located in the magistrates’ court, the SDVC is able to utilise IDVAs as a means to improve coordination and communication between agencies. From the interviews with IDVAs it was clear that they had developed a significant role in the coordination of agents within the CJS (and in particular facilitating communication between victims and prosecutors).

This was both to ensure the process ran smoothly for the victim, and also that their voice was being heard. In addition, they used their experience to support the CPS and other agencies as well.

Particularly highlighted in all of the interviews, was the role IDVAs play in assisting the CPS on the day of the trial. It was suggested in the interviews, for instance, that some prosecutors did not always have sufficient time to sit down with the victim to discuss the process. Accordingly, the IDVAs had taken on the role of communicating between prosecutors and the victim where there had been a basis of plea, explaining to victims what this meant, and then relaying the wishes of the victim to the prosecutor. As IDVA 1 described:

“...Some of them actually let us just do the job and I’m also a bit okay with that because I’ll say to the solicitor, “I’ll go in and I’ll explain that to her.” “It’s on a basis of plea. Which way do you want to go? You know, if she’s prepared to accept it, are you happy with it?” We did this the other day and he was like, “Yeah I think it’s okay, but I’d rather do this” and I said, “But if she’s prepared to accept the basis will you go ahead?” He said, “Yeah.” He didn’t actually spend any time with the woman, hardly at all. I just ran between the court because he had two other trials and so I ran here, “This is what’s being offered. These are the pro’s, these are the con’s. What do you want to do? Are you happy with that?” Right, run back to the courtroom. He’s in the middle of a trial, “Well the woman’s happy to accept the basis of plea....”

IDVAs have also taken responsibility for informing victims of the outcome of the case on the day of sentencing, and ahead of the CPS writing to the victim about the decision of the court. Here IDVAs act on the day particularly because of their concern to ensure the safety of the victim – for

example, if the offender receives a fine, there are unlikely to be restrictions on his movements, so enabling him to return home. An additional function fulfilled by IDVAs is the role they play in ensuring victims are able to request restraining orders, and furthermore, that the conditions reflect their needs. IDVA 3 described how she attended Pre-Sentence Reviews (PSRs) to ensure that victims' views were being taken into consideration:

“...I think that’s why us being there is important, because a lot of the time CPS don’t know that the woman actually wants a restraining order and what conditions she wants, but actually there’s a contact point already in place and that’s what she wants on the restraining order. But there’s also been cases where it’s been opposite where the woman hasn’t wanted a restraining order and CPS were going to apply for it, so in that case as well we’ve been able to say to them, ‘actually she feels like she doesn’t want the protection.’ And there have been a couple of times where me personally, I’ve had to address the magistrates and tell them why she doesn’t want it, and I think there’s one or two occasions where I’ve had to kind of give them information about what conditions she wants as well. It’s normally when the two parties are disputing it and the defence is obviously saying ‘no, no, this has happened and that’s happened’ and the prosecution is saying something else...”

As can be seen from the above quote, the IDVA in this situation was recognised in court as representing the views and wishes of the victim. However, it is not only the victims with whom the IDVAs are working who benefit from their involvement. IDVA 2 suggested how other victims of domestic violence may benefit from their presence in court:

“...We are there to help the process. Even if we don’t have the caseload as a referral we are a useful tool to the court. One judge in court will get the usher to knock on our door and say “There is a woman at the back of the court. Go and speak to her.” The prosecutor can’t if they are trying to do something for the defence, and the defence can’t if it is helping his client so they have to get somebody independent. That has happened numerous times. I have had to verify tickets when a woman has asked whether his bail condition could be lifted for two weeks as they had booked a holiday to Florida. I saw the ID and tickets and it all matched. She was asking and the judge took my assurances on board and agreed to bail, so they do use us to their advantage as well...”

Such a role being played by IDVAs in supporting the CJS was strongly encouraged by their managers. In describing this role, IDVA Manager 1 explained that this involved facilitating communication between the CPS, police and the victim, ensuring that the victim’s statement and evidence were presented in court, and that there was a voice to her views. Similarly, Senior Manager 2 suggested that the IDVAs coordinate the cases and ensured that other agencies did their job. Meanwhile, Senior Manager 3 explained how magistrates and the CPS often sought advice from the IDVAs because they recognised and valued their knowledge on the specifics of process and practicalities and their preparedness to co-ordinate things on victims’ behalf.

Summary of Mechanism C: ‘Co-ordinating the Criminal Justice System’

As Table 14 identifies, the ‘Coordinating the Criminal Justice System’ mechanism is mobilised primarily by the IDVA, yet impacts on a number of actors within the SDVC. This mechanism facilitates the achievement of guilty pleas from defendants through IDVAs using their knowledge and experience to encourage attendance at court by victims if only to start negotiation for a plea.

The IDVAs then liaise with the CPS who may advise the defence solicitor of the victim's appearance. The outcome of more defendants being found guilty is also facilitated by this mechanism, as IDVAs keep the Officer in Charge informed about any additional evidence, for example, breaches of bail. Finally, the attainment of suitable sentences, including use of restraining orders, is facilitated by this mechanism as IDVAs also attend Pre-Sentence Reviews and liaise with CPS to ensure the victim's wishes about sentencing are also heard and taken into consideration.

Table 14: Co-ordinating CJS Mechanism

Mechanism	Outcomes
<p>Co-ordinating the CJS</p> <ul style="list-style-type: none"> • The knowledge amassed by IDVAs by being based in the SDVC helped them in advising victims about the benefits of attending court for the trial in that it is likely to encourage a guilty plea. • If victims attended but did not want to give evidence, the IDVAs would communicate this to CPS who opened a dialogue with the defence regarding a plea. • IDVAs would also facilitate communication between CPS and the victim regarding accepting a basis of plea. 	<p>Enhanced Victim Participation:</p> <ul style="list-style-type: none"> • Only 17% of victims retracted – down from 44% (HMCPSI 2004) before IDVAs and SDVC were introduced. • 93% of victims attended court – higher than the national average of 88%. • 75% of victims required to give evidence did so (not captured nationally). <p>Better Court Outcomes:</p> <ul style="list-style-type: none"> • 93% of defendants initially pleaded not guilty. At court, 67% of successful outcomes were down to perpetrators pleading guilty. 88% of these were a change of plea on the day of trial – suggesting the presence of the victim at court had an impact on their decision (this data is not captured nationally).

<ul style="list-style-type: none"> • IDVAs kept officers informed of developments such as additional sources of evidence (e.g. GP medical records), or requested that officers take additional statements. • IDVAs took responsibility for ensuring that victim's wishes regarding restraining orders were communicated to the CPS and attended the PSR to ensure the correct conditions were recorded. 	<ul style="list-style-type: none"> • 33% of successful outcomes were due to perpetrators being found guilty following a trial. This is in comparison to only 13% of defendants being found guilty at the study area's Magistrates' Court during Q1-3 of 2010/11. And in comparison to a national average of just under 10% of defendants 'found' guilty after trial. <p>Comprehensive use of Sentencing Options:</p> <ul style="list-style-type: none"> • 86% of restraining orders requested, were granted. • There was a 34% increase in restraining orders requested from 2009/10 to 2010/11.
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Understanding the Importance of Context

As the above analysis and discussion has demonstrated, the DVCAS in this study was found to have had a positive impact on the rate of successful prosecutions. This was evidenced by an enhanced level of victim participation, better court outcomes and a comprehensive use of available sentencing options. The mechanisms that led to these outcomes included the support provided to victims by IDVAs, the specialist delivery of justice (which included practical measures as well as the development of expertise), and the coordinating role undertaken by IDVAs to improve the operation of the criminal justice process. These ‘mechanisms’ do not simply describe the IDVA and SDVC initiatives. As Chapter Three identified, the role of IDVAs in working with the SDVC has never previously been properly articulated, with many existing IDVA services working outside of the court system. Therefore, these mechanisms for change have developed specifically as a result of the particular contexts within the study area. The Realistic Evaluation framework has not only sought to understand more precisely how the outcomes are achieved (the mechanisms) but also the contexts that have enabled those mechanisms to produce the identified outcomes. Four enabling contexts were identified during this research, these being: a woman-centred context, an adaptable service context, a multi-agency context, and an accreditation context.

A Woman-Centred Context

It was evident from the interviews that there is a clear ethos and value base to the IDVA service. All of the respondents were clear that their foremost role was to support victims, to listen and to believe them. As a feminist women’s organisation, the staff in the IDVA organisation took pride in their focus on providing a safe and confidential service, working to empower victims to regain

the control that had been taken from them. They worked to a holistic support model, meaning they assessed all of the needs victims might have in relation to domestic violence, including housing, safety planning, child contact, social services involvement, access to benefits, debt management, and much else besides. They placed the woman at the centre of the model and worked to ensure that she would have a voice in the criminal justice system. The IDVAs did not see their role as being to increase the level of successful prosecutions – this, they saw only as a side-effect. Instead, they viewed their main priority and purpose as being to make women and children safe. If a victim they were supporting wanted to retract their statement, the expectation was that the IDVA would fully support their decision – having discussed all of the implications, in particular around their future safety. IDVA 1 summarised how she viewed her role:

“...I would say that my goal is not to make women attend court...that’s not my role. So when I look at it I don’t think, “How can I get more women to court to give evidence?” My goal is, “How can I support this woman so as that she is as safe as she needs to be, that she has the equipment that she needs to deal with her life and move on from her domestic violence experience in whatever direction she feels is relevant for her...”

The IDVAs were also clear that, for some victims, retracting their statement would be the safest course of action. For others, they were simply not ready to be the key witness in the prosecution of a domestic violence case, but, by not judging them for their decisions at the time, it was felt this might well encourage them to give evidence sometime later in the future. The long-term safety of victims was thus being considered, and not just the immediate possibilities and prospects.

In order for the ‘Supported Victims’ mechanism to achieve its potential, the findings of this research suggested that the IDVA service should be based in an independent, safe, confidential,

non-judgemental organisation whose principal purpose would be to ensure the safety of victims and their children, rather than focusing on encouraging victims to remain engaged in the CJS. Additionally, the fact that the value base of the organisation permeated from the Chief Executive down through the management directly to the IDVAs, was reflected in the strikingly similar responses of different IDVAs when describing their roles.

Adaptable Service Context

The second context identified related to the IDVA service organisation and was similarly material to the effectiveness of the mechanisms. This concerned the organisation's ability to adapt to a changing environment within the SDVC. When the SDVC was first established, the IDVA service needed to win acceptance from the established professional groups for its role and to become a recognised additional component of the court system. In the early stages of the SDVC, IDVAs worked closely with the police force's Domestic Violence Officers (DVOs) who had also been present at court to support the CPS – for example, by identifying suitable bail addresses. However, when attendance by DVOs ceased (in a major reorganisation of the force), the IDVA service adapted its role to fill the gap and, as a result, ensured that its service became more embedded in the court system.

Multi-Agency Context

A third distinct context which was particularly identified through the interviews and that could be seen to enable both the 'supported victims mechanism' and the 'specialist delivery of justice' mechanism, was the existence of multi-agency fora in the study area, and the role played by the organisation within these. In fact the CEO of the organisation chaired both the Violence against Women (VAW) Board and the CPS Scrutiny Panel. The former was a multi-agency partnership

of senior representatives from the police, CPS, social care, housing, health and the voluntary sector, and the latter was a panel scrutinising cases of VAW that had failed to make it through the CJS, and in so doing, seeking to learn future lessons. By sitting on these strategic fora, the CEO sought to ensure that the needs of women and children experiencing domestic violence were being heard by the most senior professionals of statutory organisations. Their involvement in the CPS Scrutiny Panel, for example, was of direct benefit in improving communication between IDVAs and CPS lawyers, which in turn improved the service received by victims in court (as evidenced by the discussions that took place regarding plea acceptances and imposition of restraining order conditions). Senior Manager 2 outlined the importance of her organisations role in the context of multi-agency working as follows:

“...On the whole we’re represented on every single multi-agency forum where abuse is discussed, and if we’re not then we try and get ourselves around that table; because for us it’s not just about delivering services, it’s also about making sure that those services are shaped and delivered properly, and that the policy response, the strategic response is also good. If the strategic response is not identifying violence against women in domestic violence then the service delivery response is going to be affected as well. So, we have to be involved in the operational side and the strategic side...”

Accreditation Context

The fourth context identified as important in enabling the mechanisms to operate was the acquisition at the magistrates’ court of SDVC status. In this respect, in 2007, the court had undergone an audit by the, then, Her Majesty’s Court Service (HMCS) and, as a result, was accorded official status as a SDVC. Recalling the process leading up to this, Manager 1 spoke of

the willingness to cooperate with the IDVA service of all parts of the CJS (from police officers and prosecutors, to ushers and court administrators) and of this being seen as fundamental to the principle of an SDVC according to HMCS. In turn, such accredited status played its part in facilitating the outcomes achieved by the ‘specialist delivery of justice’ mechanism, as well as helping to embed the IDVA service into the operation of the court and improving the impact of the ‘supported victims’ mechanism. As Manager 1 reflected:

“...So when we first set up, and it was when the status of the SDV courts was coming about, the IDVAs, because we were the independent domestic violence advisors, there was a significant recognition of having that, because it’s a key element of the SDV status as well. So when we first came about we had a real, real tight interconnection with all the agencies around the SDV courts...”

Context Factors - Summary

As stated in the above discussion, four contextual factors were identified from the interviews – each seen as having enabled the particular mechanisms described earlier in this chapter. These contexts were a) that the IDVA service was based in an independent woman-centred organisation, where the safety of women and children was central to their role; b) that the service had been ready and willing to adapt to a changing external environment; c) that the study area had a history of strong multi-agency working both at a strategic and local level; and d) that participation in an accreditation process at the start of the SDVC ensured all agencies were willing to be involved and to commit the necessary resources. Having identified such contexts, it was then possible to elaborate the programme theory to show *how* the DVCAS had led to enhanced victim participation,

better court outcomes and a more comprehensive use of sentencing options and the contexts that had enabled these aims to be achieved.

Chapter Summary

The research findings presented in this chapter have highlighted how the DVCAS in the study area has impacted positively on the prosecution of domestic violence offences. The chapter began by outlining three overarching outcomes which suggest the DVCAS had an impact on enhancing victim participation, better court outcomes and a comprehensive use of sentencing options. Having identified the positive impacts of the DVCAS, the discussion moved to explore in more detail how these outcomes were achieved. Here three distinct mechanisms – ‘Supported Victims’, ‘Specialist Delivery of Justice’ and ‘Coordinating the CJS’ were identified. The discussion of these mechanisms detailed what it was about the intervention of a DVCAS that led to such outcomes. Following elaboration of each such mechanism, a refined programme theory was presented, which, in addition to specifying key features of the mechanisms of change, included four contextual factors found to have been operating in support. These contexts were a ‘woman-centred context’, an ‘adaptable service context’, a ‘multi-agency context’ and an ‘accreditation context’. This overall refined programme theory is summarised in Table 15 to elucidate how the DVCAS in the study area has impacted on increasing successful prosecutions and the circumstances and factors (contexts) in which this had happened. In the next chapter, further findings and programme theory are presented, in particular focusing on how the police and prosecution services interacted with the DVCAS and the part they played in facilitating higher prosecution rates for domestic violence.

Table 15: Refined Programme Theory

Outcomes	How the mechanisms led to the outcome.	Contexts that enabled mechanisms to be realised
<p>Enhanced Victim Participation:</p> <ul style="list-style-type: none"> • Only 17% of victims retracted – down from 44% (HMCPSI 2004) before IDVAs and SDVC were introduced. • 93% of victims attended court – higher than the national average of 88%. • 75% of victims required to give evidence did so (not captured nationally). <p>Better Court Outcomes:</p> <ul style="list-style-type: none"> • 93% of defendants initially pleaded not guilty. At court, 67% of successful outcomes were down to perpetrators pleading guilty. 88% of 	<p>Mechanism A: Supported Victims:</p> <ul style="list-style-type: none"> • Support provided by IDVA's encouraged more victims to remain engaged in the CJS by addressing their safety needs, as well as other practical problems they may have been facing. The support was not contingent on victims supporting the prosecution and so enabled victims to not feel pressured into attending court. <p>Mechanism B: Specialist Delivery of Justice.</p> <ul style="list-style-type: none"> • The availability of special measures, private rooms at court, support of IDVA's in court, all helped to alleviate victim's concerns about giving evidence which impacted on their participation. 	<p>Women-centred context:</p> <p>Because the IDVA service is based in an independent, safe, confidential women's organisation, then this ensured that the safety of the victim was placed at the centre of the support and that her needs were addressed holistically. (Mechanisms A and B).</p> <p>Adaptable service:</p> <p>Because the IDVA service is based within a flexible and responsive organisation which seeks to identify</p>

<p>these were a change of plea on the day of trial – suggesting the presence of the victim at court had an impact on their decision (this data is not captured nationally).</p> <ul style="list-style-type: none"> • 33% of successful outcomes were due to perpetrators being found guilty following a trial. This is in comparison to only 13% of defendants being found guilty at the study area's Magistrates' Court during Q1-3 of 2010/11. And in comparison to a national average of just under 10% of defendants 'found' guilty after trial. <p>Comprehensive use of Sentencing Options:</p> <ul style="list-style-type: none"> • Wide range of sentencing options used. • 86% of restraining orders requested, were granted. 	<ul style="list-style-type: none"> • Magistrates understood the importance of DV victims being treated as 'vulnerable or intimidated' witnesses and granted applications for special measures. • CPS lawyers were more experienced in DV cases, and were aware that if they suggested the victim would give evidence (because she had attended), then the defendant was more likely to plead guilty. • Training of magistrates combined with more experience of sentencing DV cases led to more consistent sentencing and the use of restraining orders. <p>Mechanism C: Coordinating the CJS</p> <ul style="list-style-type: none"> • The knowledge amassed by IDVAs by being based in the SDVC helped them in advising victims about the benefits of attending court for the trial in that it is likely to encourage a guilty plea. • If victims attended but did not want to give evidence, the IDVAs would communicate this to 	<p>new opportunities, it is better placed to maintain and strengthen its position in a multi-agency setting. (Mechanisms A, B and C)</p> <p>Multi-agency context:</p> <p>Because the SDVC and IDVA service operate in an environment that values and respects multi-agency working, and representatives from both initiatives are actively involved in such partnerships, this helps to improve communication and understanding between agencies. (Mechanisms B and C)</p> <p>Accreditation Context:</p> <p>Because the introduction of the SDVC was subject to being inspected at a national Government level, and because certain criteria needed to be evidenced as part of this inspection, this created an impetus on agencies to</p>
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<ul style="list-style-type: none"> • There was a 34% increase in restraining orders requested from 2009/10 to 2010/11. 	<p>CPS who opened a dialogue with the defence regarding a plea.</p> <ul style="list-style-type: none"> • IDVAs would also facilitate communication between CPS and the victim regarding accepting a basis of plea. • IDVAs kept officers informed of developments such as additional sources of evidence (e.g. GP medical records), or requested that officers take additional statements. • IDVAs took responsibility for ensuring that victim's wishes regarding restraining orders were communicated to the CPS and attended the PSR to ensure the correct conditions were recorded. 	<p>work together to achieve the necessary requirements. (Mechanisms A, B and C).</p> <p><u>Temporal Context Issues:</u></p> <p>Changes in the context with regard to Budget Constraints (see Part 2) have impacted on the 'specialist delivery of justice' mechanism. The result being that trained CJ personnel and experienced prosecutors and magistrates are no longer guaranteed for the hearing of DV cases.</p>
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CHAPTER SIX:

FINDINGS PART 2

Whilst the previous chapter discussed aspects of the contributions of the police and CPS in supporting the DVCAS – notably, with regard to facilitating the application of special measures – it was also noted that IDVAs were often chasing individual police officers and prosecutors about such applications and generally performing a significant co-ordinating and liaison role in relation to the various agencies at court.

In this chapter, presentation of the analysis and findings is taken a stage further in identifying a number of other issues arising from both the case files and the interviews that suggested that some of the police and CPS practices were working against the success of the DVCAS and hindering achievement of the intended court outcomes. These practices included: a) failure by the police always to arrest defendants for breach of bail conditions; b) failure, again by the police, always to charge alleged offenders following reported incidents of domestic violence; c) failures by the prosecution always to achieve convictions of charged perpetrators; d) instances of reduced seriousness of charges by the prosecution; and, e) of some cases being dismissed because of insufficient corroborating evidence having been gathered and presented by the police or prosecution (resulting in over-reliance on the victim's statement). Having explored each of these issues further, the chapter returns to the initial programme theory (as presented in Chapter Four) to identify the potential mechanisms that *could* have been realized by the policies of the police and

CPS, before presenting the contexts that were found to have contributed to the negative outcomes described above.

The role of the police and CPS in supporting the DVCAS

Issues of Police and CPS Practice

Distinct themes arose from the research suggesting that police and CPS practices do not always sufficiently support the work of a DVCAS in increasing successful court outcomes. The issues related firstly, to ineffective investigation by the police – in particular with regard to evidence gathering; secondly, to an inappropriate response from the police with regard to safeguarding victims involved in the court system – evidenced in particular by poor arrest rates for breach of bail conditions; and third, ineffective prosecution practices by the CPS – including a small number of victimless prosecutions, a number cases being dismissed for various reasons, evidential options not being utilized consistently and, some offences being down-graded during the court process.

Ineffective Investigation by the Police

As Chapter Three identified, more recent police policies have attempted to address the issue of poor prosecution rates in domestic violence cases by encouraging officers to collect all available evidence so that, should the victim retract her statement, the case will not necessarily be discontinued. Case study 3 highlighted the evidential avenues that can be explored:

Box 3: Case Study 3 – Angela

The perpetrator had locked Angela inside the property and assaulted her in the presence of their child. A neighbour called the police who witnessed the screaming. Angela had injuries to her upper body that were photographed by the police. In the trial the CPS made a bad character application that was accepted. They presented the statement of the neighbour who called the police and produced the photographs of the victim's injuries. The defendant was found guilty and given a 3 year restraining order together with an initial 12 month supervision order with a requirement to participate in an Integrated Domestic Abuse Programme (IDAP).

Despite the possibilities associated with effective evidence gathering, interviews with IDVAs suggested that there was often inconsistency in the quality and level of additional evidence presented in court. Of particular concern was the lack of good quality photographic evidence. IDVA 2, for example, described how police officers would sometimes inform victims that their cameras were not working and have to ask that they take their own images on their mobile phones. Even with photographs, it was not always clear what part of the body had been filmed and, when the images were presented in court, they were often only photocopies of photocopies with the detail and level of injury difficult to ascertain. Furthermore, the interviews highlighted the frequent frustration of IDVAs at the failure of the police to compile the quality of evidence that they knew would be necessary reliably to achieve a prosecution in court. Examples of such evidence might ideally include; tapes of the 999 call, testimony from independent witnesses (where any

inconsistencies had been identified prior to trial), evidence of weapons, torn clothing of the victim, high resolution colour photographs of injuries or damage both at the scene and in subsequent days (when bruising might be visible), and any relevant medical documentation.

IDVAs 1 and 4 also highlighted that, in taking statements from victims, officers did not always spend sufficient time ensuring that the written statement was indeed exactly as the victim intended it. The concern here was also often compounded by the fact that most victims were asked to make their statement very shortly after the offence had occurred or reported and so victims were likely to be in a very distressed state. The next time the victim would be likely to see her statement would be the day of the trial and, with no opportunity then to amend it, any apparent flaws or inconsistencies would likely be picked up by the defence and perhaps used to discredit the victim's testimony. A related concern was the potential for inconsistency between the victim's statement and that of any other prosecution witnesses. Whilst in comparatively few cases were independent witnesses involved in such hearings, when there were, any failure by the police to check for consistency would perhaps have a negative impact in the courtroom if the defence was able to cast doubt on the victim's evidence. IDVA 3 summed up the problem here as follows:

"...Sometimes when there's been another witness sometimes it's been helpful and sometimes it's been completely unhelpful, because if there's a key bit that's missing from either one of their evidence, that one has said and the other one hasn't said, that can make all the difference as to whether there's a guilty or not guilty verdict..."

One of the earliest stages at which poor evidence collection could be seen to impact negatively on the process would be between reporting and charge, and in this research a number of instances were noted where offences that had been reported failed to result in a charge. In fact Table 16 shows that there were 19 offences over the combined sample years where incidents were reported to the police, but without charges subsequently being laid for all alleged offences. In one such incident, involving assault and criminal damage that was initially reported to the police, for example, the offender was only charged with the assault. Worse, often the reasons why an offence might have been left off the charge sheet were not always made clear to the victim or the IDVA, and (from the case files at least) it was impossible to tell whether this had been due to lack of evidence or some other reason.

Table 16 – Offences reported but not charged (2009/10 and 2010/11)

Offence	Total
Threats to Kill	6
Criminal Damage	6
Rape	2
Threats to commit arson	1
False Imprisonment	1
Burglary	1
Common Assault	1
Possession of Bladed Article	1

In six cases, including Sasha's (as described in Case Study 4 below), it was not clear either to the victim or the IDVA why the offence of 'threat to kill' had not been subject to a charge, with no explanation having been given (Table 16). However, the probability is of insufficient evidence gathering at the reporting stage. In law, for the offence of threat to kill to be proven, the victim must believe the threat to have been real at the time, even though it would not always be possible to establish if the offender would have actually carried out the threat. This is also an 'either way' offence, meaning it can be heard in the magistrates' court or the Crown Court. That said, because

it carries a maximum sentence of 10 years imprisonment, it is one that is far more likely to be heard in the Crown Court because of the greater sentencing powers available to judges there.

Box 4: Case Study 4 – Sasha

Sasha's husband was charged with criminal damage caused during an incident in which he threatened to kill her. Sasha made a statement to the police. However the details of the threats were not recorded. Sasha later asked the IDVA to clarify what was happening regarding the threats that were made and the IDVA was advised by the Officer In Charge (OIC) that they were aware of the threats made on the night of the incident but that this case was being dealt with by means of criminal damage.

The issue of poor evidence gathering was further investigated by examining more closely the characteristics of the unsuccessful cases and specifically to identify the point in proceedings at which they were discontinued and to understand the reasons why. Across both years there were 5 instances in which a case was dropped prior to charge and in each this was attributed to the victim withdrawing her support for a prosecution and there not being enough corroborating evidence. In this latter respect, it was noted in several instances that IDVAs had taken responsibility for checking that police officers had indeed collected as much evidence as possible from the victim, e.g. from medical notes or from independent witnesses (see Case Studies 5 and 6 below).

Box 5: Case Study 5 - Clara

Clara had been harassed by her ex-partner following the ending of their relationship. She had made a statement to the police, and her support worker had provided the police with a record of text messages the defendant had sent to her. At the first trial date, the CPS lawyer advised Clara that the evidence was not very strong. At that point, her support worker produced the record of text messages. However, the CPS had been unaware of their existence. The lawyer produced this record for the court and the case was adjourned for the OIC to take a statement from the support worker. Two weeks later, the IDVA followed this up with the OIC who stated they had not received a memo from the CPS to take the statement. The statement was eventually taken and the defendant pleaded guilty on the day and a restraining order was imposed.

Box 6: Case Study 6 – Valerie

Valerie was harassed following the end of her abusive relationship. Her friend had been witness to this harassment. On the lead up to the trial the IDVA realised that Valerie's friend had not been asked to attend court. The IDVA therefore liaised with the CPS and Witness Care Unit to ensure this was done. The defendant was found not guilty as the judge felt his behaviour was 'foolish' but not harassment. Valerie was assisted by the IDVA to obtain a Non-Molestation Order so that she was still protected following the outcome of the case.

Inappropriate Safeguarding Responses

In over half of all cases in the 2009/10 sample, and just under half of those from 2010/11, the victims endured intimidation by the perpetrator or his associates prior to the trial. In 42% and 30% of cases in the two years respectively, such intimidation resulted in a report to the police for breach of bail conditions (i.e. an order to stay away from the victim), yet in only one in three cases in 2009/10 and in only 1 in 14 in 2010/11 was the offender arrested for such breaches (Table 17).

Table 17 – Witness Intimidation and Breach of bail

	2009/10	% of cases	2010/11	% of cases
Victim intimidated during court process	27	56%	21	45%
Perpetrator breaches bail.	20	42%	14	30%
Perpetrator arrested for breach of bail.	7	35%	1	7%

In order for victims to feel confident in attending court and giving evidence, it is important that their safety is considered by all agencies involved in the court process. However, in this research, there was evidence to suggest that the police did not always deal appropriately with breaches of bail or witness intimidation. This issue was further examined during the interviews with the IDVAs where each commented on a downward trend in arrests of offenders for breaches of bail conditions

or restraining orders. IDVAs 1 and 2 suggested that the police were judging whether the breach was ‘serious’ or involving a further criminal offence, and that otherwise little or no action would be taken. IDVA 3 described a case where the police had advised a victim that, because she could not produce a copy of her restraining order, there was nothing they could do (this despite the fact that the documentation would have been accessible to them on the Police National Computer (PNC)). IDVA 4 similarly suggested that, in her experience, officers often failed to investigate properly if there had indeed been a breach. She also emphasized the impact this had on bail applications because, without a police statement indicating the victim’s report of a breach, there were considered to be insufficient grounds to oppose bail at court:

“...I mean a lot of the time, I don’t think they’ve actually bothered going out to investigate what’s actually happened or even taken a statement. But that does kind of impact proceedings in the court, especially when he’s in custody and we go to video links and he’s applying for bail, because if there’s been a breach and the statement’s been taken, then we let the prosecutor know that actually he’s carried on contacting her and intimidating her and she’s made a statement and they’ve got it on file. Because before, there’s been a couple of occasions where I’ve told the prosecutor that this is what the woman’s told me but they’ve said we can’t do anything about it because there’s no statement, we can’t really present it in court. So then when his solicitor’s making a bail application saying that he’s not made any contact with her and he can be trusted on bail it’s believed...”

In addition, this was one instance where a significant difference was apparent between the outcomes in the 2009/10 and 2010/11 samples, which the IDVAs suggested probably reflected changes in staffing capacities and time constraints within the police due to the major reorganisation

that was instigated in April 2010 and the associated disruptive effects. However, they also commented that, even if the police did arrest for a breach of bail conditions, the court would not necessarily punish offenders effectively and that, in the case of restraining orders, the fact that so many had been imposed, perhaps tended to dilute their importance. Case studies 7 and 8 (below) highlight particular issues with the police response to breaches of bail, whilst case study 9 illustrates the benefits when such issues are dealt with appropriately.

Box 7: Case Study 7 – Sarah

Sarah was assaulted by the defendant during a party. She received a black eye and there was a witness to the assault. A bail condition not to contact Sarah or the witness or go to their addresses was imposed on the defendant. The police failed to take photographs of her injuries and were subsequently reluctant to take a statement for special measures despite numerous requests by Sarah and the IDVA. The statement was eventually taken 3 weeks before the trial but she was advised she would not know if it had been granted now until the day of the trial. The defendant breached the bail conditions both directly and indirectly. This was reported to the police but he was not arrested. Both the IDVA and Witness Care Unit followed this up and they were advised by the officer's Sergeant that he would ensure the defendant was arrested. Again, this did not happen before the trial. On the day of the trial he pleaded guilty to two counts of common assault and was given a suspended sentence and issued with a Restraining Order.

Box 8: Case Study 8 – Anne

Anne's husband was arrested for a Section 20 wounding (GBH) on her and ABH on her relative. He was on police bail with conditions not to contact them. Anne had injuries consisting of bruising and large cuts and a relative of hers had medical evidence to suggest that her sight had been affected due to the attack. The IDVA tried to liaise with the OIC to ensure they were aware of this medical evidence. However, she was informed that, due to staff changes within the team and absences for annual leave, the file had been passed between several different officers. The offender was therefore re-bailed four times over a period of 4 months. When he last answered bail, he should have been charged with two counts of common assault as the CPS had authorised. However, in error, he was released without charge and was therefore free of any conditions (e.g. to stay away from Anne). Anne was not informed of this, and it was only when the IDVA followed the matter up, that the problem was highlighted. The defendant (who had been boasting to his friends and family that he had 'gotten away with it') was eventually summonsed to court and was later found not guilty.

Box 9: Case Study 9 – Karen

Karen had been held against her will, raped and assaulted. When she made her initial statement, she had not felt able to disclose the rape. The offender was arrested for ABH and released on bail with a condition not to contact Karen. However, he subsequently breached this condition which Karen immediately reported to the police. This time, when giving her statement on the breach, Karen did disclose the rape. The Inspector on duty felt that the evidence in her statement passed the threshold and authorised a charge, albeit now with much of the potential evidence no longer available. The defendant was then remanded in custody, later pleaded guilty (half way through the first day of the trial) and was eventually sentenced to 8 years imprisonment.

Ineffective Prosecution Practice

As discussed in Chapter Three, the CPS made a commitment as early as 1993 to address the additional barriers faced in prosecuting domestic violence cases. In 2001 and 2005, this commitment was reinforced by more specific policies stating that cases should proceed even without the evidence of the victim. Furthermore, CPS guidance issued in 2009 was clear about the need to sustain charges through to conviction and that reducing the seriousness of a charge would rarely be justifiable. As will be seen in the discussion below, however, it was found in this research that cases of prosecution occurring without the victim were rare indeed, and that reluctance on the part of victims was a key reason in the majority of cases that were discontinued. Moreover, a

number of the offences in the sample were withdrawn by the CPS as part of agreements for guilty pleas, as well as many charges being reduced.

Victimless Prosecutions

Only 2 cases were identified where victims had made retractions of their statements, and yet the defendant was still prosecuted. In the first of these, the alleged perpetrator was charged with two counts of ABH on his wife and son. The son was of an age to give evidence although it was unclear from the case-file whether or not he was called to do so. The case papers indicated that the wife had retracted her statement and did not attend court, but that the CPS had decided to reduce the two charges of ABH to common assault, for which the defendant then changed his plea to guilty. In this scenario, had the CPS decided not to pursue the case when the victim withdrew her statement, the opportunity for a plea would have been lost.

In the second case, the allegation was that the defendant had assaulted the victim in a public place; that he had been shouting abuse and tugging at her handbag to obtain his keys and phone; that he then bent her hands back causing her pain; and that the victim had been punched in the eye (causing a black eye) when she tried to walk away. The case-file also indicated that the incident was witnessed by a member of the public who had called the police and that the incident had been recorded on CCTV. The CPS had decided to pursue the prosecution even though the victim had chosen not to give evidence. The defendant had initially pleaded not guilty. However, two days before the trial, he had changed his plea to guilty.

Reasons for case dismissal

While examining the case-files to ascertain reasons for case dismissals by the CPS, it was noted that 8 out of 10 of the cases withdrawn in 2009/10 were because the victim had withdrawn her statement or had declined to give evidence. Similarly, in the 2010/11 sample, 6 out of 8 cases were withdrawn for the same reasons. Furthermore, it was noteworthy that, in two of the cases from the 2010/11 sample where victims had retracted their statements, the case files indicated there to have been independent witnesses to the incidents, yet their statements had not been taken.

Figures obtained from the SDVC steering group showed that such percentages were generally typical of those across the wider area. For example in 2010/11, 89% of unsuccessful domestic violence cases heard at the study area's magistrates' court failed because no evidence was offered – whether because the victim refused to give evidence, retracted her statement or failed to attend (during April – December 2010/11). Similarly, in 75% of cases where the file had been discontinued, the stated reasons were again retraction of statement or the victim no longer prepared to give evidence. Such patterns suggest that, despite the asserted policy shift, cases were still unlikely to proceed without the evidence of the victim. They also suggest that corroborating evidence was either not being collected by the police, or was not considered to be sufficiently strong in terms of evidential weight by the CPS to continue with the prosecution in the victim's absence.

Utilizing Evidential Rules

In the case-files it was noted that a number of perpetrators had a prior criminal history and often this was related to domestic violence. Table 18 shows the number of cases where offender history was present.

Table 18 – Perpetrator previous history (2009/10 and 2010/11)

	Successful	Unsuccessful
Previous reported DV but not convicted	7	0
Previous convicted DV	20	10

In the successful sample, cases were noted where there had been previous reports to the police of domestic violence but for which the offender had not been convicted. In addition, it was noted that there were a number of offenders in both samples who had previous convictions for domestic violence (indeed, more than two thirds (22 out of 30) were repeat convictions against the same victims). Following a change in the law in 2005 to allow ‘bad character’ evidence, such conviction history could have been presented in court. Yet, despite a substantial increase in the number of offenders with previous convictions being charged, the case files recorded just two cases where such ‘bad character’ evidence was presented and in which the defendants were found guilty at court.

Down-grading offences and dropping charges

As already indicated, the analysis of case-files also highlighted the frequency with which charges were withdrawn by the CPS in return for guilty pleas. This was done particularly when the charges against a defendant were for more than one offence. Over both years there were a total of 8 offences withdrawn by CPS – 6 being for common assault and 2 for harassment. This practice was widely felt by the IDVAs to undermine the abuse that the victim had suffered, however, as case study 10 suggested, there were also instances where the CPS did refuse to reduce the charge, despite a guilty plea being offered in return.

Box 10: Case Study 10 – Helen

Helen and her teenage daughter were assaulted by her husband. Helen was slapped several times to the head and was strangled. Her daughter was unwilling to attend court and her mother agreed. On the day of the trial the defendant pleaded guilty to common assault but, on the basis that he had only slapped Helen. The CPS did not accept this plea and instead proceeded to trial on the full facts. The offender was found guilty and received a 12 month community order with and order for an Integrated Domestic Abuse Programme (IDAP) and issued with a 5 year restraining order.

Furthermore, not only were many charges withdrawn by the CPS, but also the seriousness of the offence was often down-graded at various points in the process. Over the two year period there were 25 offences that were charged below National Crime Recording Standards (NCRS). These were most commonly reported offences of ABH being charged as Common Assault, but also

included an offence of Rape being charged as Attempt Rape, GBH being charged as ABH, and Threats to Kill being charged as Harassment or Violence to Secure Entry. Similarly, the analysis of case-files revealed a number of offences that had been reduced after the defendant had been charged – these relating to two offences reduced from ABH to common assault, and another of common assault resulting in a conviction on the basis that some aspects of the assault had not occurred. Furthermore, there was one offence that was reduced from GBH (as reported) to a charge of ABH, but then eventually convicted as a common assault.

It was clear from the analysis of such cases that the most common time when charges were reconsidered and downgraded was at the early stage following initial reporting. It was also evident from the data that potential ABH cases were the most likely to be charged at a lower level than the NCRS standards. Here it is pertinent to note that cases of ABH would mostly be heard in the Crown Court (because of the longer custodial sentencing powers available to the judges there) whereas common assaults could be heard summarily in the magistrates' court. Arguments typically proffered by CJS practitioners for down-grading such offences were that the chances of achieving a conviction would be stronger in the magistrates' court (without a jury), and also that they would be faster and so less burdensome for the victim. However, such arguments would tend to ignore the possibility that the victim might be left feeling that justice had not been done and that the punishment did not sufficiently reflect the injuries and trauma experienced. Furthermore, the Code for Crown Prosecutors states that:

“Where a charge contrary to section 47 has been preferred, the acceptance of a plea of guilty to common assault will rarely be justified in the absence of a significant change in

circumstances that could not have been foreseen at the time of review” (Consideration 18, CPS, 2009).

Indeed, the Code goes on to suggest that:

“There may be cases where the actual injuries suffered by a victim would normally amount to common assault, but due to the presence of serious aggravating features, they could more appropriately be charged as actual bodily harm contrary to section 47” (Consideration 16, CPS, 2009).

The Code explains that such aggravating features could include the nature of the assault (such as use of a weapon, biting, or kicking whilst the victim is on the ground) or the vulnerability of the victim (e.g. if elderly, disabled or a child). While such assaults in a domestic context involving the use of weapons, biting, kicking, and involving vulnerable victims are generally all too commonplace, in the particular sample for this research no cases were found where a more serious charge was eventually pursued than had been first proposed. The case of Esther (below), is probably one where justice was seemingly done in this respect (case study 11).

Box 11: Case Study 11 – Esther

Esther suffers with a chronic health condition and uses a walking stick. She was assaulted by her husband who held her in a head lock, pushed her, slapped her to the face, attempted to strangle her and bent her fingers back. He was arrested and charged with common assault. At the first trial, the defendant did not have legal representation and so the case was adjourned. At the second trial, the CPS did not have the full file. However the defendant pleaded guilty to common assault on the basis that he had not slapped her, attempted to strangle her or bent her fingers back, but only pushed her aggressively. Esther was then informed she was no longer required to attend court due to the guilty plea. However, when the IDVA explained the basis of his plea, Esther was adamant that she wanted to attend court and give evidence. At the next hearing, the defendant pleaded guilty to the full facts of the case and was sentenced to a 12 month community order and a restraining order for 2 years.

From the interviews with the IDVAs, it was clear that whilst there was understanding of why charges might be reduced on certain occasions (particularly to increase the likelihood of a guilty plea thus avoiding a trial for the victim and saving the court time and money), strong views were expressed about other potential (and negative) impacts on victims. For example, IDVA 3 responded to a general question about how, in her experience, victims felt about charges being down-graded:

“...Belittled. That the abuse has been minimised. That perhaps... that she’s been made to feel that she’s exaggerated how she’s felt, the injuries that she’s sustained, that actually it’s

minor; and what she's experienced is not minor. So a lot of the women are just, well, how can he do this to me and it's said that it's just a common assault? You know, a common assault is from just pushing somebody. And she's like, I received more than a push, I've got a black eye, I've got bruises on my back, I've got this, that and the other, how can that just be a common assault? And I have explained it to women, but in all honesty it's something that I don't like doing because I feel kind of responsible that I can't do more to get it put back to a 47..."

IDVA 1 explained that if the CPS wanted to agree to a lesser charge on the day of the trial to secure a guilty plea, some victims would push to give their evidence in order that the defendant be convicted at the higher charge. She suggested that, from her experience, victims often felt it more important that the perpetrator was prosecuted for the actual offence as they saw it, rather than achieving a (lesser) conviction. Furthermore, Senior Manager 2 commented on how the victims' history could also play a part in charges being reduced – for example, if a victim has a chequered past and her credibility as a witness was questioned by the defence, the CPS might prefer to reduce the charges to avoid having to call the victim. In addition, Senior Manager 2 commented on the impact she felt charge reduction must have on the victim:

"...Can you imagine if you think something is like GBH and its taken down to ABH, how do you feel? It doesn't matter how physiologically strong you are, you can't help but absorb the message that actually this is not as serious as you think it is..."

Of particular concern therefore, was a point raised by IDVA 2:

“...It is more difficult if it has happened without her knowledge and behind closed doors. She thinks he is being charged with one thing but when it gets to court it is a different offence and that is difficult to explain. You then have to go back to the prosecutor and ask what happened. The prosecutor should put it in writing if they change the charge and talk to her if she wants to know why. It can be a battle to get that dialogue and understanding between case workers and the victim...”

Police and CPS Practice - Summary

As the discussion thus far has shown, a number of issues were identified from the case files analysis and IDVA service interviews that suggested practices in the police and CPS did not conform with the policies their services had introduced and, as such, did not appear to be supporting the work of the DVCAS. In attempting to understand why this was happening, it is necessary to return to the programme theory outlined in Chapter Four. As that showed, policy changes in the police and CPS created the potential for officers and prosecutors to support the outcome of increased successful prosecutions (Table 19). Such potential was articulated in the mechanisms of ‘Empowered Criminal Justice Actors’ and ‘Robust Evidence’, whereby, had the context been favourable, positive outcomes might have resulted.

Table 19: Initial Programme Theory

Mechanisms triggered by the interventions.	Contexts that enable the mechanisms to come into action.	Outcome if the mechanism is triggered in the right context (all of which contribute to the outcome of improved successful prosecution rates for DV offences)
<p>Empowered Criminal Justice Actors –</p> <p>criminal justice personnel can pursue cases of domestic violence vigorously and without the evidence of the victim IF:</p>	<ul style="list-style-type: none"> • Domestic violence is subject to performance monitoring. • Policies on domestic violence cases are clear and communicated to all staff. • Communication between police and CPS is effective. • Resources (inc financial) are made available to fully investigate offences. <p>(Which can lead to..)</p>	<ul style="list-style-type: none"> • Better quality of investigation. • Less reliance on the victim's statement. • Victimless prosecutions.

Robust Evidence – can improve the quality of the investigation IF:	<ul style="list-style-type: none">• Resources are made available for evidence to be collected.• Police officers are able to dedicate time to collecting evidence.• CPS advise officer's on further evidence that can be collected. <p>(Which can lead to..)</p>	<ul style="list-style-type: none">• Guilty pleas at an early stage.• Victimless prosecutions.• Fewer offences reduced at charge.
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However, outcomes such as victimless prosecutions, fewer reductions in charging, better quality investigations, less reliance on the victim's evidence, and more guilty pleas at earlier stages, were not found in the samples analysed in this research. To understand better what had been happening here - why police and CPS operational practices did not conform with the official policies and so failed so often to support the DVCAS in the study area - it is perhaps helpful to reflect further on how policy developments in the police and CPS *should* ideally have worked in support of the DVCAS and then consider the contextual factors that might be seen to have prevented the mechanisms from realising their potential.

Potential Mechanisms

‘Empowered Criminal Justice Actors’ Mechanism

The CJS is essentially the summation of a large number of separate individual decision-making processes and decision-makers, each with their own rules, procedures, values and potential for the exercise of discretion, judgement, misunderstanding and mistakes. Whilst one police officer or prosecutor may be particularly reluctant to intervene in domestic violence, their colleague may happen to be strongly committed to pursuing any reported instances. The vast range of policies aimed at improving criminal justice responses in this respect aim to minimise the scope for discretion, judgement, misunderstanding and mistakes by providing clear guidelines for all practitioners, regardless of their personal standpoints. Certainly this has been an overriding objective of policy development by both police and CPS in relation to the handling of domestic violence cases. As stated in Chapter Three, the police introduced a positive arrest policy, whereby

officers must take positive action when attending a domestic incident. Furthermore, ACPO introduced national guidelines for investigating offences in the domestic violence context. With regard to the CPS, a number of national policy documents have been published outlining how prosecutors should approach domestic violence offences and have articulated clear organisational commitment to a robust response in all such cases. Furthermore, to support such policies, both the police and CPS have provided specialist training for their staff to ensure that the policies and practice expectations are well understood.

The 'Empowered Criminal Justice Actors' mechanism can thus be understood as creating the potential for individual police officers and prosecutors actively to pursue domestic violence cases and treat them seriously. This potential is facilitated by the positive action policy in the police, and the push for 'victimless prosecutions' within the CPS. The policies should create the opportunity for individual officers to feel empowered to arrest a suspect and to gather as much evidence as is available. The result should then be a better quality investigation that would be less reliant on the victim's statement, which should in turn assist decision-making by the prosecutor, who should also feel empowered by policy to pursue the case, regardless of the victim's personal support. However, as has been seen in the above discussion, only two examples were apparent in the research sample of a 'victimless prosecution', and little evidence of appropriate action being taken regarding breaches of bail or instances of victim/witness intimidation. The outcomes presented above, therefore hardly suggest success in promoting practices in line with official policy.

‘Robust Evidence’ Mechanism

The use of corroborative evidence (including head-cams, photographs, 999 tapes, and neighbours’ statements.) could have increased successful outcomes by:

- Enabling the victim to understand the severity of the situation, thereby encouraging her to support the prosecution.
- Encouraging offenders to admit their guilt by gathering evidence that could not be refuted.
- Putting prosecutors at the scene and enabling them to see the situation first-hand.
- Enabling magistrates to make informed sentencing decisions based on the level of injury sustained.

As the above discussion has shown, a number of outcomes identified in the case study samples suggested that the ‘Robust Evidence’ mechanism was not being realised. These outcomes included a number of reported offences not being charged, a retraction statement from the victim resulting in termination of the case, comments from the IDVAs regarding poor quality photographic evidence, inconsistencies in the victim’s evidence not identified until the trial, the perpetrator’s previous history not being presented as ‘bad-character’ evidence, as well as independent witnesses not being called. Furthermore, over both sample years, 78% of all cases dismissed ended this way because of ‘victim issues’ and particularly a lack of corroborating evidence with which to proceed. Had this mechanism been effective, it would have been reasonable to expect a higher rate of victimless prosecutions, more perpetrators pleading guilty at an earlier stage and less charges being reduced.

Understanding the importance of context

In order to understand why these mechanisms failed to achieve their intended outcomes and to operate in support of the DVCAS in increasing successful prosecutions, it is again necessary to consider the different contexts within which they were operating. In practice, these were found to include a lack of awareness regarding domestic violence, an over-reliance on the victim, and the impact of austerity and budget reductions. As will be seen, some of these contexts were identified during the course of the fieldwork for the research rather than as part of the initial theory-building stage.

Domestic Violence Awareness Context

One of the ‘contexts’ initially considered likely to explain the above outcomes, concerns the depth of understanding by criminal justice practitioners of the phenomenon of domestic violence. The IDVAs were mostly quite sceptical about the level of appreciation particularly within the police about domestic violence, with IDVA 1 commenting:

“...I think there is still a very significant negative atmosphere towards the fact that it’s DV and it’s not real victims and real crimes...”

IDVA 1 suggested that because the chance of a conviction was so low for DV offences, many officers tended to target other offences such as burglary and robbery instead. IDVA 2 went on to suggest how a lack of understanding by officers could impact on victims:

“...Police do not like repeat calls and women who keep calling the police and then retracting, saying they don’t want to press charges. That is when police start to judge and become apathetic. When women retract the police do not understand the bigger picture;

the safety element, she's back together with him, she's scared, she can't face coming to court and it is affecting her health..."

Manager 1 suggested that officers simply did not try to understand ‘*where victims were coming from*’ and as a result, felt they became harsher with victims who wished to retract, without appreciating that this was so characteristic of DV cases. However, the research highlighted how it was not just police officers who appeared to misunderstand the dynamics of an abusive relationship and the risks posed by perpetrators. IDVA 2 recalled a particular incident whereby a lack of understanding impacted significantly on the safety of the victim:

“...For instance, one day this week a prolific offender was in court. I have worked with three of his victims and he got bail. I nearly fell over in court and even the legal advisor looked at me and said “He shouldn’t have got bail” in front of the magistrates who were behind her. If that had been a judge they would have refused bail. He set fire to his first victim that I worked with. He burnt all of her chest. The second one was NFA as they can’t prove it is harassment. The third one he has assaulted. He is moving onto his next one and they gave him bail. That wouldn’t have happened in front of a district judge. He would have been remanded in custody. The prosecutor said “I tried my best to get him in custody based on his previous assaults and violence and they gave him bail.” They are specialist trained magistrates but there are so many inconsistencies that even if you were in front of our legal advisor, Helen – our domestic violence link – she couldn’t even convince them not to give him bail...”

Respondents also pointed to an overly narrow focus on DV as physical assault; a misapprehension that it was usually an ‘argument that got out of hand’, and an inability to recognise the nuances of

an abusive relationship – in many cases, that a perpetrator only had to look at his victim to exert control over her. As Senior Manager 3 described:

“...One of the things that I always think about is when people talk about the look, and that is when men look at women who they’ve lived with or been in a relationship and can give them a look that’s very threatening, and they don’t need to say a word, and actually people in the court probably won’t even notice it. But actually, the fear that that can put into women who have been affected by violence is phenomenal....”

In the interviews it was suggested that, because of such misunderstandings among police officers and prosecutors, about the dynamics of domestic violence, their approach to dealing with such crimes was often misconceived – and with the effect that not as much effort was invested in the cases compared with others seen as ‘real crimes’.

Victim Reliance Context

A second ‘context’ to be identified related to the tendency to focus narrowly on the victim as the key source of evidence. It has been well documented in the literature that the police do not regularly seek to secure evidence other than from the victim, and that the CPS are reluctant to pursue a case without a supportive victim (Hoyle, 1998, Ellison, 2002, Hester, 2005, Vallely, 2005, HMCPSI, 2004). Such over-reliance on the victim was illustrated in the research by the fact that only 2 out of 95 cases progressed without the victim’s evidence; that in the unsuccessful sample, victims were 7 times more likely to have retracted their statement; and that in 78% of cases that were dismissed, the reason given was directly related to the victim having retracted her statement or declined to give evidence.

Furthermore, the interviews with IDVAs highlighted the potentially serious consequences of relying solely on the victim. As IDVA 1 described:

“...There doesn’t seem to be an effort to collate anything else to support a victimless prosecution when they are already aware that a victim is not willing. The course of action is always, “We’ll summons her and we will force her into the stand” and in this particular case the barrister was quite polite, but he said to the woman, “You have been summonsed under a court order. I want to put you in the witness stand. If I ask you questions and you don’t answer them, the judge has the power to hold you in contempt of court, which means that you could have a fine or worse and the or worse is a prison sentence. She could actually go to jail for 30 days if she’s held in contempt by the judge because the court order says she must respond in the court process...”

Whilst the CPS could be commended for actively trying to pursue cases of domestic violence, by following this course of action, they could equally be criticised for abusing the victim further. Moreover, in many cases poor evidence-gathering by the police in the initial stages of an investigation was the cause of victims becoming the only source of evidence available to the court. Such reliance on victims’ evidence could be seen within a context of victim-blaming; a context, in which the victim would be at risk of punishment by the court for not supporting the prosecution, irrespective of the abuse she had already experienced and the impact of that on her mental and physical wellbeing. An interesting, albeit speculative question (beyond the scope of this thesis) that arises here would thus be whether victims of other crimes are treated in a similar manner.

Budget Reduction Context

A third ‘context’ identified in the research concerned financial resources and the implications of the climate of budgetary austerity in the public sector, affecting the police, the CPS and the courts alike. This, however, was a context that developed significantly during the life of the research project.

In April 2010 the study area’s police force implemented a large-scale re-organisation. Within the principal city within the study area, the organizational structure was rationalized from 9 Operational Command Units, to just 4. This involved a similar reduction from 9 to 4 Public Protection Units (PPUs). However, it was not just the number of units that changed, their role and function was also changed at the same time. Prior to April 2010 a PPU had consisted of a Domestic Violence Unit (with at least 2 officers), a Vulnerable Person’s Officer, Sex Offender Managers, Missing Person’s Officer and the Child Abuse Investigation Unit. However, as part of the reorganisation, the specialisms of handling Domestic Violence and other cases involving Vulnerable Persons were reassigned to newly-established Adult Abuse Officers, and Child Abuse Officers. Such roles within the PPU were also redefined – changing from those of supporting victims, holding officers accountable, risk assessing and safety planning, to that of CID officers, investigating crimes against adults or children. More than this, however, after the reorganisation, only the most serious cases of violence (e.g. of GBH, rape, attempted murder and so forth) were to be handled by the Adult and Child Abuse Officers, with the result that the majority of DV cases would no longer reach the PPU.

At about the same time, the 2010 General Election took place and the formation of a Coalition Government prompted a further dynamic here – that of an emergency budget and new, and much reduced, public spending plans were announced to address a national budget deficit.

Impact of Budget Reduction – Police

During the period of this research, the police had experienced the impact of resource reductions at least twice, first in implementing the re-organisation and second, as a consequence of national funding reductions for policing.

So far as the implications of the re-organisation, it was clear from respondents that this had a significant impact on the IDVA service. A major concern for IDVAs was the difficulty they now experienced in communicating with the police. Interviewees explained that there were no longer named officers dealing with each case (unless the victim was deemed to be high risk and, as a consequence, the investigation was assigned to the PPU). Thus, any requesting statements required for special measures or for Victim Personal Statements became more difficult to make. The lack of a designated officer also impacted on the ability of IDVAs to ‘safety-plan’ with victims following the outcome at court, with no named officer to inform if the perpetrator had been released and the victim was in need of protection.

IDVAs and their managers also pointed to the shift in focus to ‘high risk’ cases, suggesting that police resources (and time) were now no longer available for preventative work. They also suggested that the lack of available resources was impacting negatively on police officers’ ability to gather evidence, limiting their responses to victims at the scene, and causing more failures to deal with breaches of bail or breaches of restraining orders. Indeed, there was general consensus

among interviewees that since the re-organisation and the budget cuts, domestic violence had lost its priority status in the study area.

IDVAs were unanimous in their opinion that the loss of Domestic Violence Officers had had the greatest negative impact for victims reporting domestic violence to the police. Interviewees explained that DVOs had provided a key point of contact for victims (as well as for themselves as IDVAs). The decision to remove the function entirely from the PPU, had left the IDVA service ‘fighting’ – both for referrals into their service and for information for women. Significantly, the number of referrals from the police to the IDVA service had dropped immediately following the abandonment of DVO posts and it had been necessary for IDVAs to start over again in building relations with the police and in raising awareness of their service - but now in relation to a much wider group of officers – any of whom could be dealing with a DV case. As Senior Manager 3 suggested:

“...I think the loss of DVOs has completely undermined the criminal justice agenda for women...”

Impact of Budget Reduction – CPS

As indicated, reduced budgets had consequences for the CPS as well as the police. In this respect, the IDVAs described CPS lawyers as now being ‘snowed-under’ and how they were often having to deal with much larger lists of cases in court, with domestic violence cases mixed in with others, and with little or no time available for reading the files in any detail. They also commented that CPS prosecutors now rarely had time to speak to victims directly, leaving this task to the IDVAs. As IDVA 1 explained, the lack of time to read files could have a significant impact for victims:

“...When CPS bring a case for a first hearing, it sounds so negative, it's very often they're sitting with 15 files in court two. So just say we're in court two and they're doing everything; they're doing first hearings, they're doing drunk and driving offences, whatever it is they're doing, and they're almost always asked by the legal adviser, “Do you want special measures or a bad character application?” And nine times out of ten the CPS will say, “I don't know” and they only have 14 days from the date of the first hearing to actually submit that application...”

Such knowledge problems would, of course, potentially affect whether or not a victim attended court, with attendance more likely if IDVAs were able to advise them that special measures had been requested and granted. If, however, the 14 day application period were to be missed, and it was necessary to wait until the day of the trial, this would likely be a major cause of anxiety for many victims, in some cases, perhaps leading to decisions not to attend court at all. The IDVAs also explained that because the CPS did not have time to speak directly to victims, they would rarely be aware of whether restraining orders had been requested. For this reason, IDVAs had made it their business to inform CPS and to attend Pre Sentence Review hearings to ensure restraining orders were indeed requested.

More than one IDVA interviewee also suspected that budget cuts were impacting on CPS decision-making, suggesting that the reason why so many charges were reduced by CPS was that they were keen now to avoid the additional costs of sending cases to the Crown Court. Meanwhile, another made a similar point in relation to shortages of available prison space impacting on CPS decisions.

Impact of Budget Reduction – Court

Here too, the interviews highlighted the impact of budget cuts on the operation of the SDVC, even to the extent that the reality of a ‘specialist court’ in the study area was now to be questioned.

A prominent symbol of such a specialist court would inevitably be the designation of a particular courtroom in which DV cases would be heard. When initially established, the relevant cases for the SDVC had been ‘clustered’ into Court One for all first appearances; thus ensuring the availability of a suitably trained prosecutor, an experienced legal adviser and a specially trained bench of magistrates too. The arrangement also helped to ensure victims would be supported by the IDVAs as they too would be located in this particular courtroom. However, as IDVA2 explained, this all changed in 2010:

“...When the cutbacks came in and domestic violence wasn’t happening enough for them it became the community court. They had drug offences in there, dangerous dog cases and community related offences...”

Moreover, the position changed again later, so that domestic violence cases were now being heard in any available court. This meant that no longer would there automatically be a group of specialists involved in the DV cases, and no certainty that the victims would see the IDVAs either:

“...If you’re trying to locate the domestic violence, get the information, take on the new referrals and support the prosecutor you can’t be in four places at once. That is a difficulty and that bit of a specialism has gone...” (IDVA 2).

A further issue related to the number of trials being listed in any one court. Prior to the budget cuts, there would have typically been no more than two trials listed per session (a morning or an

afternoon) in a courtroom. However, as IDVA2 pointed out, this situation too was to change markedly:

“...Due to the cutbacks most trials are triple or quadruple listed. Most trials will have more than one domestic as the fear is the witnesses won’t turn up. Due to this, the argument that is being put forward from the domestic violence forums within the courts, is that they should be listed with non-domestic related trials so that if the victim does turn up she will take precedent and go first. Listings still don’t understand...”

The result would be more anxiety for many victims because of the increased likelihood of a postponement and the need to return at a later date. Perhaps understandably, some victims would not reappear. Similarly, triple listing for the afternoon sessions(i.e. scheduling three cases in a session that could realistically only cater for one in the time available, on the pessimistic assumption that at least two would not proceed or conclude prematurely for one or other reason) was impacting on those victims needing to collect their children from school. The changes in listing practices would also impact on the speed with which cases progressed through the court. As IDVA 1 explained:

“...The fast tracking trials has gone for a board of chalk because IDVA 2 had one this week which was a third adjournment. Now that should be unheard of in terms of Specialist Domestic Violence Court, so it’s supposed to go from start to finish in six weeks. That’s part of the reason we set them up...”

A further concern raised in the interviews was that of cases being transferred (‘swept’) between courts at very short notice. As IDVA 1 described:

“...This idea of sweeping the court and taking a file from one CPS solicitor and giving it to another one so as he has to ask a judge at quarter to three, or the Magistrates’ bench, for half an hour because normally they say, “Give me 20 minutes” because they know the court will go, “It’s three o’clock. If we don’t start this trial now we won’t get it finished.” So when they’ve swept the court it takes ages to find another solicitor available at the CPS and they’re asking for time, they ask for the minimum amount of time otherwise the case is not going to get heard and that affects their stats doesn’t it?...”.

These concerns were underlined by IDVA 2:

“...Due to the cutbacks and the closing courts, cases are often moved quickly between courtrooms and that prosecutor has never seen that file before. They pick it up for five minutes and speed read it, including for trials, and make quick decisions..”..

Together, such comments painted a picture of a court that was neither operating predictably, nor appearing to function as the SDVC it still claimed to be. From the comments of managers of the service, it was clear that they, too, now had doubts about the reality of the concept of an SDVC in the study area. Manager 1 explained that, while there was a protocol still in place, since the cuts had come into effect, it no longer appeared to be effective. Senior Manager 2 commented that the IDVA service seemed to be the only functioning aspect of the SDVC, whilst Senior Manager 3 expressed concern that, in its current state at least, the court could no longer be considered a safe place for victims.

One further court-related issue, again the subject of change during the course of the research, concerned sentencing practices in domestic violence cases. Here, a clear dichotomy had been noted

between the sentences actually dispensed in the case study sample and the perceptions of sentencing as discussed by the IDVAs. Probably this was (in part at least) a reflection of, on the one hand, the time delay between the cases being heard and sentences being imposed (in April 2009-April 2011) and, on the other, the time the interviews were conducted (in 2012). In summarising their personal views on the sentencing of offenders of domestic violence, the IDVAs were unanimous in their disappointment. Three of them described having had to relay news of the sentence to a victim as the worst part of their job. IDVA 1 suggested that it was rare for a victim to feel that justice had been done:

“...I can’t believe I went through all that. I’ve been through all that and your telling me that he’s got a community order or he’s got a fine? How does that punish him for what he did to me?...”

Similarly IDVA 2 commented on the impact on victims when offenders were given just a fine:

“...Women don’t grasp when they get a fine. They feel he will pay two pounds per week out of benefits for the next ten years and how is that a punishment? That is the harshest sentence a magistrate can give a man from a woman’s point of view...”

Interestingly, only 3 cases of fine impositions (less than 2% of the sample) were found in the case-files selected. However, the interviews suggested that use of fines had been increasing in recent months. Furthermore, the issue of ‘justice’ in sentencing was discussed by IDVA 3 and Senior Manager 2 with regard to the UK riots of summer 2011. As Senior Manager 2 explained:

“...If I compare it (sentencing) to the outcry about the riots last August, and huge sentences being passed down for young people texting each other and calling other young people to

a particular scene and how that was viewed; and Facebook, somebody put something on Facebook; somebody nicked a bottle of water. And you think of the severity of sentences because judges wanted, politicians also – although judges will say they weren't influenced by this, but clearly they were in my opinion- they wanted a message to be sent into society: this is wrong, we don't care that you just nicked a bottle of water but we're still going to send you down etc. Now, why can't that approach be addressed to domestic violence? I think very, very strong messages would be sent through society..."

In discussing restraining orders, it was generally felt that such restrictions worked well in making victims feel safer. However, concern was expressed around inconsistencies in their use by magistrates, as well as about their unreliable enforcement by the police. Such comments from IDVAs suggested that sentencing practices had indeed changed in recent times (i.e. during the research period), again underlining the view that offences of domestic violence were now being given less careful attention since the financial cut-backs.

Wider Impact

In addition to the impact of budget cuts on the criminal justice system, the interviews highlighted several other impacts of the Government's 'austerity' measures on victims of domestic violence. These included the increasing difficulties for many victims in accessing suitable housing and benefits, as well as the closure of a number of other support services that victims would have previously been able to access (such as the Asian Women's Resource Centre, Children's Centres, Libraries, BME domestic violence services and immigration specialists). These issues were felt likely to increase the sense of isolation and vulnerability for victims of domestic violence and make it harder for them to continue with criminal prosecutions.

Chapter Summary

As this chapter has identified, the findings of this research highlighted a number of aspects of practice by both police and CPS that could be seen to contradict the aims of the DVCAS. The potential mechanisms of ‘Empowered Criminal Justice Actors’ and ‘Robust Evidence’ were found generally not to have led to the expected outcomes, and this because of various issues of context. In particular, the issue of reorganisation and budget reductions were identified during interviews as directly impacting on the level of successful court outcomes. The fact that priorities in the study area changed following their re-organisation (with DVO posts being abolished), appeared to have impacted on the ‘Empowered Criminal Justice Actors’ mechanism. Reductions in capacity of the police appeared similarly to have impacted on their ability fully to investigate such crimes. Likewise, organisational change in the CPS had impacted significantly on their ability to assign specially-trained prosecutors to domestic violence cases and which in turn would probably account for some of the outcomes highlighted in this chapter. As Table 20 shows, whilst the policies introduced by the police and CPS were, in theory at least, supportive of the DVCAS and, as such, aiming to increase the number of successful court outcomes, the challenging contexts within which they were implemented appear largely to have prevented the aims from being achieved.

Table 20: Programme Theory – Unintended Outcomes

Outcomes that contradict those intended by the interventions.	Mechanisms that should have been realised.	Contexts that prevented the mechanisms being realised.
<p>Ineffective Investigation:</p> <ul style="list-style-type: none"> • 19 offences reported to the police but not charged. • In 78% of cases that were dismissed by CPS, this was directly attributable to the victim retracting and there being no corroborating evidence. <p>Inappropriate Safeguarding:</p> <ul style="list-style-type: none"> • Only 35% (2009/10) and 7% (2010/11) of perpetrators were arrested for breach of bail, 	<p>Mechanism D: Robust evidence:</p> <ul style="list-style-type: none"> • If the police had used head-cams, photographs, evidence from neighbours or other witnesses, and medical evidence - this could have negated the need for the statement of the victim at court and could therefore have led to more ‘victimless prosecutions’. • The ‘irrefutable’ evidence could also have led to guilty pleas at an earlier state in the process, and less charges being reduced or dropped as there would have been independent evidence of injuries sustained etc. 	<p>DV awareness context:</p> <p>Because in general, agencies and some individuals in the CJS do not understand domestic violence or attempt to understand the pattern of abuse that exists, then this has impacted on whether individuals proactively target DV offenders, as well as influencing whether officers devote time (or were allowed to devote time) to gathering all possible evidence. (Mechanisms D and E)</p> <p>Victim Reliance Context:</p> <p>Because CJ agencies rely heavily on the evidence of the victim, from the</p>

<p>thereby not helping victims to feel safe about attending court.</p> <p>Ineffective Prosecution Practice:</p> <ul style="list-style-type: none"> • 8 offences charged by CPS were not convicted due to an agreement between the defendant and CPS for a plea. • 25 offences down-graded either at charging stage or conviction. 	<p>Mechanism E: Empowered CJ actors:</p> <ul style="list-style-type: none"> • If officers or CPS lawyers had felt actively encouraged to pursue other lines of enquiry or evidential routes by their policies or through direction from management, this could have led to more victimless prosecutions. • If officers had felt that a domestic violence conviction was a priority, they may have been more inclined to follow up on a breach of bail as it could influence the court outcome. • If officers felt actively encouraged to pursue DV offences vigorously, they would be keen to charge offenders for all possible offences. 	<p>evidence gathering stage, through to the decision to charge based solely on the victim's evidence, through to summoning the victim to attend court, then this places the burden of a prosecution solely on the victim and leads to a situation where they are further victimised by the CJS. It also means that if there is any inconsistency in the victim's statement, or they withdraw their support, the case will not proceed. (Mechanisms D and E)</p> <p>Budget reductions:</p> <p>In a context of fiscal constraint and budget reduction, CJ agencies have experienced greater demands on their resources, with decisions being taken regarding priorities which in the case of the study area, has not seen domestic</p>
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	<ul style="list-style-type: none">• If CPS lawyers felt actively encouraged to pursue DV offences vigorously, they may be less inclined to reduce the severity of charges or drop some charges as part of a plea.	<p>violence maintain its prominence. (Mechanisms D and E)</p> <p><u>Temporal Context Issues:</u></p> <p>It is important to note that the issues of reducing charges and withdrawing as part of a plea were occurring before the recent budget constraints were implemented suggesting they cannot be explained solely as a resource issue.</p>
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CHAPTER SEVEN:

DISCUSSION

This chapter focuses on what are considered to be the key contributions of this thesis, on the one hand to an understanding of responses from the criminal justice system to the problem of domestic violence against women, and to the associating policy and practice implications for the key agencies and, on the other, to the science of evaluation and development of methodology in this respect. The chapter begins by restating in summary form the existing knowledge base regarding IDVAs and SDVCs, before exploring how the thesis has advanced understanding and provided new knowledge and insight for policy makers and practitioners in criminal justice. The discussion then moves on to consider the contribution in terms of its application of RE (Realistic Evaluation) and what it adds in this respect to the still relatively small number of studies based on this methodological framework.

Understanding IDVAs and SDVCs prior to this research

Prior to this thesis, little was known about the impact of an IDVA service operating within a SDVC on the successful prosecution of domestic violence offences, despite that having been a key aim of the policy initiatives when introduced in 2005. As identified in Chapter Two, the response of the criminal justice system to domestic violence in England and Wales has been the subject of much criticism since the 1970s (see Dobash and Dobash, 1979, Cretney and Davis, 1996 and 1997,

Edwards, 1991, Hoyle, 1998). Most research to date has focused primarily on the police and their longstanding tendency to treat such cases as private ‘family’ matters, rather than as one to invoke the criminal law. Whilst smaller in number, studies of the prosecution, conviction and sentencing of domestic violence offences had also highlighted similar attitudes and behaviours that also resulted in only a minority of victims securing justice (Cretney and Davis, 1996 and 1997). Existing research therefore, described a criminal justice response to domestic violence that was undoubtedly leading to the secondary victimisation of domestic violence victims – by undermining their experiences and failing to offer them protection. Explanations for such responses emphasised the impact of a patriarchal society that has tended to serve the interests of men over women (Dobash and Dobash, 1979, Edwards, 1991).

As social policy has developed and new policy responses of criminal justice agencies emerged (as described in Chapter Three), research has sought to determine what impact those policy responses were having on the situation (HMCPSI, 2004, Hester 2005, Hester and Westmarland, 2005, Home Office 2006, 2008a). In relation to the police, for example, commitments were made in the late 1990s to pursue domestic violence offenders more actively (through the introduction of ‘positive action’) as well as thorough new investigative guidance emphasising the range of evidential options that should be explored. The CPS similarly dedicated a substantial amount of policy attention to domestic violence at about the same time, not only emphasising the importance of using all available evidence (not only the statements of victims), but also actively pursuing cases wherever possible, and only resorting to reduced charges or withdrawing from prosecution in exceptional circumstances.

However, as suggested in Chapter Three, only a very limited amount of research to date has focused on the extent to which such policy commitments have been adhered to in practice; the indications being that arrest rates were remaining varied and, for the most part, with limited evidence-gathering by the police beyond the statement of the victim (HMCPSI, 2004, Hester and Westmarland 2005). While very limited research has been undertaken on CPS practices, the few studies to date had similarly suggested that prosecutions still rely heavily on victim participation (HMCPSI, 2004). Following the launch of Special Domestic Violence Courts (SDVCs), the findings of a national evaluation (Home Office, 2008a) suggested that outcomes had improved but that there remained wide variation amongst the local court areas studied. Factors that were found to impact on successful outcomes included: strong multi-agency partnerships; effective systems for identification of cases; Independent Domestic Violence Advisers (IDVAs) with a focus on supporting victims at court; well-trained and dedicated staff; clustered court listing (or a combination of cluster and fast-track court listings); and criminal justice perpetrator programmes (Home Office, 2008a, p. 6).

In relation to IDVAs, however, none of the three evaluation studies (Robinson, 2009, Howarth et al, 2009 and Coy and Kelly, 2010) offered empirical evidence of their impact on prosecution rates in SDVCs. This was largely because the studies had focused more on a separate policy initiative - the introduction of Multi Agency Risk Assessment Conferences (MARACs). Having said this, whilst the IDVA role per se had yet to be evaluated (in relation to the SDVC), a small number of UK studies had indicated a link between supporting victims at court (by Domestic Violence Officers or support workers) and successful court outcomes (see Hester and Westmarland 2005). Such studies suggested not only that victims were more likely to continue with the prosecution if

they received support, but also that more defendants decided to plead guilty and conviction rates increased (though the reasons behind this were not entirely clear). However, this apparent relationship between better support for victims and improved court outcomes was key to the Government's decision in 2005 to fund IDVA services alongside the SDVC programme, reflecting the experience of specialist courts in countries such as the USA and Canada.

From the review of policy and academic literature in Chapters Two and Three it was apparent that understanding of the impact of a DVCAS on successful prosecution rates was very limited. Additionally, there was little clarity about the role of the police and CPS in providing support in this context (other than Vallely et al, 2005). Indeed, it was evident that the police and CPS had different understandings of IDVAs and SDVCs and how their respective agencies were expected to relate to them. For example, documents from the police talked of IDVAs as expert witnesses (ACPO, 2008), yet no such role was mentioned in CPS policy documentation (CPS, 2009). Furthermore, both the police and CPS referred to IDVAs as supporting high risk victims as well as being part of the SDVC programme. Therefore, it seemed an important area for further research, and particularly with additional focus on the policies and practices of the police and CPS, to develop the programme theory of how a DVCAS, working alongside the police and CPS, might impact on increasing successful prosecutions for domestic violence offences.

Contributing to Understanding and Policy/Practice Development

This thesis has made a number of contributions to the literature. Most importantly, it has shown the impact that a DVCAS can have on increasing successful prosecution rates and how the practices

of the police and CPS have worked alongside (and as we have seen, in some respects, against) this aim. The further contributions of this research include: articulating a dichotomy regarding the IDVA role; identifying the causal mechanisms that were found to have led to positive outcomes (including reducing the potential for secondary victimisation), identifying the enabling contexts within which these outcomes occurred; contributing to the evidence base regarding current policy implementation in the police and CPS; providing an understanding of how the SDVC in the study area currently operates according to the principles of the 2006 SDVC Resource Manual (Home Office, 2006a); and identifying the mechanisms that failed to operate successfully and the contexts that prevented them. In the following discussion this chapter will explore these contributions in more detail before reflecting on their implications for policy and practice.

The relationship between IDVAs, SDVCs and MARACs

One of the first contributions of this thesis has been to articulate the dual role of IDVAs, as shaped by the policy literature, and the implications here for a DVCAS. As discussed in Chapter Three, the initial policy guidance in 2005 was clear that the IDVA role was central to the SDVC programme – the central aim of which was to hold more offenders to account, whilst supporting victims through the process. However, as MARACs developed, the IDVA role has become more closely aligned with supporting victims through this multi-agency risk-assessment-process, so that the term IDVA has almost become synonymous with support for victims at ‘high risk’ (see Coy and Kelly, 2010). Certainly the work of many IDVAs across the country is strongly focused on these victims. In such circumstances, their role in relation to the wider cohort of victims of domestic violence has tended to be somewhat neglected, with Government’s guidance (for funding purposes) making just one comment regarding their work in SDVCs as follows:

“Where a Specialist Domestic Violence Court(s) exists in the area IDVAs will be engaged in the court process to support victims and ensure their safety” (Home Office, 2010a, p.2)

Nevertheless, the findings of this research have clearly demonstrated the important role of IDVAs within a court setting, the relationships they are able to build with other agencies involved in providing criminal justice for victims of domestic violence, and the positive outcomes their work achieves as a result. Furthermore, it seems entirely possible that the dearth of studies (and positive evidence) regarding the impact of a DVCAS on prosecution rates for such cases has been a key factor in the shift of attention away from the IDVA role in an SDVC environment and instead to the focus on MARACs and cases of high risk. This thesis thus provides an important opportunity for policy makers and practitioners of criminal justice to reassess their priorities in response to domestic violence, and to re-emphasise the original aim of increasing successful prosecutions.

Identifying Causal Mechanisms

Having identified a programme theory with four potential mechanisms for change (in Chapter Four), the thesis set out to test these by analysing IDVA case files and conducting interviews with IDVAs and their managers. As presented in Chapter Five, the research found evidence that the DVCAS had indeed a positive impact on the rate of successful prosecutions, doing so by way of enhanced victim participation, better court outcomes and a more comprehensive use of sentencing options. Three mechanisms were identified as having led to these outcomes, these being labelled ‘Supported Victims’, ‘Specialist Delivery of Justice’ and ‘Coordinating the CJS’.

The mechanism of ‘Supported Victims’ identified what it was about *how* IDVAs worked and the support they provided that could then increase victim participation, and led to better court outcomes. The mechanism of ‘Specialist Delivery of Justice’ identified how practical elements of the SDVC, the facilitating work of IDVAs and development and utilisation of specialist expertise impacted on the positive outcomes identified. Both these mechanisms had been theorised prior to the empirical investigation, based on findings from previous literature (Hester and Westmarland, 2005 and Home Office, 2008a, Vallely et al, 2005). However, whilst connections had been made between victim participation, guilty pleas and court outcomes, this literature did not explain *how* they were connected. Chapter Five thus explored the mechanisms in more detail, identifying more precisely what it was about the ways in which the IDVA service was being delivered, and the support that was being provided, that impacted on victim participation, on court outcomes and on the use of different sentencing options. A further mechanism was also identified that involved a link between the work of IDVAs (in coordinating the CJS) and the above outcomes. Highlighting this third mechanism constitutes a further important contribution of this thesis to understanding of the IDVA role in relation to improved court outcomes for domestic violence.

Importantly, analysis of these mechanisms suggests that the IDVA role could be crucial in reducing the impact of the ‘secondary victimisation’ of victims by the criminal justice process. For example, the case files suggested that IDVAs validated women’s experiences, believed them, addressed their long-term safety, sought to put their needs at the centre of the process and tried to ensure that their ‘voices’ were heard. Such practises actively seek to make the CJS less intimidating for women and ultimately given them a sense of control during the process. Furthermore, the work of Cattaneo and Goodman (2009) identified that when women who reported domestic violence felt empowered

by the court process, this impacted positively on their depression, quality of life, fear, and intention to use the service again. The fact that so many victims in this research did participate (with support) suggests that the benefits may well have extended beyond successful court outcomes.

A key aspect of the ‘Specialist Delivery of Justice’ mechanism concerned the frequency with which ‘special measures’ are granted and the impact this has on a victim’s decision to attend court and give evidence. This is a particularly interesting finding, considering CAADA’s research, conducted in 2011, found that only 17% of victims had their request for special measures granted by the court (2012). As such, the mechanisms identified during this research can inform other areas as to most effective way of ensuring applications are requested and indeed granted. One obvious way of assisting this would be to follow the recommendation of Burton et al (2006), which called for special measures to be granted automatically.

Moreover, appreciation of these mechanisms, and of how they led to the positive outcomes, as discussed in Chapter Five, seems especially important given the very limited evidence base to date regarding IDVA services. Whilst previous evaluations have each made a valued contribution to understanding of the IDVAs role, they have not specifically addressed their impact on the SDVC, nor identified what it is about *how* IDVAs work that leads to particular outcomes. As such, this thesis adds significantly to understanding based on rigorous empirical analysis at one SDVC and should prove helpful in guiding other IDVA services similarly engaged in supporting victims through the criminal courts.

Understanding Context

This thesis has also explored issues of context that have both facilitated and hindered the attainment of positive outcomes from the DVCAS. This is an important feature of RE methodology and was crucial in establishing causality and creating the potential for the findings to be generalised. The facilitating contexts suggested that the independence, values and ethos of the IDVA organisation, its preparedness and ability to adapt, the level of multi-agency working and the process of accreditation of the SDVC were all significant within the DVCAS and in enhancing victim participation, leading to better court outcomes and a comprehensive use of sentencing options. Articulating these contexts should help policy makers and practitioners to understand far better what works and why with regard to a DVCAS and avoid assuming that simply commissioning one elsewhere will automatically produce the same outcomes found in the study area.

For example, the independence of the organisation and its status as a voluntary organisation, enabled the IDVA service to not only provide a service to victims, but also to advocate for them at the individual level as well as in strategic fora. This raises an important question for IDVA services within the statutory sector regarding the extent to which they can effectively advocate for their service users (in particular by challenging statutory responses). Furthermore, over half of the women supported by the IDVAs were from BME backgrounds, (a similar ratio to the staff team) suggesting the service was largely accessible to marginalised communities in the study area – a level of diversity not necessarily achieved by statutory services (Hucklesby and Worrall, 2007).

As can be seen, appreciating what the potentially different contexts are, and the impact each may have in supporting or obstructing attainment of outcomes, is quite as important as understanding the mechanisms, and critical to their successful implementation.

Issues of Policy Implementation

As discussed in Chapter Six, a number of indicators suggested that the policies of the police and CPS were not being followed consistently – potentially contributing to the persistently high levels of attrition for these offences (as discussed in Chapter Two). In relation to the police, the fact that only 23% of offenders were arrested for breaches of bail, certainly suggested that the positive action policy regarding domestic violence was not being adhered to. Furthermore, the research identified few instances of the policy commitment towards gathering as much evidence as possible being reliably demonstrated, and continuing high dependence on the statement of the victim. In this respect, the available ACPO guidance on investigating domestic violence offences, which discusses in some detail the range of evidential routes that should be explored, appeared not to be being followed routinely in the study area, at least (though Vallely et al (2005) had identified improvement in police evidence-gathering at Croydon SDVC).

With regard to the CPS, the policy commitments towards more effective prosecution of domestic violence offences had similarly suggested the prospect for improvement, particularly through pursuit of more cases without the victim's evidence (as 'victimless prosecutions'). Whilst responsibility for evidence-gathering would rest with the police, the CPS would be giving pre-charge and post-charge advice to investigating officers and could well request additional evidence be collected if considered helpful to the prosecution case. However, the fact that 88% of

unsuccessful cases were directly attributable to the victim's failure to support the prosecution, and that just 2 of the sample of cases were progressed without the victim's evidence, suggests that such a policy commitment was more rhetorical than real. Furthermore, CPS guidelines proposed that reductions in the seriousness of charges should only occur in exceptional circumstances yet, in this research, doing so was found to be common practice, both at the point of charge and closer to the point of conviction. It was also found to be the case that offences were routinely withdrawn by the CPS as part of a process of securing guilty pleas from defendants. Again, while CPS policy has been clear in sanctioning such bargaining only in exceptional circumstances, (and especially not in domestic violence cases), the case-file sample included 8 offences where charges were nevertheless withdrawn.

Understanding Current Practice in the SDVC

A further and more specific contribution of the thesis relates to insight on how the SDVC in the study area had recently been operating and of the extent of its compliance with the principles of the 2006 Resource Manual (Home Office, 2006a). While in order to achieve the status of a SDVC, the magistrates' court in the study area had to evidence its commitment to all eleven of the principles, once again, the findings to emerge from the research suggested very clearly that current practices are far from consistent with what is expected of a SDVC.

The first principle relates to multi-agency working and protocols. In this respect it was clear from interviews with the IDVA service managers that multi-agency working in the study area was generally valued and appreciated. However, in relation to the particular protocol, the budget cuts

of recent years had meant that this was no longer being followed by all agencies. As Manager 1 explained:

... “The protocol, originally the draft was a couple of years ago, but over the last 12 months, we’re looking at the impact in regards to the cuts, and whether we now need to relook at the protocol”...

The same 2010 protocol had also placed clear responsibilities on the police, CPS and court staff to identify the domestic violence cases and treat them separately, yet in the study area, the concept of a ‘domestic violence’ court where all first appearances are listed together, had become far from the reality. Instead, according to the IDVAs, first appearances were being listed in any courtroom, and DV trials were subject to triple listing with other cases simply to save court resources, and with the result that more domestic violence trials were having to be adjourned through lack of time. As discussed, this in turn, was likely to impact on the decision of more victims not to return to court. Additionally, the IDVAs talked of many of their cases being moved (‘swept’) from one courtroom to another at the last minute.

This relates to another of the principles, in that trained and dedicated staff can no longer be guaranteed for domestic violence cases as there is no system for cases to be heard together - thereby contradicting the 2010 local Criminal Justice Board SDVC protocol which called for all domestic violence cases to be heard by a trained legal adviser and bench of magistrates (SDVC Steering Group, 2010). While the principle of specially trained and dedicated personnel was no longer guaranteed, despite the wording of the protocol of the local Criminal Justice Board (2010), support for victims has most certainly continued to be available through the IDVA service. But as discussed

in Chapter Six, since the abolition of the police posts of Domestic Violence Officer, referrals into the IDVA service had dramatically reduced, and because of the more random allocation of domestic violence cases between the different courtrooms at magistrates' court, IDVAs were often struggling to make contact with victims who had not been informed of the available service.

One other principle of the SDVC that the analysis in this thesis touched upon concerned performance management. Whilst Manager 1 explained that her service produced data for the Safer (City) Partnership, and that CPS produced data on the outcomes of cases, one impact of budget reductions was that less attention was now being given to the strategic direction of the SDVC and so potentially valuable learning from the available data seemed no longer to be taking place.

In summary, then, recent practice at the SDVC in the study area, appeared increasingly at odds with several of the most basic principles of an SDVC, and as according to the IDVAs and their managers, with apparently little prospect of recovery in the near future because of the effects of the budget reductions. Having said this, as of July 2013, the study area's magistrates' court has designated one day per week to hear domestic violence cases with the aim of returning to specialist processes for such cases. This research can therefore support the progress of the SDVC by helping practitioners understand what worked and why, as well as barriers to be addressed.

Understanding 'Failed Mechanisms'

One of the particularly beneficial aspects of RE is the capability not only to explain mechanisms found to lead to change, but also to identify those that may exist but which in practice may fail to make a difference (Pawson and Tilley, 1997). This was an issue that was paid significant attention in this thesis, most notably by exploring how policies introduced by the police and CPS had created

the potential for change through two mechanisms - ‘Empowered Criminal Justice Actors’ and ‘Robust Evidence’. Despite the potential of these mechanisms, the research found little evidence in practice to suggest that either had led to positive outcomes. Indeed, quite the contrary, with a range of outcomes negatively associated with the aims of a DVCAS being highlighted instead. Such outcomes (as explored in Chapter Six) included poor arrest rates for breach of bail, the frequency with which charges were withdrawn (or reduced), and a lack of corroborating evidence being collected. It is important to note that these outcomes reflect the high attrition rates for domestic violence offences and correspond to those associated with the secondary victimisation of sexual assault and domestic violence victims by the CJS (as explored in Chapter Two) – suggesting practice has not necessarily improved in this respect.

In seeking to understand why these outcomes occurred, the search led to the identification of a set of different contexts. These included; a lack of understanding regarding domestic violence; an over-reliance on the victim; and (a context that particularly arose during the research process) the implications of austerity and budget reductions. The first of these - of domestic violence not being sufficiently understood by police officers and prosecutors - is one that has been much discussed in the literature at least since the 1970s (Dobash and Dobash, 1979, Edwards, 1991, Hoyle, 1998). This thesis therefore provides a more up-to-date account of the perspectives of contemporary criminal justice professionals. Similarly, over-reliance on victims (Ellison, 2002) has also been much discussed in previous literature on domestic violence prosecutions but with little from this thesis to suggest significant improvement as yet.

Meanwhile, the issue of budget reduction and continued austerity that has become a new reality particularly in the latter period of this research, was found to be having a particularly significant

impact on the situation of victims of domestic violence within the CJS. This, of course, can be understood as just part of a wider issue of the impact of austerity on women, as discussed in a report of the Fawcett Society (2012) that concluded as follows:

“Our analysis – and the conclusions of the independent research bodies and academics – has highlighted that the cumulative effect of fiscal measures taken to reduce net public spending will have a disproportionate effect on women, making many women poorer and less financially autonomous” (Sands, 2012, p.3).

The report analyses a number of areas in which women are suffering as a result of cuts in public spending. These areas include jobs, wages and pensions – an area in which women are already at a disadvantage in terms of pay and opportunity, cuts to public spending on services – of which women are the main recipients (including Sure Start centres and Violence Against Women organisations), cuts to public spending on benefits – again, with women being the largest recipients due to caring responsibilities and existing inequality in the job market, and finally, the role pushed upon women to ‘fill the gaps’ in terms of caring for the elderly and the sick. As the report summarises:

“Women are being hit twice as hard as men, with those who can least afford to bear the brunt – single mothers – on average losing most of all” (Sands, 2012, p. 40).

Therefore, this thesis has been able to contribute to an emerging issue, suggesting that the impact of austerity on the CJS has mirrored wider society – with women bearing the brunt of fiscal constraint.

Implications for policy and practice

The main findings from this thesis suggest that there are identifiable benefits to the continuation of a DVCAS, in particular with regard to enhancing victim participation, better court outcomes and a more comprehensive use of sentencing options. The thesis has highlighted the ways in which these outcomes were achieved, where outcomes relied heavily on the IDVA service and their ability to co-ordinate the requirements of the victim. However, it has also demonstrated that there would need to be measures in place within the SDVC which supported the role of IDVAs and facilitated their work in practical ways, such as through provision of private waiting rooms and support for special measures applications. In addition, it has highlighted the contextual issues also at play here in facilitating the mechanisms. Had the IDVA service not been based in an independent woman-centred organisation, for example, and been one that was able to adapt to the changing external environment, or had there not been a strong multi-agency tradition in the City and to which the IDVA service could relate, and had there been no commitment among the criminal justice agencies locally to work towards the required elements of an SDVC, then these mechanisms would have been much less likely to have led to the positive outcomes identified. The context of austerity and budget reductions was identified in the research as being particularly significant to the operation of the SDVC in the study area, with the potential for positive outcomes increasingly constrained by resourcing difficulties. Indeed, it is known that this has become still more of an issue in the period since the research fieldwork was conducted, with only three IDVAs attached to the court since January 2013 rather than five as previously.

There are also important lessons to be learned regarding the mechanisms that existed but which were not fully realised. For example, in the study area at least, a number of offences were either

not charged, reduced in seriousness or withdrawn prior to prosecution, with data suggesting limited evidence-gathering other than the victim's statement. So, with more focus on gathering corroborating evidence, the impact on prosecution rates should be significant. However, in order to realise this, various context issues must also be addressed. In particular, if officers and prosecutors do not understand the dynamics of domestic violence, if in their view the woman's statement is seen as the only viable evidence, and if resources continue to be stretched because of the climate of financial austerity, then there is little prospect of the 'Robust Evidence', or 'Empowered CJ Actors' mechanisms reaching their potential.

Summary of Contributions made by this Thesis

The above discussion has considered a number of contributions made by this thesis to the understanding of, and response within the criminal justice system to, domestic violence. The research has sought to fill a significant gap in understanding (and in the literature) on this subject by examining the impact that a DVCAS can have on the successful prosecution of domestic violence offences, and also how the policies of the police and CPS may support (or hinder) such objectives. In addressing this gap, and by doing so by applying the framework of RE to identify the mechanisms and contexts involved, the thesis has identified a range of issues of direct relevance to policy and practice regarding SDVCs and supporting IDVA services as well as for the police and CPS. As well as providing the first comprehensive account of the impact of a DVCAS on the successful prosecution of domestic violence offences, and of the mechanisms and contexts that shaped the outcomes achieved, the research here has highlighted significant and surprising gaps between espoused policy and every-day practice within both the police and CPS that ought to be

addressed with urgency if the commitments of criminal justice towards domestic violence are at all meaningful.

Contributing to the Methodological Development of Realist Evaluation

Researching as an ‘Insider’

The research for this thesis has been undertaken by a ‘practitioner’ in the field of study. As indicated, the author is employed as a manager in the organisation providing the IDVA service, and has previously worked as a Domestic Violence Officer in the police service within the area under investigation. The ‘insider’ nature of this research has brought with it significant benefits and challenges. As explored in Chapter Four, the experiential knowledge of the researcher played an important role in shaping the research design and understanding and interpreting the findings, yet it also created the potential for the research to be dominated by personal experience. Such potential required a commitment to reflexive practice where the author would consciously approach each stage of the process initially as ‘researcher’ and then as ‘practitioner’ – for example, contextualising findings according to the existing literature first, before using her own experience. This was particularly important when theorising mechanisms and contexts and so an extensive literature review (of both UK and international research) was undertaken.

Moreover, the relationship between researcher and interviewees meant that power dynamics had to be addressed, and in the case of the IDVAs, it must be recognised that their participation may have been influenced by the status of the researcher as a manager. Whilst the potential for such

influences must be acknowledged, the responses in interviews suggested that those who did participate were candid about their experiences and used the interview to air some of their frustrations with someone who was conversant in their language and shared the value-base and ethos of the organisation. Furthermore, there were power dynamics to be considered with the IDVA manager, Chief Executive and Assistance Chief Executive – in particular regarding the politics of ‘insider’ research and the potential for the findings of the research to impact negatively on the organisation. This was a significant concern for the author, both as employee and researcher, and so regular updates were provided to the Senior Management Team regarding the direction and findings of the research so that the final document was not an ‘unknown entity’. This level of communication enabled the researcher to maintain the integrity of the research, whilst applying an ‘ethics of care’ to the organisation.

Unlike research conducted by an ‘outsider’, this thesis does not claim to be entirely ‘objective’ or ‘neutral’. Instead, it recognises the potential biases associated with being an ‘insider’ and has sought to minimise the implications. That said, the findings of the thesis have already been applied for the benefit of the organisation (through informing funding bids) as well as being used to respond to a national consultation regarding women’s access to justice. Therefore, in the experience of this author, researching from within has extended the utility of the research beyond academia, proving beneficial to the organisation and by extension, future service uses.

Developing a ‘Programme Theory’

As to the methodological contribution of this thesis, the application of the framework of RE began by identifying a programme theory (presented in Chapter Four). This described the potential

mechanisms for change that could be achieved by a DVCAS working alongside the police and CPS, and the contexts that would be necessary for intended outcomes to be achieved. Astbury and Leeuw (2010) have considered the issue of programme theory, arguing that it can be developed both prior to a programme being implemented or after it has been running for some time. They have suggested that, whilst the methods used for such theory development may vary considerably, the aim should be that:

“Programme theory...attempts to build an explanatory account of how the programme works, with whom and under what circumstances” (Astbury and Leeuw, 2010, p.365).

As discussed in Chapter Four, developing the programme theory for this research involved a thorough review of the literature as well as the application of the prior knowledge and experience of the researcher. Three preliminary interviews were then conducted to refine the theory before its fuller testing. Identifying and articulating the programme theory constituted a substantial component of the research process and its refinement continued throughout.

The resultant programme theory presented in this thesis constitutes a contribution to the science of evaluation in two respects. Firstly, as shown in Chapter Three, the policy discourse had yet to articulate *how* an IDVA service was intended to work within a SDVC to increase successful prosecutions. Instead, much of the policy literature focused on the IDVA role in the MARAC process that was developing around the same time. Secondly, there had yet to be an assessment of how recent policy changes in the police and CPS could support a DVCAS. This was largely a result of the fact that government developed IDVAs and SDVCs independently of the police and CPS

who issued their own policy guidance. Therefore, it was important to bring these elements of the CJS together in order to determine what *could* work in increasing successful prosecutions.

Furthermore, an important part of the programme theory is the issue of ‘for whom’ the interventions have achieved particular outcomes. As discussed in Chapter Four, this thesis has focussed on female victims of abuse by men with whom they currently were, or had been in an intimate relationship with. The demographics of the women suggested they came from a range of ethnic backgrounds (with less than half of women being white-British), nearly half of women were in the age range of 21-30, an average of 70% of service users had children, and 99% of women identified as being heterosexual. Understanding ‘who’ the service worked with has important implications for generalising from these findings – and suggests that more work is needed to understand how the needs of victims in same-sex relationships, and those experiencing abuse from family members may be met by IDVA services.

Defining Mechanisms

The concept of a ‘mechanism’, whilst relatively easy to understand in theory, becomes much more difficult to elicit in practice. As Astbury and Leeuw have suggested:

“Although theory-driven evaluations largely agree that mechanisms are important, there seems to be some lingering confusion about the nature of mechanism-based theorizing”
(2010, p.364).

In some evaluations, mechanisms have been used to describe aspects of the intervention, whilst others appear to have confused the context with mechanism. The framework of RE does not present a toolkit for how to define a mechanism, the result of which has been various interpretations of the

term by different authors. This thesis has followed the definition of mechanisms proposed by Pawson and Tilley (1997), in that they describe what it is about an intervention (in this case, a DVCAS) that creates the potential for change. Here, for example, it was not the IDVAs per se that impacted on victim participation but more the support offered during and beyond the court process that was found to be helping victims feel safer about attending court and giving evidence. Additionally, the SDVC itself did not impact on better court outcomes; instead it was the knowledge and expertise developed by practitioners within the system that helped increase understanding of domestic violence and impact on practice. The process of identifying mechanisms is rarely straightforward and is likely, as in this research, to involve substantial iterative revision. Initially in this research, a number of previous applications of RE were examined and compared to determine exactly how mechanisms had been defined (Rycroft-Malone et al, 2010, Lenoe, 2010, Greenhalgh, 2009, Evans and Killoran, 2000). It was then necessary to explore the policy and academic literature in detail to determine the aspects of a DVCAS that *could* impact on successful prosecutions, as well as utilising the existing evidence base regarding what worked (or did not). For each mechanism, it was then necessary to theorise about the contexts that might help or hinder the achievement of the intended outcome. The process of identifying facilitating and constraining contexts then assisted in refining the mechanisms and drawing an important distinction between the definition of context and mechanism. Whilst this was a long and complex process, it proved invaluable in guiding the focus of the empirical research.

Presenting CMOCs

Among the previous literature involving applications of RE methodology, much variance is to be found with regard to the approach to the means by which the Context-Mechanism-Outcome-Pattern

Configurations (CMOCs) are presented. In some studies, complex diagrams have been used to present the CMOCs (see Leone, 2008, Oroviogioicoechea and Watson, 2009 and Evans and Killoran, 2010). However, such diagrammatic explanations seem often to fall short in clarifying *how* contexts impact on the mechanisms, and how these in turn impact on the outcomes. In addition, several studies have simply presented their final versions, and in so doing, have provided little opportunity to understand better how such models have been developed.

In this thesis, however, a tabular format has been used to present the outcome identified, to explain how the mechanisms have contributed to attainment, and then to detail the contexts that have enabled or hindered change to occur. Compared with most other applications, this approach, which aligns more closely with examples provided by Pawson and Tilley (1997) as the original architects of the method, ensures that the causal links between mechanisms and contexts are made explicit. Furthermore, this thesis has presented the development of CMOCs as the findings have been successively outlined. Such an approach was devised to allow the reader to understand better how the connections between context and outcome were made for each of the mechanisms. Presenting CMOCs in this way involved careful attention being paid to the connections between outcome, mechanism and context. Whilst more time-consuming than a diagrammatic model, the tabular approach here ensured that the potential benefits of RE, (in identifying ‘what works, for whom and in what respects’) could be appreciated to their full extent.

In addition, CMOCs have been presented for the outcomes that worked against the aim of the interventions, explaining the mechanisms that should have been achieved, and the contexts that prevented them from being so. Whilst not typical of most published RE evaluations, this approach was followed to facilitate the reader in understanding why unintended outcomes also occurred.

The Importance of Realism

It has been suggested by Marchal et al that the benefits of a realist approach are not always utilised:

“Most authors only fleetingly refer to the philosophical foundation of realistic evaluation, which arguably is among its most distinctive features and provides much of its explanatory power” (2012, p. 201).

Whilst a fundamental underpinning of realist inquiry is the belief that mechanisms can exist yet be unrealised, very few previous applications of RE have paid sufficient attention to these. Instead, the majority of studies have focused on the outcomes that have worked in favour of the intervention, (e.g. Leone 2008, Kazi, 2003, Evans and Killoran, 2000). The consequence is missed opportunity for learning about the unexpected outcomes that provide equally important detail as to how and why the interventions being evaluated are, or are not, working as expected. In practice, if an expected outcome has not been achieved, stakeholders will usually be keen to understand why this has been the case, and to this end, it seems important to explore the contexts that prevented mechanisms and to focus on the practical issues involved here (see Rycroft-Malone et al, 2010).

Paying attention to failed mechanisms, arguably enables RE to fulfil another vital function. As a result of seeking to understand the mechanisms that exist but are prevented from realising their potential, the use of RE has enabled the research in this thesis to focus on a range of policy and implementation issues. The fact that a number of outcomes were identified that worked against the aim of increasing successful prosecutions, and fundamentally contradicted the policy commitments of the police and CPS, highlighted a series of particular issues in the study area that

would need to be addressed. Furthermore, by understanding the contexts that prevented policy implementation, the thesis could also identify not only the problems, but also their possible solutions (see Recommendations in Chapter Eight). This is a key part of the value of the RE framework, yet most previous applications (see Carroll, David, Jacobs et al, 2005, Rycroft-Malone, 2010, Leone, 2008 and Greenhalgh et al, 2009) have tended to focus on the intended outcomes of the intervention at the expense of the unintended consequences.

Establishing Causality

An important justification for the use of RE was the ability to establish causality in a single-site design. Causality is established by explaining *how* the outcomes were achieved (mechanisms) and the contexts in which they succeeded. Establishing causal links between the intervention and outcome was the principal aim of this research. More positivist-minded researchers may have established this by conducting randomised controlled trials, employing a successionist view of causation through which any regularities in outcomes would, by implication, be a result of the intervention. The framework of RE, however, advocates a more pluralist approach to data collection, creating the potential to understand what it is about interventions that leads to change. In this thesis, the conduct of in-depth interviews to understand the regularities represented an important parallel strand to the analysis of case-file data.

Applied in this way, the RE approach used in this thesis has resulted in a model that has helped identify more precisely what it is about the intervention (the DVCAS in the study area) that has impacted on the intended outcome (the successful prosecution of domestic violence offences). In identifying the contexts that supported the mechanisms (of ‘Supported Victims’, the ‘Specialist

Delivery of Justice’ and ‘Coordinating the CJS’), this framework has provided a nuanced understanding not only of what can be achieved by the intervention, but also about how this has occurred and under what conditions.

Limits of the Approach

Whilst RE offers the potential to establish causality in a single-site design in this way, it must also be recognised that a one-off evaluation inevitably restricts understanding of the potential mechanisms for change. The intention of RE is that research findings are cumulated in order to develop and test the theory devised from one study with the aim of refining it in light of others. Such an approach will result in ‘middle range theory’ that policy makers can be more confident in adopting. As Pawson has suggested regarding the current trend for evidence-based policy:

“It is arguable, therefore, that the prime function of evaluation research should be to take the longer view. By building a systematic evidence base that captures the ebb and flow of programme ideas we might be able to adjudicate between contending policy claims and so capture a progressive understanding of ‘what works’” (2002, p.158).

Such an approach reduces the importance of being able to generalise from one study, and shifts the focus more towards the importance of explanation (Flyvbjerg, 2006). Therefore, whilst this thesis has provided a detailed exploratory account of the impact of the DVCAS intervention, its findings may not be easily generalised into other settings (although the focus on context will help in this respect).

Furthermore, there are a range of obstacles faced by those using RE – in particular around the definition of contexts and mechanisms. In this respect, the definition of contexts and mechanisms,

as used in this research, may well be understood differently by another researcher in another setting, thereby reducing the potential for building on these findings.

Whilst RE was viewed as the most appropriate approach for this thesis, as discussed in Chapter Four, other theoretical approaches to evaluation might perhaps have been followed instead - the most well-known being Theories of Change (ToC). Whilst a ToC approach would offer a number of benefits with regard to implementation, a range of other considerations would inevitably limit its practicality for a study of this nature. Firstly, a ToC approach ideally begins with the formulation of the policy so that there is stakeholder agreement from the outset about how the intervention is intended to reach its aims. Secondly, the approach should involve the maintenance of contact and engagement with stakeholders throughout the research. In the case of the DVCAS, this was hardly possible because the intervention had been designed and implemented prior to the evaluation commencing (as well as experiencing several changes of personnel in the course of its development). Principally as a result of such issues, RE was considered to offer the most appropriate framework for the evaluation of this particular intervention.

Selecting a single-site design, whilst important for the particular purposes established for this thesis, would nevertheless undoubtedly impose its own limitations. While the thesis can make a number of claims regarding the particular DVCAS that was being evaluated, it could not of course draw conclusions on the impact of a DVCAS more generally. Furthermore, the lack of a reference group with which to compare the DVCAS would inevitably raise questions as to whether the outcomes identified at the study area would necessarily be mirrored in a different court setting – and especially without an IDVA service or a SDVC. But although this certainly represents a considerable limitation on the potential of the research undertaken, there is at least now a basis for

understanding, and an elaborated model, that, with other national and local data, would support useful comparison of the outcomes into the future.

This research has been focussed on one particular aspect of domestic violence – male violence against women as part of an intimate relationship. Accordingly, the mechanisms and contexts identified are specific to that particular form of abuse and may not hold true for abuse in other relationships – for example, for members of the LGBT community, familial violence and male heterosexual victims – where the nature of service provision is likely to differ, as are the responses of the CJS.

Chapter Summary

This chapter has summarised the contribution of the thesis to both the policy area of criminal justice responses to domestic violence and the developing methodology of RE. The findings from this research provide a number of clear lessons for policy and practice about a DVCAS and how increased successful prosecution rates for domestic violence can be achieved through the supportive actions of the police and prosecution services. In particular, this can be achieved by enhancing victim participation, which in turn leads to better court outcomes and a more comprehensive use of sentencing options. More than this, the research has developed a model to highlight precisely *how* the DVCAS can achieve such outcomes and the contexts in which they will be facilitated or hindered. Furthermore, the research has identified how both policy and practice in the police and CPS have impacted on the operation of the DVCAS in the study area – many of the lessons from which ought to be directly applicable in other locations to good effect.

With regard to methodology, the thesis represents a significant addition to the relatively small number of Realistic Evaluations that have so far been conducted in the UK, with this being the first such to be conducted in the field of domestic violence (in particular as a practitioner-researcher). In doing so, some of the previously recognised difficulties and ambiguities associated with RE have been addressed, particularly by giving careful attention to the processes by which mechanisms and contexts are theorised at the outset and also through rigorous exploration and evidencing of the associated processes at work. Finally, the thesis has underlined an important, but often overlooked, benefit of RE – the ability to understand not only the potential mechanisms for change that may exist as a result of an intervention, but also the particular contexts that prevent the aims from being achieved. As the study has shown, dedicating focused attention to this aspect of the framework can provide valuable new insights on how a policy is best implemented and exactly how the potential pitfalls are avoided.

CHAPTER EIGHT:

CONCLUSION

This thesis set out to understand ‘what works’ in increasing successful prosecutions of domestic violence offences. With two women a week killed by a violent partner in the UK (Smith et al, 2012), and nearly half of all women in the UK being killed by a current or former partner (Povey, 2005), it would appear that little progress has been made since the issue of domestic violence began to take root in the public consciousness in the 1970s. As discussed in Chapter Two, a range of criticisms were levelled at the CJS for its apparent reluctance to take violence against women seriously as a crime. In response to such criticism, successive governments over the past 40 years have introduced a string of legislative and policy initiatives within criminal justice to effect change. Improving the rate of successful prosecutions became a specific objective of national policy in 1999, although it took until 2005 to launch the initiatives – in particular SDVCs and IDVAs – to seek to achieve it. Even then, however, the policy approach seemed quickly to be confused, if not impeded, by an additional multi-agency policy development in the form of MARACs (which had the effect of drawing the focus of IDVAs away from the criminal court process and into supporting high risk victims).

In Chapter Three the various evaluations of policy in this field were reviewed, but as the discussion identified, the various studies tended to have their own particular focus on particular initiatives and so provided little appreciation of the interaction between the different actions or an overall assessment of the impact on successful prosecutions of DV offenders. Moreover, that chapter

examined not only the court-based SDVC and IDVA developments but also the various parallel initiatives within the police and CPS - the two agencies with responsibility for prosecuting offenders. In doing so, it highlighted a significant gap in the literature regarding how these two agencies work alongside SDVCs and IDVAs – the DVCAS (as it has been labelled in this thesis).

Without an existing evidence base from which to understand the value of SDVCs and IDVAs in increasing successful prosecutions (despite this being their explicit aim), this thesis set out to determine the extent to which a DVCAS (i.e. an IDVA service based within a SDVC) could indeed effect an increase in the successful prosecution rate and, how this would be achieved in conjunction with the police and CPS.

By way of conclusion for this thesis it can be said that the evidence gathered in the course of this research does indeed suggest that a DVCAS can have a positive impact on the prosecution of domestic violence offences. However, the thesis has also identified that there is a lot more to do in engaging the police and CPS in this process to realise potential in this respect. Context, it was found, plays a significant role in both the success and failures and provides some of the most important lessons for policy makers and practitioners.

Key Messages for Policy Makers and Practitioners

The research has shown that, whilst policy developments in the police and CPS have indeed created the potential for improved prosecution rates, this has not necessarily translated into practice – certainly in the case of the study area. Instead, based on the work of authors such as Campbell (2001) it could be argued that poor arrest rates for breach of bail, a reluctance to prosecute without

the evidence of the victim, and a number of charges being reduced or withdrawn, are likely to have contributed to the secondary victimisation of domestic violence victims in this sample. In seeking to understand why these outcomes emerged, several factors were identified - these included; a lack of understanding among practitioners about domestic violence and its victims; an over-reliance on the testimony of the victim; and the impact of austerity and budget reductions in recent years (the latter issue having become more pervasive as the research progressed, and revealing a very different picture of the priority accorded to the DVCAS and prosecution rates in 2012, when the bulk of the interviews were conducted compared with that highlighted at the outset in 2010). Assuming the policy objective to remain the same, criminal justice agencies in the study area - the police, CPS and court in particular - should, at the very least, reflect carefully on the equality impacts of the re-structuring of their services and give consideration to the potential impact that their action (or inaction) may be having on the individuals involved.

The dearth of research and a clear evidence-base to date regarding the impact of a DVCAS has inevitably weakened the case for sustained funding of such services and, as Chapter Seven indicated, the most recent IDVA funding guidelines give emphasis to their relationship to MARACs while making only a single reference to SDVCs. This would suggest that for the current Coalition Government, the priority has indeed shifted somewhat from increasing prosecutions for domestic violence to protecting high risk victims. But this thesis argues that this should not be an 'either/or' prioritisation, and that, if victims of whatever risk level are to be protected, there needs to be an effective criminal justice response quite as much as action in the wider community.

By using the RE framework, the research for this thesis has been able to provide a rich account of 'what works, for whom, in what circumstances and in what respects' in relation to the prosecution

of domestic violence offences, with learning for policy makers and practitioners at a number of levels. Firstly, it has provided valuable insights for existing IDVA services and SDVCs which can build on the identified elements of good practice and establish more nuanced performance frameworks against which services in other localities can be evaluated. For example, the approach of the IDVA service in supporting victims regardless of their intentions to attend court was found to be an important factor in victim participation. Furthermore, the level of multi-agency working was also identified as having facilitated effective practices and should therefore be regarded as a critical element for all future working.

Secondly, it has provided a framework for sponsors and commissioners of criminal justice services, notably the recently introduced Police and Crime Commissioners. In this respect, the fact that the IDVAs were based in an independent woman-centred organisation, where victim safety was the priority, was found to have been a key factor in ensuring high quality support, and this surely represents a particularly sound model to be replicated in other localities. The importance of ‘independence’ too, was highlighted in the research, and this again, should be a consideration in future commissioning in this context, given that some IDVA services are sponsored and managed as part of a statutory agency rather than belonging in the independent voluntary sector. Much in line with the conclusions of some of the previous research both on victim support and prisoner resettlement (Robinson, 2006, Vallely, 2005, Cook et al, 2004, Hucklesby and Worrall, 2007) a conclusion from this thesis is that the independence of IDVAs is a major strength in that it enables them to engage with victims in a way that statutory services have always found difficult.

Finally, the research has provided a framework of thinking and a strong evidence-base that should inform Government of the changes that it could now make to improve the situation further and

particularly increase the probability of victims of domestic violence participating in the criminal justice process. One obvious example here would be the automatic granting and default provision of special measures for domestic violence victims (who can then ‘opt-out’ if they so wish).

Priorities for Future Research

This research, as indicated, has added to a steadily growing body of Realistic Evaluation (RE) studies in the UK and, as suggested in Chapter Four, each such application adds helpfully to the pluralism of the methodology advocated by Pawson and Tilley (1997). More specifically, the concept of ‘mechanisms’ is crucial to theory based approaches to evaluation (although seemingly understood somewhat differently by different authors). However, here, in this research, the understanding of mechanisms was focused strongly around descriptions of what it is about the intervention (in this case of a DVCAS and in the policies and practices of the police and CPS) that creates the potential for change. More than that, the analysis particularly sought to highlight the processes by which each mechanism had developed, again providing a model for future RE studies and theory-based evaluations more generally.

Also very relevant here, was the prior knowledge and experience of the author in strengthening and refining the potential mechanisms and contexts to be tested. Although inevitably raising issues of potential bias and pre-conception on the part of the researcher, such knowledge proved to be invaluable in ensuring greater depth of analysis, interpretation and understanding of the findings and in reflecting on their implications. Whilst Pawson and Tilley (1997) discuss the importance of

stakeholder knowledge, the main experience from this thesis is that researcher experience and knowledge of the domain are, on balance, clear strengths for this kind of detailed evaluative study.

Almost inevitably, the research for this thesis, as well as providing insights on, and answers to, the research questions initially posed, raises any number of further important questions and lines for further enquiry. But three, above all, seem worthy of specific mention by way of conclusion to the thesis. Firstly, and particularly given the consequences for public organisations of the current austere financial climate, it would be helpful to examine the application of the key principles highlighted in this thesis in a magistrates' court without SDVC status or IDVA support and to identify what level of victim participation, court outcomes and sentencing practices might be achieved under the more typical resourcing and operational arrangements of the lower courts. Secondly, it would be valuable to examine the wider impacts of austerity on crimes of violence against women to determine whether the findings in this thesis about the loss of some priority for domestic violence in the study area's criminal justice system, are reflected more widely around the country. Thirdly, this research has identified practices within the CJS that are likely to contribute to the secondary victimisation of domestic violence victims, including prevailing attitudes amongst criminal justice professionals that correspond to issues of 'victim blaming' highlighted by researchers in the 1970s and 1980s. However, it has also been found that IDVAs have the potential to redress secondary victimisation by believing women's experience of abuse, validating their experiences and giving them a voice throughout the process. Therefore, a more comprehensive analysis of the secondary victimisation of domestic violence victims in the UK could provide useful insights into extent of the problem, as well as potential solutions.

‘Until Women and Children are Safe’

This is the core principle of Women’s Aid Federation England (WAFE). Ever since first inceptions in the 1970s, Women’s Aid charities across the country have worked to keep women and children safe. During this time, they have witnessed a plethora of governmental and politician-led initiatives purporting to address this pervasive social problem. Despite such initiatives, domestic violence, committed particularly by men against women, remains a terrible blight, and still a largely hidden facet of our society. This is not to suggest that no progress has been made. Indeed, this research has highlighted the ways in which many victims are now much better protected through the prosecution process from those who have already caused harm and hurt. Such a process sends a clear message to society which in turn should help to reduce the incidence of this most harrowing crime.

That said, and as discussed, the signs have been of a shift in governmental priorities for funding in relation to domestic violence in recent times, from a focus on IDVAs as supporting the criminal justice-centred process to one in which they are more community-focused and more specifically identified with high risk victims (through their involvement in MARACs). This thesis questions the wisdom of such a shift, not least because it potentially neglects the vast number of victims of domestic violence, and, importantly, the offenders too, who do not clearly fall into the high risk category. In so doing, it also reduces opportunities to prevent such victims from becoming high risk in the future. It seems misguided not only in longer term economic terms, but also in the social costs for those many women and children who have to endure abuse simply because the services to help them escape might no longer be in existence.

APPENDIX 1:**PRE-LIMINARY INTERVIEW REQUEST LETTER**

Dear...

My name is Holly Taylor and I am a Doctoral Researcher in the School of Government and Society at the University of Birmingham.

I am currently writing a thesis regarding domestic violence in the Criminal Justice System, having been working in this field for the last 8 years, the majority of that time as a Police Domestic Abuse Officer with the Police.

My research is centred around the Government's National Action Plans for Domestic Violence and how the interventions in those reports are assisting in improving the criminal justice response to offences of domestic violence.

A key purpose of my research is to identify examples of best practice within the Criminal Justice System in relation to responses to domestic violence and I intend that my research is useful to policy-making and practice development in its field- to which end I want to work closely with practitioners and feedback my findings and conclusions.

My immediate priority is to conduct a series of preliminary interviews with key personnel in order to develop the focus of my research. Due to your position and the role you have regarding domestic violence, I would like to request a short interview with you in order to help me understand better the key issues which are felt to be important to your agency.

I do understand the pressure and time constraints that your agency faces, but I would greatly value the short amount of time required for the conduct of the proposed interviews.

I appreciate that there will be procedures to be followed in relation to research requests and I would be grateful if you could inform me of anything else I need to do in order to arrange and conduct these preliminary interviews.

I look forward to hearing from you.

Yours truly,

Holly Taylor

APPENDIX 2:

PRE-LIMINARY INTERVIEW QUESTIONS

Thank you for agreeing to this interview.

Purpose: - to give you some background, I have worked for the police for 7 years and I now work in the specialist DV sector. I have been researching this area since 2001 and my focus is around the prosecution of domestic violence and looking at how the Government's interventions, such as the SDVC programme have impacted on this, and how the criminal justice system feels things could be improved and what resources are needed from Government.

Today is a preliminary interview so that I can ensure I am focusing on the areas that are most important to the agencies of the criminal justice system so that my research is ultimately useful for Government.

Confidentiality – all comments you make will be treated in the strictest confidence, and no names will be cited in my research. The issues we discuss today will just be to illustrate my arguments but without attribution.

Time – no more than an hour.

I have topics for discussion with some questions, but I do not have a rigid structure to follow, I am more concerned with you having the space to highlight the relevant issues for you.

Questions – either about my research or the interview?

Dictaphone – to record our conversation.

Role of your organisation in relation to domestic violence?

- What is your role in relation to domestic violence?

- What is your organisation's role in dealing with domestic violence?
- What prominence and priority does your organization give to domestic violence?
- How do you think the majority of officers/prosecutors/magistrates view domestic violence vis a vis other offences with which they are involved?
- Does your organization work to particular KPIs in relation to domestic violence and how much priority is given to these?
- How appropriate are the particular indicators in your view?

Views on the CJS response to domestic violence.

- How effectively (and joined up) do you think the CJS as a whole is working to deal with domestic violence?
- In your view, is there one agency of the CJS that takes more responsibility in relation to domestic violence?

Views on the prosecution of domestic violence from an organisational and wider CJS perspective.

- How do you see as your agency's particular role in relation to the prosecution of domestic violence?
- How well do you feel the Government supports your agency in relation to prosecuting more offenders?
- How can your organisation help in preventing more instances of domestic violence?
- What are your views on prosecuting domestic violence offenders as a way of addressing the problem?
- What more could be done (and by whom) to promote the reporting, charging and prosecution rate for DV?
- What do you think your organisation could do to increase the response rate to DV?

- What impact has the placement with CPS of the decision to charge had on the prosecution of domestic violence?
- What is your understanding of the process by which the CPS decide to charge?
- What is your understanding of the evidential v's public interest test in this context?

Views on Government interventions and resources provided.

- What do you think about the resource levels available to address domestic violence. e.g. resources from Government?
- What do you think about the resources levels that your own organization commits to domestic violence?
- What impacts do you feel the SDVC programme has had, and is having, on prosecuting domestic violence offences?
- What do you think about attitudes within the CJS to 'victimless prosecutions'?

Comments on organisational developments/approaches.

- What do you think about the amount and quality of training provided to staff within your organisation in relation to domestic violence?
- To what extent do you think that such training will change officers/prosecutors/magistrates' approach to domestic violence?
- What impact do you think the CPS VAW strategy has had on the prosecution rate for DV?
- Does your organization have a DV policy? If so, what are your views about that policy?
- In your experience, has the Speedy Justice (CJSS) policy affected responses to domestic violence within the system?
- And how do you think the 'No Witness No Justice' policy has impacted on domestic violence?

- What are your thoughts on the value of more sentencing guidelines for domestic violence offences?

Decision making process and external influences:

- What determines the priorities for action in your organisation (and how does DV fare in relation to these)?
- In your view what factors have prompted changes in your organisations response to domestic violence? Does this hold for other areas?
- Do you think that individual attitudes have any role in the decision making process regarding domestic violence? (and other areas)
- In your view, what would you say leads to successful outcomes in relation to domestic violence? (I.e. arrest/charge/prosecution).
- In your experience, has public opinion had any influence on your organisation's response to certain crimes?

Areas for improvement/further comments.

- Can I just ask for feedback on how this interview was for you?
- Is there anything you would like to ask?

APPENDIX 3:**SAMPLE PRE-LIMINARY INTERVIEW TRANSCRIPT****Interview Two – Police Domestic Abuse Officer:**

Interviewer: What is your role in relation to domestic violence?

Respondent: My role from headquarters is basically obviously you have got these public protection units and my role on the public protection unit as a specialist domestic violence officer is to provide advice and support to domestic violence officers on how they do their job basically, at the moment we are writing a new policy for the force also producing a new risk assessment so I am involved in producing that and the training of officers and just general support around how they do their job I think that's basically it in a nut shell.

Interviewer: What would you say is the police's role in relation to domestic violence?

Respondent: Well its primary role is to protect victims and be part of a bigger picture of making sure that they're safe, number one, and to build up a support network and be part of a support network for the people who are going to come to us with whatever their situation and because generally we tend to be the first port of call, the first thing is making them safe and then looking from the police perspective as to whether there has been any offences committed and then investigate that, but in the initial stages with domestic abuse and any similar kind of offence is it is about protecting the victim and making them safe.

Interviewer: What priority do the police give to domestic violence?

Respondent: It is given the priority on the basis especially now that we have gone to public protection units and have specialist offers, the level of training since I joined, the level of training and the level of awareness in the way of dealing with domestic abuse has completely changed beyond all recognition that's not to say that were necessarily doing it perfectly as yet, we've probably still got a way to go but I think that the level of training and professionalism in actually recognising domestic abuse is far more professional- we are applying ourselves more to dealing with the problems, in the past I've been with officers and you send one person one way and the victim in the other way and you hope that it calms down and that's just not the right, so along with positive action in the way the police have gone it's definitely improved

Interviewer: How do you think the majority of police officers view domestic violence and vis a vis other offences they deal with?

Respondent: Well the difficulty with domestic violence is it can cover so many different criminal offences, I think what it is commonly viewed as DV is assaults. if you ask any member of the public what domestic violence is, they would say it's when a man hits his wife, and it's obviously a lot more complicated than that and a lot more involved than that, so I think officers recognise that domestic violence is something that doesn't does go way if you send one person one way and another the other, it is a far more sustained involvement that's required, I am not naive enough to say that some police officers by the nature of keeping going back to the same address will be naive enough to say that officers don't get fed up, they don't get annoyed and when they keep going back there but I think that's human nature, I think some police officers probably get frustrated because they want to get a conviction they want to help they want to do something, and bizarrely they feel let down sometimes so I can understand their frustration but generally I think officers now realise that if it's something that they do properly get involved in from the start, from their point of view there doing what they can but you've got 10,000 police officers in the

police and I wouldn't say that everybody is as conscientious but as the number of officers who are dealing with it better is certainly increasing

Interviewer: Do the police have particular key performance indicators in relation to domestic violence and what priority is given to those?

Respondent: We have had many different KPI's over the years in relation to domestic abuse, and any sort of serious assaults form part of bigger KPI's, in terms of specific KPI's traditionally looked at repeat victims but the more serious cases form part of the bigger crime strategy. in terms of offences it's always difficult because when you talk about different offences such as burglary you're talking about one or two offences when you talk about assault it's about violence but with domestic abuse it covers such a wide spectrum of offences and involves from psychological intimidation and financial abuse to actual physical assaults and damage, stalking and harassment, it is so vast that to give to domestic abuse generic term KPI would be too difficult to do, that's why they've tended to air upon the side of the repeat victim.

The thing with KPI's is that they tend to focus a strategy or a feeling towards a particular subject and it's about resources in that subject and how its approached and how it is dealt with, I think with the repeat KPI it's been so steady, for years in the police it stayed at around 30% but then what changes is the number of cases per year so the pie could get bigger or smaller, but as we'd get better about encouraging people to come forward and the pie would get bigger and balances out in different ways, and so I've never been too convinced on KPI's but I do understand the need to test and to see how you're doing as opposed to other things and for the basis of resources it can be important and I think also domestic is a very difficult one to give KPI's to because it's so varied, it's not like if you have somebody breaking into cars in a particular area you can send a van in, and yes you have regular offenders with domestic but it's just a completely different animal to any other subject really is it so widespread it's a difficult one ,and with the indicator of making us arrest 80% of offenders it and pushed officers into making decisions that they may otherwise not have taken as it kept to a rigid strategy policy and what we don't want to do is take away the officer at the scene's judgement, but you do want to make sure that their taking positive

action wherever possible so I have been asked to sit down and come up with different KPI's for domestic use and it is one of the most difficult subjects to formulate, it could be formulated but whether it's going to be useful or productive is a different question. If you look at the CPS and other agencies they want a certain number of cases prosecuted etc. and you have to try and build in these parameters but in terms of actually arresting people or dealing with domestic, I think it's the most difficult one to come with relative meaningful KPI's.

Interviewer: How effectively and joined up do you think the criminal justice system is as a whole in dealing with domestic violence?

Respondent: I think it is joined up, we deal with the CPS and at certain high levels you can make certain policies that this is what officers are going to do on the ground and it's about challenging our officers when these things don't happen, I think overall they do work together quite well it's just such a big beast sometimes, and we have different priorities to a certain extent and it's about managing those priorities within different agencies to achieve the same goals. I can give you as many cases that are good examples as I am sure you could give me as many bad examples because so much goes in to the melting pot with the police and CPS, that there will at any one juncture, there can be a problem if the victim changes her mind, or one of the witnesses pulls out, or CPS might change the charge. It is such a big beast that I think realistically although, it has been improving, you're always going to have difficulties but that's no good telling that to individual victims that the case has been dropped when she doesn't understand why, or it hasn't necessarily been explained properly, or it's the CPS lawyers sixth or seventh case that in day and it isn't the best evidence so he decides it is not going to go ahead. It is making sure that people remember its people involved, its real lives, it's not figures and numbers and hard facts. Volume is a big issue it may be to a certain extent were all a victim of our own success in terms of encouraging people to make that first make that call for help, that were now in a position where we have thousands of cases, so now part of the next challenge is not only encouraging people to make that complaint but it's giving them the right support and help them to have a satisfactory outcome -but a satisfactory outcome doesn't necessarily mean a conviction, it could be that the

victim is now out of that situation she has moved around, she might not necessarily have gone ahead with giving evidence in being part of the prosecution and I think we've got to be a little bit grown-up about it, but that is a successful outcome to a situation where you might not have achieved a conviction or a guilty plea or CPS may not have taken it forward but if the person is safe and that must be viewed as positive, from our point of view it would be better to have that conviction in order that to deal with him in case he commits further offences. It's the bigger picture but it's how it breaks down to the individuals. I sit on the scrutiny panel with CPS where we look at cases and see what should have been done and what we could do better and don't think we could ever sit on our laurels, we will always need to be working to do better need to make sure officers are viewing it in the right way and dealing with it in the right way, it's about us being professional and work with everybody to ensure that the right outcomes are there.

Interviewer: And if a woman has a positive experience the first time, she is more likely to come back that next time.

Respondent: Yes and what is the positive experience is so different from one person to another. She may not have had the best response from the police, but she thought that the officer was really helpful, or the officer may have done everything possible but because they and the victim didn't see eye to eye, says she may feel that she hasn't had a very good experience. It's very subjective; it's difficult you've got thousands of police officers and 40,000 cases in the police so it always going to be difficult.

Interviewer: Do you think that there is one agency of the criminal Justice system that takes more responsibility for dealing with domestic violence?

Respondent: I think everyone has a different role and different perspective and I don't think they are comparative. I think each individual agency has to look at its practice and what it wants from dealing with domestics and we are all pulling in the same way. I don't see any particular agency necessarily standing out over another. but just by definition we are the first line, we are dealing

with it from the off and everything else is dictated by what the police do initially, so I think we have a lot of sway over how things are, so I suppose if you wanted to single out one agency in what deals, because we are in there from the start is and it really does dictate how it will turn out, because if it's a poor investigation the CPS will struggle to charge- if we have dealt with somebody poorly, they might not carry on with their support of the prosecution and think they will never call the police again, so although I don't think any agency thinks they are the most important I think just because of the way things have turned out, the police dominated from that point because how well we do or how badly we do affects the rest of it.

Interviewer: How do you see the police's role in relation to prosecuting domestic violence?

Respondent: I think it has changed, when I joined you dealt with a case to get a conviction, you interviewed someone in the hope that they would just hold their hands up, 'it's a fair cop', whereas now we are professional evidence gatherers as opposed to trying to do everything ourselves- the detective the jury, the court, so a few years ago we tried to play every role so that has improved things because everyone has got a more identified role, now we don't have to concern ourselves with the prosecution it is much more the case of making sure that when officers go to the scene they are hopefully professionally looking at what happened and identifying evidence and putting together a case for the CPS to then say well we could do with this statement or that statement, there are gaps here or there is something else we could do with and then the liaison with the officers means the officers can put that together and learn due to the communication between the two and make sure that the burden is not just on the police so it's made us more professional and made us realise that if we just gather the evidence, and make sure that we do that properly and as a people will make that decision based on what we've got, I think it's a much better system it is safer system and it more defines the roles between the agencies as well.

Interviewer: What's your view on the police's evidence gathering in relation to domestic violence?

Respondent: I think it could always be better, you go to a situation and it's one of the most difficult situations to land at, you make quick judgements about what is going on what has happened and then deal with it, when it's one of those offences where rarely there are independent witnesses- all the witnesses who you have are children or family members so it becomes very complicated, so although domestic violence is seen as a basic offence such as assault or criminal damage, it's one of the most complex cases to prosecute, because of the involvement of close family members -there is no detachment everyone has a full involvement and they have allegiances so that it becomes very complex to prosecute and I think sometimes people maybe forget that, and things like 999 calls photographic evidence head cams and taking pictures of scenes in getting witness statements from neighbours, I think that sometimes isn't necessarily done in the best way because you get there, she could be bleeding and screaming and you make a quick judgements whereas when it's an assault on the street and there is no emotional attachment it does become more simple to deal with because most other offences tend to be fairly black and white whereas domestic abuse tends to be so many grey areas, just because after emotional involvement of everybody be young children older children, it becomes one of the most complicated cases to investigate because of that involvement you simply can't view it as an assault because it isn't. I think officers are dealing with it better although I personally would like to see a far better more concise, Fuller investigation. I think officers are often pressed for time because of the things that is going on with the job. I think one of the problems is that a lot of our front-line officers are young in service and may feel under pressure to keep moving to get to the next job and I'm hoping that the training we are putting out makes them stop and think, and the risk assessment we have will help them to ask the right questions, and hopefully that will make the officer slowdown a bit. We want to move away from form filling, is tick boxing robots. I think over time we have de-skilled a lot of officers and they haven't necessarily asked the right questions or been looking in the right places. When I was a young officer I was 18 1/2 going to jobs where I was telling people who've been married 25 years how to live their lives.

Interviewer: How well supported do you think the police are by the government in relation to domestic violence?

Respondent: When I took this job most of my interview was about the government's strategy. I think that the government do put into play, I'll be honest I didn't really know or was that bothered what the government said, but since I came to headquarters that all becomes relevant because you are guiding in helping your PPU's and you need to know where they are going because if you don't it is the blind leading the blind, so I think the government Do plan, they do put things into place, I think that the relationship between the police chief officers and the Home Office is something I had no knowledge about, but it works because they do listen to what we say and things do change. I think one thing I do think is that things happen slowly. from the 2004 act, we are now in 2010 and there are things that had been agreed and brought in law but still haven't been ratified so there is always a push to do the right thing, but my one criticism would be that it is often so slow that even when things have been bought in, there is still loads of it that still hasn't been implemented there is lots of good work, it's good to see there is a lot of interaction but even when they're done and everything is agreed it takes such a long time.

Interviewer: What are your views on prosecuting domestic violence offenders as a way of actually addressing the issue?

Respondent: The prosecution of someone who has committed a criminal offence if at all possible is something we should be doing. it forms part of the person understanding that it is wrong if somebody commits a criminal offence and we can find them guilty because we have the evidence then I think we have to go for that, but I don't think it's the be all and end all and I think we're becoming live to the fact that a successful outcome doesn't necessarily mean a prosecution. Whether that's an opinion shared right across the board in the police is not necessarily the case, but certainly from my point of view as the lead for DV is professionally deal with the situation and if someone is now safe, that is a successful outcome to a situation. If we can prosecute

someone for committing that criminal offence then that is a good outcome for us because it could stop that person from committing further offences against another person. Essentially prosecution is great but certainly it is not the be all and end all.

Interviewer: What impact do you think placing the decision to charge with the CPS has had on the prosecution of domestic violence or any other offences?

Respondent: I think it's taken pressure off, because when I joined you would basically be investigator, the judge and jury, really everything, if you were interviewing somebody you would need to get them to admit it and I think taking that away and making us gatherers of the evidence and just presenting it, and somebody else making the decision, I think it's going to have its plus points and its minus points, because we all know someone who is guilty but the CPS say there is not quite enough evidence. it also stops officers from getting carried away -they know their role they know what they have to do it isn't about making sure that whoever they interviews says 'yes I did it' to get a successful prosecution, it makes officers more alive to the fact that they need to gather the best evidence, because you take all this to somebody and say right we have got as much evidence as we can, what do you think? you're not pressurising one agency to do everything and it is a process, I think it's better also someone who is making the decision who isn't emotionally involved because you do become emotionally involved in the case whereas CPS are looking at the case and the facts in the cold light and this might go against some domestic victims to be honest, because sometimes there just isn't enough evidence -we all know he's guilty but there just isn't enough evidence. When you talk about domestic violence on an individual case bases its always difficult to view it as a whole because the subject is so emotive. You're emotionally involved to the hilt in some of these cases and if you put me back in a PPU and then I've got 40 cases on my desk and I know that someone is guilty and I want prosecuted and the CPS tell me there is just not enough evidence, then my view would probably be very different because you do get so emotionally involved but looking at it from a strategic level I think it's better.

Interviewer: Do you think there is consistency across the Force from CPS in the decision to charge?

Respondent: You will always get anecdotal evidence from officers about the CPS direct where they phone at three o'clock in the morning and officers will complain about it, I know certain CPS who are more alive to the issues of it but they are still working to the same principles, the differences is they might say to the officer that all if you go away and do exactly this, then we might have enough evidence whereas if you have someone from CPS who doesn't have that involvement then they might not give the time to sit down with the officer. so even though you've got quite strict guidelines, you are still working with individuals who might have some different views, and also officers might not have necessarily presented an a case well and an integral part of my role as a DVO was going to CPS to say why haven't you authorised charge? Have you seen the history? And they say well no, we haven't been told! So again every agency has got these parameters, but you're still dealing with human beings who are making choices and decisions within, and they can affect the final decision. Sometimes it can be a fine line between prosecution and not, and I'm the scrutiny panel we see where things are going wrong and we can make sure that policy addresses those issues.

Interviewer: What do you think about the amount of resources made available by government to address DV?

Respondent: It's a separate issue really because the police are funded centrally and we make decisions where the money goes and as opposed to government who want to fund different things outside of that, it's a difficult one to answer really.

Interviewer: What do you think about the police then and the amount of resources allocated within the police to domestic violence?

Respondent: I think I could treble all the number of officers involved with these offences, and I think we could have domestic abuse investigation units on every PPU but your repeat numbers may stay at 30%. It's a difficult one to strike a balance between because I'm a big believer in doing it dually between victim support and offender management and to have an investigation unit on each OCU is a major investment. I think there probably is disparity between the government and the police saying domestic abuse is the top priority but when you look at the numbers of people involved it might not necessarily reflect the importance that it is being given verbally. I do think that there is probably a disparity between what how important people say domestic abuse is, and then the resources that reflect that.

Interviewer: What impact do you think that the specialist domestic violence court programme has had on domestic violence?

Respondent: I think there is a long way to go with it. I think we have something up and running with the domestic flag on it, but I don't think it is actually the service that we thought it was going to be. I think DV courts have a long way to go, I think it's a volume issue, I think that people were either naive or didn't realise how many offences were involved in domestic abuse and a lot of the time if its first appearance in a domestic abuse court that doesn't serve any purpose really - what you need is the specialist magistrates in there at the trials and that doesn't happen. I think if you asked any lay person what they thought a domestic abuse court was they would think it's where they heard all the DV cases and that is not what it is, I think the concept and the idea is great but I don't think how it actually operated has lived up to what the public expected

Interviewer: What do you think about the attitudes towards victimless prosecutions?

Respondent: I think shock because they don't see them- they are very few and far between really and they are the case at the end of the rainbow and we don't always find the end of it. I have actually been involved in a couple of victimless prosecutions and had fabulous results, but literally only a couple. By definition they are very difficult and I think what can happen is that

over a period of time, people think they are a myth. You will have officers now who will have never been involved in a victimless prosecution. Why do you investigate and send off for forensics if there's going to be no support for the prosecution? and on a few cases on some serious assault, I made sure that the victim was summoned to court, the case went ahead and he was convicted and I was called all the names under the sun by the victim but when he actually got a prison sentence, she came outside and hugged me and thanked me because it was only then she could actually relax and say thank God somebody did that for me! You will have lots of officers now that it may be there but it doesn't ever happen. if you turn up to a job and the victim says I'm not telling you anything, then it doesn't matter what's happened, you will do what you need to, but because you don't think victimless prosecution is going to happen you're not necessarily going to take the extra mile. The idea of victimless prosecutions is great is they do work because I have been involved in them but they have become so infrequent even specialist officers will not have been involved in one.

Interviewer: What do you think about the quality of training provided to staff within the police in relation to domestic violence?

Respondent: It has improved, when I was in a PPU I was there for four years and didn't have any training whereas now we do training every three months. We train trainers and we train sergeants on how to supervise their officers. We have done an intensive six-month training session with the new risk assessment, and it's not just training, we provide updates via e-mail. The amount of training that we have put on, and the events that we have done and e-mails and supporting the PPU's staff to help them to support their officers that has not happened before. We have audited them and then fed back how they need to do better, and that's just in the last 18 months, so I think in that time frame it has improved.

Interviewer: To what extent do you think that training can influence officer's approach?

Respondent: I think sometimes you'll have to go in with shock and awe tactics. 'When you go in, this is what has actually been going on for the last 10 minutes half an hour or 10 years, what you see is the tip of the iceberg'. Then play the 999 calls, show dead bodies in suitcases. I'm not saying that's always the way but it certainly helps to bring up their understanding and appreciation of what they do and helping them to understand the implications for them if they don't deal with it properly, because it is about protecting the victim but it is about protecting themselves and their jobs. Domestic abuse is the one series of offences and incidents that will bite you on the back of the bum if you don't do what you should do. you will deal with somebody who will end up dead, that isn't to say you haven't done your job properly because there are sometimes only certain things we can do as police officers but it's a reality check for them because if you haven't dealt with it properly, then you've been involved in a situation that has led to her death then you're involved in that, so its balancing the two ,they need to know what they've got to do and do it properly but then understand that even if we all do our jobs properly, that might not save someone's life. also you've got 10,000 officers to train so many percentage are going to be victims, so many percentage are going to be offenders, just because we are the police, it doesn't mean we aren't going to be part of those percentage figures.

Interviewer: What factors do you think have prompted changes in the police's response to domestic violence and does the same hold for other offences?

Respondent: I think it's a realisation since I started that an assault in the home from someone you know is worse than someone on the street, because there are trust issues there. your home is where you are meant to feel safe, in my eyes it's a far greater gravity of the offence and involvement than somebody who's just a bit drunk and punches someone in the street -not saying that's right –police realise it isn't just a domestic, they have to crime it, investigated properly if we get a prosecution we get a prosecution but if we make that person safe and get them out of that relationship then that's all we need to do.

Interviewer: What do you think has helped the police come to that realisation?

Respondent: I think it you'd probably look at the way we used to deal with cases and the amount of domestic murders. I've been involved in the situation where 15 to 20 years ago, I've gone to a job, and told one to go one way, and the other, the other and then three or four hours later go back round and his stabbed that person to death. that when you realise such cases, because that's only when you learn and when you best learn, and I think over the years when you look at the fact that the police have actually been there and been involved in that case- 'why didn't they do something' you've got a preventable case there-the murders are situations you could have prevented for different reasons but we weren't there dealing with it. ultimately there are going to be murders but if you don't deal with every domestic properly, and I think too many missed opportunities came into the public arena and I think a lot of lobbying from support agencies out there, the likes of women's aid saying you've got to take it more seriously. I don't think the police just sat there one day and thought were going to deal with this now. It was a 30 year process and we're starting down that route now with HBV- you don't just start to deal with it properly, a lot of mistakes and a lot of pressure and a lot of partnership working and is now in place to make sure that we are dealing with these issues properly

Interviewer: In your experience has public opinion had any impact on how the police respond to certain crimes?

Respondent: Definitely, everybody used to drink drive, well not everybody but it was certainly an acceptable thing to do, and you could probably throw domestic abuse in with that, people thought that she must have provoked him .there are many offences like that, at one point along the path were socially acceptable or maybe not acceptable but everyone turns a blind eye, and I think that domestic abuse has been one of those- so many issues, speeding or even using a mobile phone when driving you can feel a sea change about different things like hate crime and homophobic issues and immigration issues. The thing that domestic abuse is now unacceptable, than speeding kills, I think some of those are to do with public campaigns but then it's chicken and egg. You don't know which came first and I think that the public at large look at some white-collar fraud as

well no one's getting hurt and its bizarre how the public think. The thing with society as a whole you do feel these sea changes coming along, they are all gradual processes. I think if you asked the majority of people on the street now, they would say domestic abuse is wrong and the police should arrest people and we should prosecute people that I don't think you would have had that responds in 1973. Some women may have said that and thought it was part and parcel of being married. So it had to become unacceptable so that people on the end of it don't have to think that they should put up with it and again, that is because of people lobbying.

APPENDIX 4:

THE IDVA SERVICE AND SDVC IN THE STUDY AREA

An overview of The IDVA Service (Women's Aid Organisation):

The local Women's Aid organisation provides services for women and children who have been affected by domestic violence, rape and sexual assault. The charity is a women's organization that arose out of the feminist movement of the 1970s. The aims of the organisation are to:

- To provide safe, secure, temporary accommodation and a counselling support service to women and children affected by domestic violence and abuse
- To provide advice and information to women survivors of abuse
- To raise awareness of the issues that face women and children survivors of abuse
- To ensure that women obtain the benefits to which they are entitled
- To provide appropriate play opportunities for children living in refuge and a safe environment for children to explore their feelings.

In order to achieve these aims, there are several values and principles upon which the organisation bases themselves:

Women's Aid will:

- Believe women's and children's experience of abuse.
- Give priority to women's and children's safety
- Enable women who have been disempowered by domestic violence to determine their own lives
- Recognise and address the emotional, educational and developmental needs of children affected by domestic violence

- Provide high quality services run by women and which are informed by listening to and involving women and children affected by domestic violence
- Challenge the disadvantage and social exclusion which result from domestic violence and women's position in society
- Challenge discrimination, to support and reflect diversity and to promote equality of opportunity
- Develop partnerships and promote cohesive inter-agency responses to domestic violence.

History of the Organisation

The organization developed out of the refuge movement, with their first refuge opening in 1980. Since then they have opened another four refuges. As the policy landscape around domestic violence changed, so did the services offered. In 1996 they started their first community based project in the form of a counseling service. Shortly after this, they developed a Family Support Project, and Outreach service – the former supporting the mother and children to rebuild their relationship, and the latter, providing both practical and emotional support to enable women to overcome their experience of abuse.

The Court IDVA Service:

In late 2005, the service set up a project in close partnership with the Police (funded by SRB 6). The aim of this project was to support women going through the criminal justice system as a result of domestic violence. The workers involved in this project later became known as IDVAs (following the 2005 National DV Delivery Plan and establishment of CAADA), however, their role in the Court pre-dated these developments as well as the introduction of SDVCs. In 2006 the service secured funding to support women through the civil court by obtaining non-molestation orders as well as funding to provide housing advice to women fleeing abuse. These three projects (Courts, Civil Orders and Home Options) became known as the Women's Safety Unit, and worked towards the following aims:

- To promote the safety of women and children
- To develop and promote the delivery of Courts work – in particular to provide a support and advocacy service to women engaged in the Criminal Justice System and Civil Court system, with a view to securing convictions, obtaining protection and improving the safety of women and children.
- To provide women with quality advice and information on options, rights and services, empowering them to make informed decisions and encouraging greater engagement with legal routes
- The WSU aims to demystify the criminal justice & civil remedies system and enhance women's confidence in the process

The WSU has now been in operation for 8 years and has retained the same project manager throughout this period. The Court's team has changed in size over the eight years, ranging from one project worker in the initial stages, to a maximum of five workers when funding allowed. As of 2013 the project will reduce to only three workers due to a reduction in funding.

The Court's project is funded to support women who have been the victim of domestic violence and are required to attend magistrates' court, however the project will also support women whose cases are referred to the Crown Court. Referrals into the service can either be from agencies such as the Police, CPS or WCU or from victims themselves. As Chapters Two and Three suggested, the majority of IDVA services will only support women who are deemed to be at 'high risk' of harm. The Court IDVA service, however, will support any woman regardless of her risk level.

Whilst funding streams have varied over the years, the overarching aim has remained constant – that being to support women to remain engaged in the criminal justice system – the process by which this occurs however, has been left to the discretion of the organisation. The organisation has developed its Court service to include the following:

- Providing a support and advocacy service to work with women around safety planning (including on-going risk assessment)
- To work with women both pre and post court (especially around safety and potential risk).

- To accompany women to court.
- To track cases going through the courts so women are kept up to date.
- Access the outcomes of cases immediately and work with women to re-assess the risks.
- Liaise and facilitate communication between key professionals such as Police Domestic Violence Officers (DVOs), Crown Prosecution Service (CPS), Witness Care Unit and the woman.
- Negotiate and arrange to implement 'special measures' for women giving evidence (screens in court, informing security staff of any potential risk).
- Assist on a range of related matters such as housing, benefits and child contact.
- Signpost and refer women to appropriate support services.

Governance

The organisation is a registered charity and a company limited by guarantee (3509538).

The organisation is managed by a Board of volunteer Trustees who are responsible for overseeing the management, financial transactions and decisions, maintenance and development of services and compliance with all duties that a charity and limited company are bound by.

Partnership Work

The organisation have identified that in order to best support women and children, they must have good working relationships with both statutory and voluntary services with whom women come into contact. Their relationships with external agencies are built at both the strategic and operational level. In operational terms, the organisation directly support women and children by advocating on their behalf with a number of professionals (such as housing officers and police officers), as well as support women through more formal processes, including:

- Child protection case conferences
- Criminal and civil court proceedings
- MARACs (Multi-Agency Risk Assessment Conferences)

In addition to their operational partnership work, the organisation have a strong strategic influence in their area, which can be evidenced by their involvement in the following multi-agency fora and working groups.

- Violence Against Women Board
- Crown Prosecution Service Scrutiny Committee
- Voluntary Services Council
- Safeguarding Children Board
- Third Sector Assembly
- Supporting People Domestic Violence Mini Forum
- Supporting People Provider Chairs' Forum
- Safer Partnership Executive Board
- Safer Partnership Strategic Local Delivery Group
- Be (Local Strategic Partnership)

The SDVC.

The local magistrates' court achieved its specialist status in 2007, having met the eleven conditions of the 2006 Resource Manual (discussed in Chapter Two). However, in 2009, the Safer Partnership commissioned a review of the court due to concerns it was no longer operating according to the eleven principles. Following this review, the local Criminal Justice Board revised its protocol for all SDVCs within the area in which some of the concerns in the 2009 report were addressed. As such, this discussion will give context to the SDVC in the study area during the research period by describing how the court was found to have been operating in the 2009 review, as well as how it should then have been operating following the revised Protocol for the Specialist Domestic Violence Courts 2010. This thesis will further contribute to this discussion by identifying whether the principles that impact on the DVCAS were still in place following the research.

Multi-agency partnerships and protocols: the study area has a good history of multi-agency working, and has had a Domestic Violence Co-ordinator employed by the City Council since 2005 who established a Domestic Violence Forum. A protocol for the SDVC had existed since the court achieved its official status in 2007. The 2009 report, however, suggested that this was no longer being followed and had not been revised following changes in the area (Wills, 2009, p.6). Following recommendations made in 2009, the revised 2010 protocol re-established a strategic steering group with the aim of providing governance and performance managing the SDVC, as well as establishing local operational groups with the aim of ensuring the SDVC programme was implemented (WMCJB, p.6-7).

Multi Agency Risk Assessment Conferences (MARACS): MARACs have been in operation across the whole of the study area since 2006. As outlined in Chapter Two, these meeting are a forum to discuss high risk victims of abuse regardless of criminal proceedings, and hence are not intended to impact on the successful prosecution of cases. In the study area they were traditionally led by the police with the majority of cases being identified by them. The MARAC system in the area was not developed according to the Co-ordinated Action Against Domestic Abuse (CAADA) guidelines, however CAADA have made several attempts to move the area closer to the nationally recognised model. The 2010 protocol suggests that the Police Public Protection Units should continue to identify imminent risk factors, whilst recognising that other agencies should also be able to refer (WMCJB, p.14).

Identification of cases: The 2009 report suggests that concerns were raised about the consistency with which domestic violence cases were identified and then heard within the SDVC. Such an issue prevents the correct number of victims from receiving the support of the specialist court. The 2010 protocol subsequently places responsibilities on a number of criminal justice agencies with regard to correctly identifying cases of domestic violence. The police must take

responsibility for identifying this on crime reports, charge sheets and any other case file papers submitted to CPS. The CPS must then endorse the DV classification, inform the police and WCU if they encounter a case that has not been correctly identified, and flag the case on the Compass computer system. It is then the responsibility of the court to ensure the front of the court file is marked as domestic violence and for the legal adviser to ensure magistrates are aware that it meets the agreed definition (WMCJB, 2010, p.11).

Specialist domestic violence support services: As outlined in Chapter Two, the support element of the SDVC has been central since its inception. In the study area, this support pre-dated the formal introduction of SDVCs and IDVAs. The 2009 review suggested that the court support provided by the IDVAs was ‘particularly impressive’ given the failure of so many other aspects of the SDVC (Wills, 2009, p.8). Furthermore, Wills commented on the positive relationship in the study area between the IDVA service, victim support and Witness Service, which is often far less amenable in other areas. With regard to providing specialist support, the 2010 protocol suggests the police should offer victims a referral to the IDVA service and/or victim support, explaining what these services can provide (WMCJB, p.19).

Trained and dedicated staff: Having trained and dedicated staff was seen as fundamental to the success of the SDVCs evaluated in the 2007/8 review (see Chapter Three). In the 2009 report it was suggested that in the study area, training needed to focus on the response of police officers who were not investigating cases thoroughly (especially in terms of additional evidence) as well as recognising the importance of magistrates’ understanding the dynamics of domestic violence. The 2010 protocol later suggests that only legal advisers, magistrates and District Judges (magistrates’ courts) who have received domestic violence training will be listed in the SDVC (WMCJB, p.22).

Court listing considerations: Listing considerations concerned whether a court was a ‘cluster court’ or ‘fast-track’ court. The 2007/8 review suggested cluster courts were the most effective as they enabled appropriate court support to be in place before the trial. Wills report suggests that the volume of cases in the area was highlighted as a particular concern, however, he suggests that three whole days per week be set aside as a cluster court for all first appearances (2009, p.10). This recommendation arose because a decision was made in the study area in 2008 to move the domestic violence court in with a ‘Community Court’ with drugs and driving offences. This was seen to have diluted the efficacy of the SDVC. The 2010 protocol then suggested that all cases in the context of domestic violence should be listed in the SDVC, unless it is a listing for trial. The courtrooms to be used for trials should be deemed appropriate and only domestic violence trained personnel should be involved.

Equality and diversity issues: Whilst the 2009 review was unable to determine the extent to which these issues were addressed in the study area, it did note that the IDVA service employed language specialist workers. There is no direct mention of equality and diversity issues in the revised protocol either, and as such, issues regarding disabled access and child care issues appear to have been neglected.

Performance management: In order to determine how an SDVC is operating, the performance of the court needs to be monitored, however, Wills report suggested that locating performance data for the SDVC ‘proved difficult’ (2009, p.10), and he therefore recommended these processes were introduced. The 2010 protocol suggests that the local operational groups should meet at least bi-monthly to identify problems at an early stage, robustly manage and monitor DV attrition, complete an annual assessment of the SDVC and create action plans that target areas of concern (WMCJB, p.34).

Court facilities: the study area's SDVC has a private waiting room that is used solely for the purpose of domestic violence victims. The room was initially for the use of DVOs, however, IDVAs have been permitted to use the room since their inception, and they are now the sole users of the room. The 2009 review commented on the value of this room and suggested that as more cases are heard as part of the SDVC that the court considers making more rooms available.

Children's services: Whilst the protocol does not discuss the issues of children in the context of domestic violence services, there are already a number of safeguarding procedures in place that individual agencies, including the police and IDVA service must follow whenever there are concerns regarding the safety of children. However, there is a question regarding how well known these procedures are understood by the CPS and HMCS. The 2009 SDVC review in the study area was unable to address this issue in the short timescales involved and there is no mention of children issues in the 2010 protocol.

Managing perpetrators: The 2009 review commented that the study area was utilising mandatory perpetrator programmes, but further commented on the impact this then had on the capacity of the probation service. The 2010 protocol identifies that the magistrates' court will ensure breaches of community orders are listed under the SDVC, as well as listing a number of responsibilities for the probation service in managing offenders (WMCJB, p.32-33).

The above discussion identifies how the court in the study area was operating (according to the principles of the SDVC resource manual) in 2009 as well as how it should have been operating from 2010. This thesis does not seek to evaluate the SDVC in relation to the above criteria, but instead seeks to understand how the DVCAS in the study area has impacted on successful prosecutions and the extent to which the police and CPS have supported the DVCAS. As such, the following analysis will be able to comment on a number of the above principles as they relate to DVCAS – in particular, the principles of multi-agency working, specialist support, trained and

dedicated staff, court listing considerations and court facilities will all form part of this investigation.

APPENDIX 5:

RESEARCH PROPOSAL

Background to the Research:

What is the 'problem'?

With two women every week in the UK being murdered by their current or former partners, domestic violence remains to be the single largest social problem faced by women in this country. Furthermore, despite the efforts of the Government to deal with offenders in a proactive manner, it is still the case that the average prosecution rate for reported DV offences struggles to reach 7%. The fact remains that despite the apparent commitment of the Government to tackle this issue, the vast majority of offenders will never be held accountable for their crimes.

A detailed literature review into this issue highlights that the main reason the CJS cites for the low prosecution rate of DV offences, is a high rate of victim withdrawal. Despite some studies suggesting this can be a significant issue, the majority of the research indicates that the police, CPS and the courts do not treat domestic violence in the same way as they treat other crimes. Research has shown that for offences of DV, much of the investigation is based on the statement of the victim, rather than attempting to gather the available evidence; therefore, if the victim becomes the only source of evidence in the investigation, and she withdraws her support for the prosecution (for any number of reasons) then the case is likely to be discontinued. Other studies have shown that police officers overtly try to dissuade women from making a formal statement, and prosecutors are likely down-grade charges to much lesser offences than those committed. Furthermore, some studies have sought to highlight the lack of control women have once the

process has begun, and the fact that women do not call the police with the intention of prosecuting the offender, but largely, they call with the need to end the violence at that moment.

To date, there has been no detailed evaluation of the recent attempts by the Government to redress in the inequality between reporting and conviction rates for domestic violence. Whilst evaluations of individual interventions are important (such as the evaluation of IDVA services) what they cannot take account of is how these interventions operate within the pre-existing agencies of the CJS and what it is about these agencies that either assists or inhibits these interventions from achieving their aim of successful prosecutions for DV offences. (For example, if CPS do not resource the SDVC with trained prosecutors, if the police do not attempt to gather evidence other than the statement of the victim, if the Courts do not provide trained magistrates' for the SDVC, then how can the SDVC model be expected to achieve positive outcomes?).

What are the intended outcomes of policy?

Between 2005 and 2010 the Labour Government published 5 National Reports on domestic violence, which outlined their approach to dealing with this issue. Whilst changing slightly over the 4 years, the intended outcomes of their interventions, remained largely the same:

Objective 1 – to increase the early identification of, and intervention with, victims of domestic violence by utilising all points of contact with front-line professionals.

Objective 2 – to build capacity within the domestic violence sector to provide effective advice and support to victims of domestic violence.

Objective 3 – to improve the criminal justice response to domestic violence.

Objective 4 – to support victims through the criminal justice system and to manage perpetrators to reduce risk.

It is objectives 3 and 4 that will form the basis of this thesis.

What is the rationale behind the intervention?

The criminal justice response to domestic violence has been a key focus point for the Labour Government in recent years. Many of the interventions they introduced on a national scale, were based on the assumption that the traditional approach of the CJS was inadequate at protecting victims and punishing offenders.

For example, in its first National Action Plan published in 2005, the Government explained their rationale for improving the CJS response:

“The Domestic Violence, Crime and Victims Act 2004 recognised that the continuum of the Criminal Justice System often failed victims whose cases were brought to court. This resulted in extraordinarily high attrition rates amongst domestic violence cases. The Domestic Violence Crime and Victims Act 2004, seeks to redress this by introducing a series of new measures which improve the effectiveness of protection offered to victims and Police Powers to arrest perpetrators. The measures will be rolled out over the coming year. The Police and the CPS are also taking a more proactive approach to prosecution, even where the victim does not want to press charges”.

What are the interventions?

Whilst the Government may have changed the language they used to describe their approach, what stayed constant were the interventions they felt would achieve their aims.

(Whilst the Labour Government are no longer in power, the below interventions are still in existence. Furthermore, the Coalition Government have identified in the document ‘Call to End Violence Against Women and Girls’ (HO, 2010), that whilst they disagree with the Labour

Government's focus on the criminal justice approach to domestic violence, they will continue to fund centrally, the work of IDVA's as well as continuing to support the roll out of SDVC's.)

1) Specialist Domestic Violence Court Programme:

The SDVC programme is the centrepiece of the National Domestic Violence Delivery Plan, and works by bringing together the agencies of the CJS, along with independent support for victims to protect the most at risk victims and punish offenders. As the Government set out in their first National Report:

When referring to a specialist Domestic Violence court, we are not referring to a court building or jurisdiction, but to a specialised way of dealing with domestic violence cases in the magistrates' courts. There are two types of specialist domestic violence courts currently operating:

- Clustering – all cases are grouped into one court session to deal with pre-trial Hearings, bail variation, pleas, pre-trial reviews, pre-sentence reports, and sentencing. Some cluster courts also hear trials in a specific Domestic Violence session.
- Fast-tracking – specific pre-trial review sessions are allocated for Domestic Violence with 1 in 4 court slots allocated to DV for all further hearings/trials.

A specialist or fast-track court procedure for dealing with DV cases will deal solely with criminal, adult proceedings. Independent Domestic Violence Advisor services are an essential element of the multi-agency approach which culminates in a specialist court.

The evaluation of specialist domestic violence courts showed that there were significant benefits to be gained, for the courts as well as for the victims of domestic violence, from such courts. Significant findings from the research were that specialist domestic violence courts:

- Enhance the effectiveness of court and support services for victims;

- Make advocacy and information-sharing easier;
- Improve victim participation and satisfaction; and
- Increase public confidence in the CJS.

2) IDVA's:

IDVAs are trained specialists whose goal is the safety of their victims. Their focus is on providing a service to victims who are at medium to high risk of harm, addressing their safety needs and helping them to manage the risks that they face.

The role of the IDVA is pivotal to both the SDVC model and the MARAC, and there are seven main attributes the Government felt IDVA's should possess:

- 1) Independence: the role of the advisor is to advise and support victims to help ensure their safety. To do this effectively, the advisor must be independent of any single organisation. The key outcome of their work must be survivor safety rather than better results for a particular agency (such as increased arrests, prosecutions, etc.).
- 2) Professionalism: the service involves supporting a survivor with a named caseworker. This requires training and is not naturally suited to be carried out by volunteers.
- 3) Safety Options: advisors need to understand the full range of remedies and resources available in the civil and criminal justice systems, as well as the physical safety options available to a survivor through other statutory and voluntary sector services, and to be able to assess their suitability in each case.
- 4) Crisis Intervention: advisors work from the point of crisis with a survivor and offer intensive support to help assure their short and long term safety.
- 5) Risk: advisors must understand the assessment of risk as it relates to domestic violence victims and how to manage it. The focus of an advisor's work is with high-risk victims where their safety can only be assured through this approach.

- 6) Partnership: advisors need to liaise effectively with statutory and voluntary agencies. The service provided by the advisor should ensure that agencies are able to fulfil their obligations to the survivor on a collaborative basis.
- 7) Measurable Outcomes: Advice Services have clear outcomes in terms of reduced repeat victimisation, fewer withdrawals of witness statements and increased reporting of children at risk of harm from domestic violence.

IDVA involvement as described above, has been shown to decrease victimisation, increase notification of children at risk and reduce the number of victims unwilling to support a prosecution. The evaluation report (launched in June 2005) on the SDVC pilots in Caerphilly and Croydon found that victims were more likely to participate in the CJS if they were assisted by advocates.

Research Question:

The overarching question I intend to answer, is:

‘What works in increasing successful prosecution rates for domestic violence offences?’

This question has been largely ignored by research and those working in the field. Much attention has been focused towards the efficacy of prosecution (in the US), whilst in the UK it has generally been accepted that this is the approach that should be taken. It is also clear from the literature that research has attempted to highlight the fact that prosecution of domestic violence cases is poor, however, the research has not sought to understand how new developments have impacted on the attrition rate and which new initiatives could prove the most successful. By conducting a realistic evaluation of an IDVA service based within a SDVC, I will be able to identify the impact that this initiative can have on increasing successful prosecutions and under which circumstances this occurs.

In order to answer this question, it will be important to incorporate the policies of the police and CPS and how they interact with the SDVC and IDVAs. Furthermore, with the introduction of the SDVC programme, it is the victim who should be at the centre. As a result of this, I am requesting to complete my empirical research using data from IDVA's who support the victim throughout the process and beyond.

Empirical Research:

This thesis is requesting to use data provided by the IDVA service. Case files of women who have been supported by the IDVA's through the SDVC would be analysed to identify whether or not the offender has been successfully prosecuted, and to determine the factors that have impacted on this outcome.

Stage One:

Preliminary interviews with key stakeholders in the delivery of the interventions in order to determine the mechanisms and contexts to be tested (already completed).

Stage Two:

Collection of case studies from case files of IDVA's who work in the magistrates' court. Files would identify what the criminal offence was and the circumstances of this. The files would only relate to cases where the perpetrator has been charged, as this is the point at which the referral to the IDVA is made. Therefore attrition before the charge stage would not be tested. The file would detail the decision of CPS and the interaction between the woman, CPS, witness care and the courts. The files would also show any concerns she may have about the process itself, or the safety of her or her children. The woman's wider needs would also be recorded, which would show the myriad of issues women in this situation face, and the multiple reasons there may be for her withdrawing her support for the prosecution. The files would show the final outcome at court

including sentencing, as well as the woman's feelings regarding this. I would collate a number of case studies and present them in both quantitative and qualitative format.

Stage 3:

Interviews with IDVA's in relation to specific case studies, as well as the wider issues they face with agencies of the CJS and being part of the SDVC.

Confidentiality:

In order to maintain confidentiality, no files would be removed from the premises and no recording details of women would be noted on any analysis. Any case studies presented in the research would have identifying details removed. The files would be shredded following submission of the thesis. Similarly, interview transcripts would be deleted following submission of the thesis.

APPENDIX 6:**DATA TABLE**

File Ref	
Date Opened	
Date closed	
Referred by	
Stage at time of referral	
Offence (committed v's arrested for)	
Offence date	
Date def. arrested	
Bail dates	
Bail conditions	
Date def. charged and offence charged with.	
First appearance date and court dates	
Court bail conditions	
Trial date	
Outcome	
Sentence	
Quality of file	
New P/W/old	
Police Investigation: Witnesses Medical evidence	

Photo's Contact: DVO OIC Bail: Conditions Repeat bail	
Victim Special measures Retraction Safety concerns Receiving other support Other issues woman dealing with? Additional vulnerabilities Woman attends court Woman's view on outcome? Woman's views about: Police CPS Court Perp IDVA	
Defendant Breaches Bail Intimidation Plea	

Child Contact	
CPS Issues with CPS Case Dropped Woman informed Special measures VPS Restraining order Woman's concerns addressed	
Courts: Case heard in DV court Special measures Trial full or part heard Speed of trial	
IDVA Pre court visit Woman's safety issues addressed Woman's wider needs addressed Woman approaches IDVA with concerns Agencies IDVA liaises with: Police (DVO/OIC) CPS Witness service Clerk at court Probation	

APPENDIX 7:

PARTICIPANT INFORMATION AND INTERVIEW PREPERATION

A Realistic Evaluation of Independent Domestic Violence Advisers and the Specialist Domestic Violence Court.

Purpose of the study:

This research forms the basis of a PhD Thesis in the School of Public Policy at the University of Birmingham. The thesis is an evaluation of the IDVA service and SDVC system in the study area. The evaluation data has been drawn from analysing 95 case files from the IDVA service between 2009/10 and 2010/11 and seeks to identify how the support provided by IDVAs can impact on the prosecution rate for DV offences.

Why have I been chosen?

As an IDVA you will have a unique insight into how the SDVC system works, as well as understanding the complexities and realities women face when going through the criminal court system. This research seeks to explore for the first time, the impact that supporting women effectively through the CJS can have on prosecution rates, and as such, your contribution is vital to understanding this process.

Do I have to take part?

It is up to you to decide whether or not to take part. If you do decide to take part you will be given this information sheet to keep and be asked to sign a consent form. You will be given a copy of the consent form to keep. If you decide to take part you are still free to withdraw at any time and without giving a reason.

What will it involve?

Participating in this research will involve an interview that will take no more than an hour and a half and will be recorded on Dictaphone. There are a number of themes that will be discussed in the interviews that have arisen from the analysis of case files. You will also be asked to comment on some of the findings from the research. These findings and discussion topics are attached. Please read through the discussion topics and findings and consider your views on these. If you feel it would help, please feel free to make notes on the findings or discussion topics prior to the interview and bring them with you.

Will my taking part be kept confidential?

The interview data will be kept confidential and reported anonymously. Any direct quotation will be attributed to general job title only (e.g. "IDVA A"), however, it may not be possible totally to anonymise quotations as we cannot categorically rule out that readers of the report will be able to attribute quotations to the person(s) involved.

The interviews will be recorded and transcribed. The recordings will be then be deleted following submission of the thesis (by the end of August 2013).

What will happen to the results?

The results will be published as a Thesis. Findings from the thesis may also be reported in Journal articles and/or presented at research conferences.

How can I get further information?

If you have any questions about the interview or the research, please contact Holly Taylor on HXT052@bham.ac.uk

Interview Preparation Sheet.

Please read the below discussion topics and findings as these will form the basis of the interview. If you have any questions about the below information, or the interview itself, please do not hesitate to contact me.

Discussion topics:

- 1) The role of the IDVA service in the study area. How you receive referrals, and how your service works with other partners in the SDVC.
- 2) The SDVC in the study area. How it operates and how it has impacted on the practice of prosecutors and magistrates?
- 3) The role of the police in the study area and how this impacts on the SDVC.
- 4) The change in Government in May 2010 and the reorganisation of the study area Police Force in April 2010.
- 5) Women's experience of the Criminal Justice System – their concerns and how you help to alleviate them.

Findings from the research to be discussed:

The below information summarises some of the main findings to come out of my analysis of 95 case files that has formed part of the first stage of this research. 48 of these case files were closed during 2009/10 and 47 in 2010/11.

During the interview I should like to ask for your views and comments on these findings.

Of the 48 2009/10 cases, the overall success rate was 56%.

Of the 47 2010/11 cases, the overall success rate was 72%,

1) Retraction statements.

As you will be aware, the issue of victims of domestic violence withdrawing their support for the prosecution has been of major concern to the criminal justice system. In a Home Office study in 2004, it was reported that 44% of women withdrew their statement, whereas CPS data for 2009/10 shows a retraction rate of 19%. From my case study data of IDVA files, the following was found:

- In 2009/10 27% of women requested to complete a retraction, but only 19% did so.
- In 2010/11 only 15% of women requested and completed a retraction statement.

1) Court attendance and evidence given.

The issue of women attending court and giving evidence is often crucial for a successful outcome at court. The sample data showed the following:

- In 2009/10, 83% of women were required to attend court and give evidence. Of those, 92% attended court voluntarily.
- In 2010/11, 77% of women were required to attend court and give evidence, and of those, 94% attended voluntarily
- In 2009/10, 52% of women were required to give evidence in court, and 68% of those women did so.
- In 2010/11, 45% of women were required to give evidence in court, and 81% of those women did so.

2) Pleas made.

The levels of not-guilty pleas in both samples were significantly high.

- In 2009/10 (in cases where the defendant was eventually convicted), 96% pleaded not guilty at their first appearance.
- In 2010/11, 94% pleaded not guilty at their first appearance.

3) Successful Court Outcomes.

Considering the level of ‘not guilty’ pleas above, it is interesting to then see how the defendants were eventually convicted.

2009/10	27	2010/11	33
8 found guilty at trial	30%	12 found guilty at trial	36%
17 pleaded guilty on the day of trial.	63%	18 pleaded guilty on the day of trial.	55%
2 pleaded guilty the week before trial.	7%	3 pleaded guilty the week before trial.	9%

- The percentage of your cases that resulted in the perpetrator being ‘found guilty’ is much higher than the average for all DV cases heard at the court, which is around 13%.

4) Down-grading of offences.

There are a high number of cases where the charge is reduced by the CPS.

In the 2009/10 sample, there were:

- 12 cases of reported ABH that were down-graded to Common Assault at charge.
- 3 cases of reported GBH that were down-graded to common assault at charge.
- 1 offence of rape reported that was down-graded to attempted rape at charge.
- 2 offences that were charged as ABH but convicted as common assault.
- One offence of common assault that was convicted as common assault on a basis.

In the 2010/11 sample, there were:

- 3 cases of reported ABH that were down-graded to Common Assault at charge.
- 1 case of reported GBH that was down-graded to common assault at charge.
- 1 case of reported Threats to kill that was down-graded to Harassment at charge.
- 1 case of reported Threats to kill that was down-graded to Violence to Secure Entry at charge.
- 1 offence that was charged as ABH but convicted as common assault.

5) Witness Intimidation and Breach of bail.

It was clear from the files that this was a significant issue for the women being supported.

- In 2009/10 56% of perpetrators were recorded as having intimidated the victim, and 42% were reported to the police for having breached their bail. Of those, 35% were arrested.
- In 2010/11, 45 % of perpetrators were recorded as having intimidated the victim, and 30% were reported to the police for having breached their bail. Of those, 7% were arrested.

6) Special Measures requested and granted.

Special measures are clearly an important factor in helping women attend court. The case study data showed the following:

- In 2009/10, 46% of women requested special measures and of those 86% were granted by the court.

- In 2010/11, 66% of women requested special measures and of those, 96% were granted.

APPENDIX 8:**INTERVIEW DETAILS**

INTERVIEW	DATE	DURATION
IDVA 1	16.3.2012	83.37
IDVA 2	03.04.2012	65.36
IDVA 3	05.04.2012	50.05
IDVA 4	11.4.2012	37.41
MANAGER 1	17.4.2012	54.50
SENIOR MANAGER 2	19.4.2012	38.12
SENIOR MANAGER 3	01.05.2012	35.43

APPENDIX 9:**IDVA INTERVIEW QUESTIONS/TOPICS**

Name:

Job Title:

Length of time as an IDVA:

Length of time working for the organisation:

IDVA and DV Issues:

- 1) I would like to start by discussing how the IDVA service operates and what your experience is of how well referrals systems work, how well agencies understand the role of the IDVA etc., and any issues you may encounter.

So, to start, can you tell me about how the IDVA service is integrated into the SDVC? I.e. how does the system work and how do you get referrals?

Discussion points:

- Referrals – effective system?
- Do CJ agencies understand the IDVA role?
- Do CJ agencies understand DV?
- What priority is given to DV by police/CPS/Courts?
- Is there consistency within and across agencies referrals etc.?

SDVC Issues:

- 2) **I would like us to talk now about the SDVC system in more detail, in terms of how communication is between agencies, what impact, if any the SDVC has had on the practice of prosecutors and magistrates and so on.**

Can you tell me what your experience is of the SDVC? How does it work? Is it an actual court etc.?

Discussion points:

- Effective communication within and between agencies?
- Have they noticed an impact from the SDVC on prosecutors understanding and handling of DV cases?
- Have they noticed an impact from the SDVC on magistrates' understanding and handling of DV cases?
- Do CPS always provide dedicated and trained prosecutors to DV cases?
- Do the courts always provide dedicated and trained magistrates to DV cases?
- What is your experience of victimless prosecutions? When do they happen? Why don't they?
- In your experience, what would you say is the most important factor in a DV case being successful at court?
- What are your thoughts on the sentencing of DV cases?
- In your experience, which sentencing outcomes make women feel safer?

Police issues:

- 3) It was evident in the files that as IDVAs you have a lot of contact with the police in relation to women's cases. Can you tell me about how well you feel the police deal with domestic violence victims?**

Discussion Points:

- What is your experience of the police's evidence gathering for DV offences?
- What factors would you say impact on the how the police investigate a domestic violence incident?
- How do you find communication with the police?
- How do the police understand DV in your experience?
- Are there any particular issues that arise from women's involvement with the police?

Comments on findings:

- 4) As you saw from the interview preparation sheet, there were a number of encouraging findings from the sample data. I would just like to know your thoughts on what may have led to some of these outcomes:**
- Much fewer women in this sample retracted their statement as compared to previous research – why do you think this is?
 - More women attended court in this sample as compared to the national average – why do you think this is?
 - There was a high percentage of guilty pleas in this sample – in your experience, what contributes to this?
 - There were also more offenders 'found guilty' in this sample as compared to the average of all DV cases at BMC – what do you think might have contributed to this?

- There were 19 examples in this sample of the charges being reduced by the CPS. In your experience, why does this happen? Is this communicated to women?
- There were many examples where the police did not arrest an offender for breach of bail – in your experience- why does this occur?
- The vast majority of women who requested special measures were granted them – what impact do you feel special measures have on women's decision to attend court and give evidence?

Context Issues:

- 5) I am aware that in April 2010 WMP underwent a mass reorganisation that saw the loss of DVO's and a complete shift in the work of PPU's. It was also the election of the coalition Government.**

In your experience, what impact, if any, have these changes had on the CJ response to DV?

Discussion point:

- DVO's.

Victim Issues:

As an IDVA you have a unique understanding of women's journey through the CJS and it was clear from the files how much support and reassurance you provided to women.

Can you talk me through the main issues and concerns women have when faced with attending court and what your role is in alleviating those concerns?

Discussion points:

- What prevents women attending court and giving evidence?

- In your opinion, what are the most important factors for a woman deciding whether to attend court and give evidence?
- What is it about your support that helps women feel safe in attending court and giving evidence?
- In your opinion, what changes need to be made to enable more women to attend court and give evidence?
- What do women gain from the criminal justice process?

Finally:

6) What do you see as the role of an IDVA?

APPENDIX 10:**MANAGER INTERVIEW QUESTIONS/TOPICS**

Name:

Length of time as a Manager:

Length of time working for the organisation:

Set up of Project:

Can we start by discussing how and when the IDVA service started?

What do you see as the role of an IDVA?

IDVA and DV Issues:

- 1) I would now like to discuss how the IDVA service operates and what your experience is of how well referrals systems work, how well agencies understand the role of the IDVA etc., and any issues you may encounter.

Can you tell me about how the IDVA service is integrated into the SDVC? I.e. how does the system work and how do you get referrals?

Discussion points:

- Referrals – effective system?
- Do CJ agencies understand the IDVA role?
- Do CJ agencies understand DV?
- What priority is given to DV by police/CPS/Courts?

- Is there consistency within and across agencies referrals etc.?

Police issues:

- 2) It was evident in the files that IDVAs have a lot of contact with the police in relation to women's cases. Can you tell me about how well you feel the police deal with domestic violence victims?**

Discussion Topics:

- Are there any particular issues with the police?
- How do the IDVAs find communication with the police?
- What impact has losing DVOs had on the IDVAs

Comments on findings:

- 3) As you saw from the interview preparation sheet, there were a number of encouraging findings from the sample data. I would just like to know your thoughts on what may have led to some of these outcomes:**
- Much fewer women in this sample retracted their statement as compared to previous research – why do you think this is?
 - More women attended court in this sample as compared to the national average – why do you think this is?
 - There was a high percentage of guilty pleas in this sample – in your experience, what contributes to this?
 - There were also more offenders 'found guilty' in this sample as compared to the average of all DV cases at BMC – what do you think might have contributed to this?
 - There were 19 examples in this sample of the charges being reduced by the CPS. In your experience, why does this happen? Is this communicated to women?

- There were many examples where the police did not arrest an offender for breach of bail – in your experience- why does this occur?
- The vast majority of women who requested special measures were granted them – what impact do you feel special measures have on women's decision to attend court and give evidence?

Context Issues:

- 4) I am aware that in April 2010 WMP underwent a mass reorganisation that saw the loss of DVO's and a complete shift in the work of PPU's. It was also the election of the coalition Government.**

In your experience, what impact, if any, have these changes had on the CJ response to DV?

Discussion point:

- DVO's.

Victim Issues:

- 5) As an IDVA you have a unique understanding of women's journey through the CJS and it was clear from the files how much support and reassurance you provided to women.**

Can you talk me through the main issues and concerns women have when faced with attending court and what your role is in alleviating those concerns?

Discussion points:

- What prevents women attending court and giving evidence?

- In your opinion, what are the most important factors for a woman deciding whether to attend court and give evidence?
- What is it about your support that helps women feel safe in attending court and giving evidence?
- In your opinion, what changes need to be made to enable more women to attend court and give evidence?

Manager questions:

- 6) I would like us to talk now about the management of the SDVC and who or which agency oversees this etc. How is the strategic direction of the SDVC decided on and then overseen?**

Discussion Points:

- Are there regular meetings of the SDVC partners?
- Is there a protocol in place and is it followed?
- Do you feel there is accountability for the agencies involved in the SDVC system?
- Are the necessary resources made available from the CJ agencies for the effective operation of the SDVC?
- Is the IDVA service fully integrated into the strategic direction of the SDVC?
- Is there senior management level involvement from the police/CPS and courts?

- 7) Moving onto the performance of the SDVC, is this monitored? If so what does this performance measure and who collates this?**

Discussion points:

- Is performance of individual agencies monitored?
- Is training provided to CJ agencies?
- If there is an example of bad practice in the SDVC, who would take this up?

APPENDIX 11:**SAMPLE INTERVIEW TRANSCRIPT – IDVA 4**

HT So, (name) how long have you been in IDVA now?

IDVA 4 I think it will be three years this November.

HT And that's the same amount of time as you've been working for Women's Aid?

IDVA 4 Yes.

HT Okay, lovely. So I'd just like to start by talking about the IDVA service and how it works, what are your experiences of how referrals get to your service and all that kind of thing. So, can you start by telling me how the IDVA service works, how do you get your referrals, how does that process work?

IDVA 4 The majority of our referrals are from the police, obviously that's as a result of them knowing what the IDVA service does. A lot are from the Witness Care Unit as well. I think we are starting to get quite a lot from other agencies like Children's Services and things like that now, obviously again as a result of networking and them knowing what support we provide. But I'd say about a good 70%. 80% majority are the police.

HT And do you think that it's an effective referral system into your service? Do all the women who need your service get referred in?

IDVA 4 I think the majority of them do yes, but like when we're on court duty sometimes we do come across cases that we haven't heard of before and we've only managed to get that referral as a result of being in court and liaising with the CPS. And then sometimes that referral does come as a ((duplicate 0:01:39)) afterwards from Witness Care or police, but there have been occasions where it's only as a result of us being in court that we've managed to basically capture that woman. So yeah, I'd say most of them yes, but not all.

HT Right. And do you feel that criminal justices agencies like the police and the CPS, do they understand the role of the IDVA?

IDVA 4 I think it's better now. I think when I first started the role I think they weren't as responsive to us as in I'd find they're going into court and they'd be reluctant in giving me information or taking my views on board, what I was saying about the woman. And I think the police were kind of not that willing to give us information in terms of about bail and things like that, but I would say it's got better. I think obviously because of the networking we've done and I think with just being persistent ((smilingly)) in kind of making sure they know what we're doing and that we're not there to basically take over but we're just there trying to support the victims as best we can. But yeah, I think it's a lot better now than when I first began.

HT And do you feel that they understand domestic violence?

IDVA 4 No, not all the time. It's a mixed response really, I think there's a couple of officers and a couple of prosecutors in court that we know we're going to get a good response from and they're going to be quite sensitive towards the woman. And usually when we go into court and we see that prosecutor we're thinking yeah, this is going to be okay, but there's a couple you see and you think oh no, you know, it's going to be kind of ((laughs)) hard work. But yeah, it's a mixture, like I said there's a few that are really good at it and there's some that you think gosh, where did you kind of...? ((Laughs)) But yeah, I think the majority of the ones that have been there for a long time are kind of more responsive than maybe new people that have come in.

HT And what kind of priority do you think in your experience is given to domestic violence by the police, the CPS, the courts?

IDVA 4 I don't know, I think again it's a mixture. I think to begin with I think it was taken quite seriously when I first started this role, I think it was given quite a big priority, but I think recently, especially I think since last year, since we've seen all the changes in the policing I don't think it's taken as much of a priority. And I think my experience with that is I think to begin with when there were breaches of bail and things like that and

we were wanting the police to respond to stuff they were quite responsive, whereas now it's more or less, 'well we can't do anything about it.' So I think they've got other pressures on priorities now than domestic violence.

HT So moving on to the specialist domestic violence court, can you just talk me through what your experience is of the specialist domestic violence court?

IDVA 4 Again, that's something that's changed a lot. We've had to deal with a lot of changes. When I started, well yes there was, you know, there were specific courtrooms for just DV, you knew that when you had a trial it would be in that courtroom, you knew that all the domestic violence cases, the first appearances would be in a certain courtroom, and you knew that there'd be certain prosecutors that would be allocated domestic violence. And also in terms of special measures and things like that the courtrooms they had were equipped to have those facilities, whereas now you're all over the place, you're thinking oh what's going to happen but the complete opposite happens. You could be anywhere in the court and they've usually got delays because they've set up a courtroom that can't facilitate special measures or they have to move. It makes court duty a lot harder because whereas before we knew to go to courtroom two, seven and eight, whereas now we have to walk all over. And that means sometimes we're missing stuff because obviously you can't be in all those places at the same time. But I think in terms of the specialist, no I don't think it really exists anymore. I mean that's why we're getting so many adjournments and delays in our trials because they're booking three, four... well, maybe three cases in that one courtroom, whereas domestic violence is meant to take priority when it's a trial and now it doesn't 'cos it's just so busy.

HT And so you mentioned there were dedicated prosecutors, I take it that that doesn't...?

IDVA 4 A lot of them have moved on now. There are a couple that are good and they'll come to us and report saying, 'oh we're worried about this woman, can you contact her?' and things like that, but I think the trial prosecutors, the ones that were very good and responsive if a woman wanted to retract and listen to what they wanted to say, a lot of them have moved on now. And I think to be honest because they're so rushed off their

feet most of them haven't got that time to actually sit down with that woman properly, so we're kind of having to do the majority of that and then feed back to them. But when we speak to women on the phone that's one of the questions they ask, 'will I get to meet the prosecutor? Will the solicitor be representing me because I want to say this, this and this?' And even though we say yes on the day they will each only have five or ten minutes with them. But there's nothing we can do about that. ((Laughs))

HT And what about the magistrates, do the magistrates seem to know about domestic violence?

IDVA 4 I think the majority of them, yes, they're quite good now. I mean like I say you'll get a couple of magistrates that you've never really had experience with them before, like sat in a trial with them before, and they'll make a decision and you're kind of like, where did that come from? But I think generally yeah, they're a lot better, I think.

HT Have you had any experience of victimless prosecutions?

IDVA 4 I'm trying to think... Yes. But it hasn't gone to the extent where... It's kind of like the woman's had to be summonsed to get there, but then when she's got there they've basically said to her, 'well even though you're here now', after they've obviously talked to her and she's said that she doesn't want to give evidence, they've still carried on. But he pleaded then, the perpetrator pleaded guilty then. So it wasn't so much of them then presenting other evidence, it was him entering a plea. I think I've had one or two at magistrates and one at crown court where that's happened.

HT Okay, but can you remember anywhere that actually the perpetrator's been convicted based on other evidence other than the victim?

IDVA 4 No.

HT No, okay. And in your experience from sitting in court what would you say is the most important factor in a perpetrator being found guilty at court?

IDVA 4 In what sense, the evidence or...?

HT Yeah.

IDVA 4 I think it's important for the woman to be there, to be able to obviously... Not obviously say what's happened in that incident therefore, but to obviously give the whole emotions of what she's felt as well. And I think at the initial stage it's important that the police have taken a statement correctly because there's been a couple of occasions where even though the woman's read and signed it, or they've read it back to her and signed the statement saying she's agreed, there's been errors in them. And so when it comes to the defence obviously cross examining the views that are saying, 'well in your statement you said this and now you're saying this', so I think making sure that the police statement to begin with is done efficiently because that's what the defence will use, the majority of the time to criticise the evidence. Generally the photographs that they have are generally quite good of injuries and things like that. I do think like when there have been other witnesses instead of just obviously the victim and the perpetrator that sometimes more of an effort could possibly be made to try and get those witnesses in to give evidence, like when it's happened in a public place or something like that. I'm just trying to think... I think maybe just like getting at medical records and things like that because in my experience I've had cases where the woman sought medical treatment, but the CPS haven't got that, they've got the records that could have supported what she was saying.

HT **Okay, that's brilliant. And what are your thoughts on the sentencing of domestic violence cases?**

IDVA 4 ((smilingly)) I think they're ridiculous. I don't think they do any justice at all, and to be honest that's the one part of the job I hate, telling the woman the sentencing because the majority of the time it is us because the CPS will just write a letter, whereas it's us that has to deal with the emotions. Because normally sentencing takes place three weeks later with ((0:12:09)). A lot of them are dealt with by community sentences, I mean I had a fine last week, I had a fine for criminal damage and assault, so yeah, that was just ridiculous.

HT **Gosh.**

IDVA 4 Yeah. I just... yeah, I just don't think they do any justice at all.

HT And how do women respond to that?

IDVA 4 They're just like, 'well what was the point?' And you know, you can't blame them, because they've gone through all that emotion of first of all calling the police, making the statement, coming to court and then that's the outcome they get, and you're just like, well you know what, ((smilingly)) I have to agree with you sometimes because there's nothing you can say to them. But to be honest, when I first speak to my women and they do ask me what kind of sentence will he get I am honest with them and have said 'that's not in my control but it will depend on a lot of things like his criminal record, is there anything on his record from before, has he got any suspended sentences, things like that', for it to result in a custodial sentence? If not it'll be some kind of community punishment. So yeah, I think the majority of cases in magistrates have hardly ever resulted in a custodial sentence. I'd probably say, off the top of my head, I'd say about 20% of them. I think the ones that have gone to crown court obviously have because of the higher charges but magistrates, hardly.

HT And are there any sentences that can make women feel safer?

IDVA 4 I think regardless of what sentence is given I think as long as the restraining order is granted then that's kind of reassurance for the woman, because yes, he might only have to do community service or pay a fine but at least she knows she's protected. And I think that's why us being there is important, because a lot of the time CPS don't know that the woman actually wants a restraining order and what conditions she wants, but actually there's a contact point already in place and that's what she wants on the restraining order. But there's also been cases where it's been opposite where the woman hasn't wanted a restraining order and CPS were going to apply for it, so in that case as well we've been able to say to them, 'actually she feels like she doesn't want the protection.' And there have been a couple of times where me personally, I've had to address the magistrates and tell them why she doesn't want it, and I think there's one or two occasions where I've had to kind of give them information about what conditions she wants as well. It's normally when the two parties are disputing it and the defence is obviously saying 'no, no, this has happened and that's happened' and the prosecution

is saying something else. But yeah, I think as long as the restraining orders in place then they kind of generally feel okay, but that's a lot more difficult when it's a not guilty outcome, even though if we push for them the prosecutors do apply for one 'cos the law says that they can, it's very difficult, especially when this is the first matter that's gone into court, because their argument then is well actually there hasn't been other history and all the rest of it, even though there has, but the woman just hasn't come forward. So yeah, it becomes really difficult on acquittals, but we have had some on acquittals as well. I think again it depends on what prosecutor you get and what legal advisor you get in the courtroom and if they're willing to push for it, because some will and some just won't bother.

HT I'd like to move on now to talk about the police because it was really clear from the files that you have a lot of contact with the police. So can you tell me how you feel the police deal with domestic violence victims?

IDVA 4 I think that's again a mixture, it depends on what officers you're dealing with , 'cos I know that for myself there's certain public protection units that I feel confident in contacting because I know I'll get a good response, for example, the east, because I know the public protection unit officers there are really good and even if it's not a ((Marriott 0:16:44)) case they'll still give me the information if I want to know something. But whereas there's other ones that I'm not so confident on when I'm approaching them I think like central and west because I know as a team and myself we haven't had a very good response from some officers there in terms of giving us information or kind of responding to something that we've asked that the victim wants. But I think generally I don't think it's very much a priority to the majority of them, ((smilingly)) I think they've got other, bigger things to be worrying about. But I think there are kind of, I know in the last two months in terms of our referrals we were getting a lot of referrals from new officers now that we weren't necessarily getting some from before. So in that sense I think they are kind of recognising our service more now.

HT And what's women's experience of the police from what they say to you?

IDVA 4 Not very good. I don't think I've really hardly ever come across a woman that's said they were really supportive. Probably I'd say a couple, where they've had one officer attached to them, that's usually in a case where there's been sexual violence or really horrific kind of history and it's gone to crown court or something like that and there's been an officer that's stayed in contact with them regularly, but the majority of the time it's been a bad experience that they've had, because they've made call outs or they haven't been updated or they've made call outs for breaches of bail but nothing's happened, restraining orders, nothing's happened. So yeah, the majority of the time it has been negative.

HT And what's your experience of their evidence gathering for domestic violence cases?

IDVA 4 I don't know, that's a difficult one to say, I mean I can only say what I see when I get to court. I think again it's hit and miss, some cases you'll speak to the prosecutor and they're like oh we've got this, we've got photographs, we've got a record, we've got kind of objects that were left in the house, things like that, and other ones that were like well we didn't know she wanted special measure and so it's a mixture. But yeah, there have been times where a lot more could have been done.

HT And how do you find communicating with the police, getting hold of the officers that you need to, the officer in the case?

IDVA 4 I think myself, when it comes to making telephone contact it's very difficult 'cos the majority of the times they're not on duty. So what I normally do, I normally find email is better, I normally get a quicker response through emails than I do over the phone and leaving messages.

HT And do officers respond to you in quite a timely manner?

IDVA 4 Yeah, most of the time.

HT So, I'd just like to get your thoughts on some of the findings that came out from the research and just to know what you think contributes to some of these things.

So, ‘much fewer women in this sample retracted their statement as compared to previous research.’ Why do you think that is?

IDVA 4 Much fewer women retracted their statement as a result of what you find from a finding?

HT Yeah.

IDVA 4 I think it’s because they’ve got that support from the IDVA from kind of early stage where they’re able to explore their emotions and explore their options where any fears and anxieties they might have about going to court and pursuing a prosecution are then taken away through our support. Now, for example they might know they’ve got special measures, they might not know the court’s procedure because a lot of them are like, ‘well I don’t want to see him’, and they’re scared about going into the court setting and knowing that they can go and see a court beforehand for a pre-court visit, I think that kind of helps them actually think I can actually do it. I mean a lot of women do say, ‘are you going to be there?’ and we do sit with them as well when they’re giving evidence, because a lot of the ushers lets us do that and that gives them reassurance. And I think exploring obviously the safety options, knowing that we can actually apply for a restraining order and if not there’s other options like refuge and injunctions that we help you with if you’re scared about repercussions afterwards. So I think that might be a reason why a lot of them actually change their mind and not retract. What else...? I think it’s generally just reassurance, like just talk to them about the domestic violence and how maybe supporting the prosecution on this occasion might help them actually take control of the situation themselves and be the chance to get away from the situation.

HT Okay, that’s brilliant. Also, more women actually physically attended court in the files from the IDVAs, as compared to the national average for all women who experienced domestic violence. Again, why do you think that is?

IDVA 4 I think again similar reasons. Knowing that there’s going to be someone there through the process, knowing that they’re going to be safe when they’re in court, with the special measures, different entrances and confidential waiting rooms and things like that. Yeah, I think similar reasons as what I said to the previous question.

HT There were also a high percentage of guilty pleas in this sample on the day of the trial, in your experience what contributes to this?

IDVA 4 The woman attending. This is something that I explain to a lot more women as well or all of them that the reason they perpetrator is continuing pleading not guilty is because they're thinking you're not going to come because they think you're still obviously still intimidated by them and scared of them, like you have been. So I think knowing that they've actually come and knowing that if they're found guilty after a trial it may possibly mean a more severe sentence than if they plead guilty. So yeah.

HT Okay, and there were also more offenders who were actually found guilty, so actually convicted in this sample as compared to all cases heard at the magistrates' court, and quite significantly, about 37% of the IDVA files were where perpetrators were actually convicted as opposed to 13% for all cases at the magistrates' court. What do you think might contribute to that?

IDVA 4 I think again the woman attending, giving the live evidence, so the magistrates or the judge can kind of get the full picture of actually what this woman's experienced. Obviously they'll be able to hear her emotions and the impact. I think the fact that the woman's able to give evidence with the support and the measures in place making her more comfortable and her evidence better as well. I don't know. I think to be honest I think when a woman does turn up I think the perpetrator ((smilingly)) himself is intimidated, the fact that actually she's turned up. So yeah.

HT Okay, brilliant. There were 19 examples in this sample where the charges were reduced by the CPS, in your experience why does that happen and is that communicated to women?

IDVA 4 The majority of it is in the cases of where they're taking guilty pleas on bases where the perpetrator's been charged on several charges and he's only willing to plead to like one or two out of maybe three or one out of three. And that basically I will explain to the woman, because the prosecutor will normally come in and kind of briefly explain, but I explain to the woman in the sense of, well if you take the plea this is what's going to

happen, if you don't this is what's going to happen, to kind of explain that okay, if he doesn't accept it because he's minimising what's happened that there's still a risk of us getting a not guilty for all charges. And I explain the advantages of if you do accept that yes, for you it's frustration, he's still not admitting to what he's done, but at least there's a conviction on his record and it means we get a definite restraining order for the long term. So I think that's one of the reasons, and I also think there's been times where the prosecution on the day have read the statements and realised that actually there might not really be enough evidence to carry on with the case on another charge, for example harassment or something like that and they've basically all to make it ((ABH 0:26:20)) instead of make it a Section 39. So sometimes I do say well maybe if we go with Section 39 he will actually plead to it rather than a Section 47. So I think that's another reason why they go for lesser charges.

HT What impact does that have on women when the charges are reduced?

IDVA 4 It's frustrating for them, because for them it's like, 'well he's still minimising what he's done to me, it's only me that knows the extent to what I've experienced' and for them as well he's still not showing any remorse or accepting his guilt. So it's quite frustrating for them. I mean some of them where they've not really wanted to come to court, it's kind of relief that they don't have to then give evidence or if it's done at the early stages then they don't have to come to court, but for women that actually want to... A lot of women do actually want to go and give evidence and tell their story, and for them it's frustrating.

HT There are also a lot of examples where the police didn't arrest an offender for breach of bail. In your experience why does that happen?

IDVA 4 I've no idea. ((Laughs)) A lot of the time when I've rung up to ask the reasons they've said, 'well, he's not actually breaching his bail because he was standing at the bottom of the road, whereas the bail conditions say not to go to that actual door, the actual address'. Or it's through Facebook and he's entitled to write stuff on his Facebook page, he's not really contacting her directly. So yeah, that's a lot of the time...

HT Even if the bail conditions will say direct or indirect contact?

IDVA 4 Yeah. That's the majority of the response we get. I mean a lot of the other time is that I don't think they've actually bothered going out to investigate what's actually happened or even taken a statement. But that does kind of impact proceedings in the court, especially when he's in custody and we go to video links and he's applying for bail, because if there's been a breach and the statement's been taken, then we let the prosecutor know that actually he's carried on contacting her and intimidating her and she's made a statement and they've got it on file. Because before there's been a couple of occasions where I've told the prosecutor that this is what the woman's told me but they've said we can't do anything about it because there's no statement, we can't really present it in court. So then when his solicitor's making a bail application saying that he's not made any contact with her and he can be trusted on bail it's believed then.

HT So the police have been called but because they've not taken the statement there's nothing they can use in court? Okay. And the last finding is about the majority of women who requested special measures were granted them, and I just wondered what impact you feel special measures you have on women's decision to attend court and give evidence.

IDVA 4 A major impact. I'd say about probably 90%, 95% of the women I've supported have had special measures 'cos for them it's reassurance that they've not going to be intimidated at the scene whatsoever because they don't want any contact with him whatsoever. So knowing that the screens are there or the video link's going to be used, it helps them to actually come to court and then, because we obviously explained that they'll bring you through a separate entrance and then they're in our room so they have no contact with him, and then they come straight back out after giving their evidence behind the screens and go then. So I think knowing that they're not going to have contact with him or any of his family or anyone that's associating with him is a major factor for them.

HT I'd also like to talk about the context really that you've had recently, because I'm aware that in April 2010 that the Police underwent a mass reorganisation and then

obviously there was the election of the coalition government a month later, and I just wondered in your experience what impact if any those two big events have had on how it works in your area.

IDVA 4 I think kind of from what I've said in my answers before that I think the police response to domestic violence isn't as good as it should be. I think it's meant that it's kind of been brushed under the carpet and other crimes have taken priority. We've lost a specialist domestic violence court as well. It's not functioning as it should be which obviously makes an impact on a lot of things like trials being adjourned, people possibly not attending again. I think just generally for us as well it's made our jobs a little bit more difficult in terms of when we're in court and our CPS have now stopped giving us information about victims, because before on court's duty we'd kind of reported to them and say, 'we're the IDVA duty today and is there any DV in this courtroom and can we have the victim's details', see if they want to support and update her. And now they've stopped doing that, they're not allowed to give us this information all of a sudden. But before it wasn't a problem. So I think it's kind of made it difficult in that sense and it's made it difficult in terms of the sentencing, it's frustrating the sentencing that has been given, I think a lot less custodial sentences now been given as a result of well, we can't afford to send perpetrators to prison and we've got to focus on them in the community and all that business. So I think a lot less custodial sentences are being given. I don't know whether the reason for the CPS kind of charging less charges has anything to do with the changes that have occurred, I'm not sure whether CPS are thinking well we've got bigger cases to be dealing with than domestic violence, so more we just take whatever we can to get a prosecution.

HT And what impact has losing domestic violence officers had?

IDVA 4 Quite a big impact because obviously there's one point of call where you could go to for both us as IDVAs and for the women. The DVOs obviously are more sensitive and trained in domestic violence so could respond to situations of why a woman might want to retract and respond to breaches of bail quicker than general officers do now.

HT And has it made a difference to women when they've reported to the police, not having a domestic violence officer?

IDVA 4 I think so, yeah 'cos like I say, I don't think their response is maybe as good as it should be. I think if it was a domestic violence officer, obviously because that's their specialism, that's their role, they'd at least respond to it and try and kind of speak to the woman rather than just thinking well, there's nothing we can do about it.

HT And the final area I wanted to talk about is the woman really, because as an IDVA you've got a unique understanding of her journey through this process and what it's like for her. So I just wondered if you could talk me through the main issues and concerns that women have when they've called the police and they're faced with going through this process.

IDVA 4 I think the main concern is 'what happens afterwards in terms of if he's sent to prison then I'm going to be blamed, he's going to want revenge afterwards as well. Will I be safe afterwards? What protection is there for me?' I think for a lot of women it's actually just knowing what the court's process is, ((smilingly)) 'cos a lot of women think it's like what they see on the TV and like oh, is it that scary, but once you've spoken to them about it and they've actually come to court to do a visit they're a lot more reassured and calmer.

HT And how do you go about, because you've kind of mentioned how you go about alleviating the concerns about the actual court process, how do you support women around what happens afterwards?

IDVA 4 I think with me it's about basically, I always tell them what the possible sentencing might be, but then along with that I always tell them about you can ask for a restraining order if you want to, so I explore the safety measures with them. And then obviously I speak about the other options like re-housing, refuge, civil injunction, 'cos it's not a guarantee that a restraining order is always going to be given. So I kind of try and look at other surrounding issues that might help them be safer after the court outcome.

HT And what do you feel women gain, if anything, from the criminal justice process?

IDVA 4 I wouldn't say justice. I don't think I've had any woman that's said, 'yeah, I feel that justice has been done.' I think for them it's a sense of I've sent out a clear message, I've taken control now and I'm safer. And I think for a lot of women it's, especially when they've been stuck in that kind of abuse for years, it's like I'm finally free and I've actually stood up to him.

HT Brilliant. And finally, what do you see as the role of an IDVA? How would you summarise your role?

IDVA 4 I'd say to support the woman through the criminal justice system, educate her on the criminal justice system to make sure that obviously her views and feelings are taken on board throughout the process. And obviously safety planning and liaising with the relative professionals at CPS and police to make sure that woman is centre throughout the process, rather than it just being about the perpetrator.

HT That's brilliant, that's all my questions, thanks (name).

Audio Length: 37:41

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