

No Further Action? A critical examination of the past and present police response to domestic violence

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Abstract

This dissertation offers a critical examination of the police response to domestic violence. The findings of the research suggest that until the late 1980s the criminal justice system paid little attention to the victims of domestic violence. A number of early studies documented the dismissive and derogatory way in which police officers tended to handle 'domestic disputes' (for example, Dobash and Dobash, 1980; Hanmer and Saunders, 1984; Edwards, 1989; Bourlet, 1990). Domestic violence was frequently seen by the police as a private matter, not 'real' violence, and unworthy 'rubbish' work (Dobash and Dobash, 1992). This dissertation found that from 1986, onwards, the need for changes in police practice to domestic violence was accepted by the Home Office, and domestic violence is now viewed as a crime both by practitioners in the criminal justice system and by government itself. In the past ten years in particular, there have been significant improvements in police policy and practice in response to domestic violence. By contrast, research is showing that enthusiasm for change presents the danger of inappropriate arrests of those they set out to protect.

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Chapter 1: Introduction

Domestic violence is by no means a new phenomenon and is as old as recorded history itself. With origins dating back to ancient Greece and the dawn of European civilisation (Byrom, 1988), domestic violence has been recorded in virtually all societies, and in most countries it has been both legal and socially acceptable (Berry, 2000). Domestic violence remains a huge problem for society, and for the police. It accounts for around 15 per cent of all violent crime, and will involve one in four women and one in six men at some point in their lives (Kershaw *et al.*, 2008). Tragically, two women are murdered every week as a result of domestic violence, accounting for a staggering 35 per cent of all murders. Domestic violence also has the highest rate of repeat victimisation (*ibid*). A widely-quoted study suggests women will, on average, have been assaulted thirty-seven times prior to the first police attendance (McGibbon, Cooper and Kelly, 1989). For women aged 19-44, domestic violence remains the leading cause of morbidity, greater than cancer, war, and motor vehicle accidents (Home Office, 2005a). Eighty-nine per cent of the victims who suffer sustained domestic violence are women, however we also know that domestic violence effects the lesbian, gay, bi-sexual, and transgender community and male victims (*ibid*). Every minute in the UK, the police receive a call from the public for assistance for domestic violence. This leads to the police receiving an estimated 1,300 calls each day or over 57,000 each year (Stanko, 2000). However, according to the British Crime Survey, only 40.2 per cent of actual domestic violence crime is recorded to the police (Dodd *et al.* 2004).

This literature review is not concerned with the causes of domestic violence – many researchers have covered this aspect of the subject in great depth. What it is concerned with is the police intervention in incidents of domestic violence, and the circumstances surrounding police policies which govern and control that intervention and the actions stemming from it.

The purpose of this literature review is to investigate and critically examine the police response to domestic violence.

The police are often the first port of call for many victims of violence in emergency situations; yet a substantial amount of criticism has been directed towards their response to victims of domestic violence, in particular, the dismissive and derogatory way which police officers handled cases of domestic disputes (Dobash and Dobash, 1992; Hanmer and Saunders, 1984; Edwards, 1989; Bourlet, 1990).

Other criticisms were that incidents were regularly considered to be civil rather than criminal matters and that inadequate recording practice obscured a true picture of the extent of domestic violence (Edwards, 1986; Smith, 1989; Morley and Mullender, 1994).

These criticisms have resulted in the victims of domestic violence seeking police assistance as a last resort, and often only after repeated violent attacks (Smith, 1989). In the past ten years in particular there have been significant improvements in the police response to domestic violence, but much domestic violence still goes unreported (Stanko, 2000). These debates frame the context in which the police response to domestic violence has developed.

This dissertation will commence with the methodology. It is here that the various methods used to conduct this research will be explored and critically analysed. The critical literature review will then follow; first of all it will briefly explore the inconsistencies in the definition of domestic violence and the criticisms that have developed as a result. Historical perspectives, social acceptability, and early legislation, will then be discussed before moving on to consider the impact of second-wave feminism in the 1970's. This will be followed by the main body and central theme of this review which is to critically examine the police response to domestic violence. This will be done by looking at changes in legislation and police policy with consideration to what influence these changes have had on shaping domestic violence policy and current police practice.

The review will then be followed with a discussion where the main findings of the study will be correlated in order to discover whether the review has been successful in its objective. A conclusion section will then finalise the review with a summary of the main findings.

This dissertation will now continue into chapter 2 with the methodology.

Chapter 2: Methodology

2.1 Project influence

My reasons for choosing this field of study originate from the interest I developed during earlier studies for my Foundation Degree in Criminal Justice and Public Services and was later re-enforced during my attendance at a domestic violence course facilitated by Women's Aid. I have been reminded of the prevalence, yet elusiveness, of domestic violence, the high rates of repeated victimisation (Kershaw *et al.*, 2008), and the significant underreporting of incidences to the police (Walby and Allen, 2004). We are all aware that domestic violence occurs but by its intrinsic nature it is a phenomenon which often occurs behind closed doors and is frequently unknown to anyone outside the family. I believe it is important therefore that when incidences of domestic violence are revealed by the victim the appropriate responses should follow. It is this appreciation that has prompted my enthusiasm to explore and investigate the subject further.

2.2 Research methods

In order to study this area and address the aims of this dissertation the multi-strategic approach of triangulation was adopted. This process, originally devised by Webb *et al.* (1966), combined both quantitative and qualitative methods of research. Most authors today see qualitative and quantitative approaches as complementary rather than antagonistic (Glesne and Peshkin 1992; King, Koehane and Verba 1994; Strauss and Corbin, 1990). All these authors agree that most research does not fit into one category and that best results often combine features of both positivist and interpretivist paradigms.

Bryman (2004) agrees with this multi-strategic approach and says it upholds different epistemological and ontological considerations and different perspectives regarding the relationship between theory and research, resulting overall, in greater confidence in findings.

Combining two methods of secondary data in this way is beneficial in overcoming any intrinsic bias of qualitative over quantitative, and vice-versa, and facilitates a thorough analysis of the research, resulting in a strengthened reliability of the information presented (Jupp *et al.*, 2000).

Given the time restrictions of the project, I decided to employ secondary research data over primary research data as it is deemed more appropriate in fulfilling the research expectations in the constraints of an undergraduate dissertation, both in terms of time and money (Bryman, 2004). Primary research is very time consuming in terms of establishing samples, arranging and completing interviews, and the collecting and processing of data.

Secondary data analysis, according to Bryman (2004: 201) is '*analysis of data by researchers who will probably not have been involved in the collection of data*'. The secondary data utilised for this work included, *inter alia*, text books, journal articles, papers, reports, Internet sources, reports published by organisations associated with domestic violence such as Women's Aid and Refuge, as well as governmental reports published by the Home Office. The secondary data used was collected from the reliable source of experienced researchers, whose data is not only more representative, having come from a larger pool of sources, but additionally, is largely free from the restrictions and difficulties encountered in primary data research; that is, the rejection, bias, non-response, or any other respondent-based problems (Sarantakos, 2005: 298). This data was collected using *keyword* searches on the library catalogue, as well as adopting the *snowball technique*, both of which will be explained in more detail later in this chapter.

Academic journals were chosen for their contemporary context and reliable source. Academic journals have their material refereed by experts in the field before the work is published, so the researcher has some assurance about the quality of the ideas he or she reads (Denscombe, 1998 p.159).

Government publications have been produced by the state, employing large resources and expert professionals, which again, assure credibility (*ibid*). Internet sources, however, must be explored with more caution since, according to Reardon (2006: 151), such data may not be refereed or editorially controlled and thus their quality may be open to question.

Analysis of both governmental and non-governmental reports combined with the examination of various texts written by well established academics allows for greater capacity for critical analysis; a central theme throughout this thesis.

Although this data is of a secondary nature, Sarantakos (2005) says that the examination of such data can have the positive outcome of producing new and more detailed information, resulting in conclusions that differ from the original.

Academic books, reports and journal articles used throughout this dissertation, provide an excellent method of gathering secondary data from well established and respected authors

within the field of domestic violence such as; Rebecca and Russell Dobash; Susan Edwards; Amina Mama; Jalna Hanmer, to name but a few.

It must be remembered however that academic books have to proceed through a publication process that can take some time to complete; therefore their content may not reflect the most current policy. It is for this reason that, alongside academic books, this paper has utilised academic journals, and reports, thus providing for ongoing reflections in contemporary issues.

As referred to earlier in this chapter, literature search techniques utilised during this review included both *keyword* searches and the *snowball technique*. A literature search is defined by Sarah Gash (2000) as '*a systematic and thorough search of all types of published literature in order to identify as many items as possible that are relevant to a particular topic*'.

First of all, I conducted searches of key words using the Boolean logic method of combining words with *AND*, and similarly with *OR*, to narrow down my search.

Once I had become more familiar with the literature attached to my chosen field and the research had become more focused I began to use the snowball technique which involved following up references from the bibliographies of the texts I read. Both of these techniques proved particularly useful during the research process and saved time during the study period by directing my research to relevant, reliable material.

2.3 Terminology

A vast majority of the literature reviewed for this dissertation has been written by key feminist writers and what has become apparent in the course of my research is the diversity of terminology used by the authors to identify victims of domestic violence.

The most commonly used terms were; *abused women*, *abused wife*, *battered women*, (DeKeseredy and Hinch, 1991; Yllo and Bogard, 1988; Roy, 1977) with the latter more commonly used in American text. The terminology surrounding what to call victims of domestic violence raises both a semantic and also a conceptual debate. Miller (2000) says that gender-neutral terms are avoided because they are too euphemistic, as the majority of domestic violence is committed by men against their current or former female partners.

This is a widely recognised, supported, and accepted reality (Home Office, 2005a) and one which I do not contest. But for the purposes of this dissertation, and without any intention to depoliticise the issue of domestic violence, when speaking generally, I will be using the phrase *victim* or *victims of domestic violence* as a gender-neutral semantic substitution.

This term is more inclusive and acknowledges that although women are more often the victims of domestic violence (Dobash and Dobash, 1992), violence also occurs against men by women, and exists in lesbian, gay, bi-sexual, and transgender relationships (Leventhal and Lundy, 1999; Island and Letellier, 1991).

When referring to the work of others I will be as specific as possible in clarifying the relationship involved so that there remains no confusion over who is the victim and who the perpetrator.

When using the phrase *domestic violence* I will be referring to violence occurring between both existing and non-existing partners, whether cohabiting or non-cohabiting, who are, or who have been involved in intimate relationships, and will not be using the term *domestic* in the context of violence occurring between 'blood' relatives such as, siblings or between parent and child.

2:4 Ethical issues

Concerning ethical issues, Reardon (2006: 21) says '*it is essential to ensure that the integrity of the research process and ethical behaviour become second nature to all researchers*', and that, '*high ethical standards must be instilled into all researchers from the start of their careers, starting with the undergraduate project*'.

I was extremely attentive of the fact that although this area of research would by its very delicate nature ordinarily induce many ethical issues, with concerns of confidentiality, personal privacy, personal safety, and commitment to the Data Protection Act 1998, for the purpose of this study I utilised secondary information only so there were no concerns during this project regarding ethical issues.

This dissertation will now continue into chapter 3 with the literature review.

Chapter 3: Literature Review

3.1 Definition of domestic violence

Domestic violence is not a legally-defined offence and the police are not currently required to identify separately domestic violence incidents in their statistical returns to the Home Office (Plotnikoff and Woolfson, 1998). Definition has become a particularly salient issue and many commentators agree that in researching domestic violence, the first issue that needs to be confronted is the issue of definition (Bograd, 1988; DeKeseredy and Hinch 1991). These commentators agree that there has been a lack of consistency between researchers, policy makers, and members of the public over the relationships and types of behaviour that should be included under the rubric of 'domestic violence', and although Smith (1989) says that 'domestic violence' has been the term most favoured in policy-making areas because it is seen as covering all relationships, Kashani and Allan (1998) question in their writings whether the term should be used at all considering the complexity of issues involved, i.e. financial, sexual, physical, psychological and

emotional abuse. Edwards (1989) and Walklate (1995) have in their work enclosed 'domestic' in inverted commas to acknowledge this same problematic character.

The Association of Chief Police Officers (ACPO) defines domestic violence as:

'Any incidence 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'.

This definition is wider than the previous Home Office definition and incorporates violence between family members over 18 as well as between adults who are, or were, intimate partners.

This ensures that those issues of chief concerns to Black and Minority Ethnic (BME) communities, such as forced marriage, so called 'honour crimes' and female genital mutilation, are properly reflected and mirrors concerns voiced by many in response to the Government's proposals on domestic violence highlighted in the consultation paper *Safety and Justice* (Home Office, 2003).

3.2 History of domestic violence

As stated in the introduction, domestic violence is by no means a new phenomenon and is as old as recorded history itself. With origins dating back to ancient Greece and the dawn of European civilisation (Byrom, 1988), domestic violence has been recorded in virtually all societies, and in most countries it has been both legal and socially acceptable (Berry, 2000). Writing in her article *Wife-Torture in England*, early feminist Frances Power Cobbe (1868), spoke of the halo of jocosity which surrounded the proceedings of the English puppet shows of the seventeenth century in which 'Punch' first appeared. She writes particularly of the enjoyment focused on the thwacking of poor Judy, and the flinging of the baby out of the window, with audience popularity rising with every bang Punch bestows upon his wife and even on the police constable once he arrives.

The Holy Bible contains the following extract in Genesis:

"I will greatly multiply thy sorrow and thy conception: in sorrow thou shalt bring forth children; and thy desire shall be to thy husband, and he shall rule over thee" (Gen. 3:16).

And even Shakespeare was not averse to the suggestion of male dominance in some of his works. For example in *The Taming of the Shrew*, Act III, Scene II:

"I will be master of what is mine own. She is my goods, my chattels".

3.3 Legislation and police response pre-1970

In 1853, the British Parliament passed *The Better Prevention and Punishment of Aggravated Assaults upon Women and Children Act*, the law provided for a fine and up to six months in prison (Berry, 2000). In his book, *Crime and Society in England*, published in 1996, Elmsley explains that the Act set out to specify and limit the amount of chastisement which a husband or father could command, and goes on to explain that despite this, ‘aggravation’ on the part of the wife tended to be accepted with just cause, or at least a mitigating circumstance, for chastisement, even when such chastisement resulted in death.

The Act of Parliament that defines violence to the person is the Offences Against the Person Act 1861, and although utilised to prosecute offenders of assault, this Act cannot be said to operate in direct relation to incidents of domestic violence (Bourlet, 1990). It appears somewhat unthinkable that the Cruelty to Animals Act of 1876 made it illegal to ill-treat any domestic animal, yet during this time it was quite acceptable to beat your partner using the ‘rule of thumb’, whereby husbands were not allowed to use a stick broader than a thumb (Roy, 1977). It becomes even more distressing to think that 127 years later, social acceptability, or more so, the ‘turning of a blind eye’ prevails, as the results of a 2003 survey by the BBC (ICM 2003) find that more people would call the police if someone was mistreating their dog than if someone was mistreating their partner. Acts did follow the 1861 Act, but predominant themes within such Acts were the rights to divorce (Matrimonial Causes Act 1878), rights to property (Married Women’s Property Act 1882) and rights to maintenance (Maintenance of Wives Act 1886), (Godfrey and Lawrence, 2005; D’Cruze, 1998).

As Godfrey and Lawrence (2005) observe in their writings, these Acts were the beginning of a gradual progress and the evolution of a more civilised vision of society, however, on closer examination, the picture is, perhaps not unexpectedly, more complex than that, and Godfrey and Lawrence go on to argue that despite some progress, domination and authority over a wife by her husband continued to be routinely accepted and encouraged by the state, and police intervention in ‘marital disputes’ was unheard of.

3.4 Second-wave feminism

In the UK, pressure from women’s groups, since the first wave of feminism during the early twentieth century (Hearn, 1996) to its reawakening in the 1970’s, with ‘second-wave feminism’ (Hague and Mullender, 2003), to seek equality in all forms of relationships has been influential. Feminist attention had turned to law in the 1970’s as part of the struggle for justice and protection in respect of domestic and sexual violence (Harne and Redford, 2008). The first ‘refuge for battered women’ was set up by Erin Prizzey in 1972 (Coote and Campbell, 1987), and widely published feminist academic research, particularly in respect of domestic violence (Dobash and Dobash, 1992; Walklate, 1995) became influential. Influence of this sort usually results in advice promulgated by the Home Office via Home Office circulars, which is generally noted and acted upon by chief officers. However, as we will observe in the following section (Ch. 3.5), this is not always the case and such advice is not always acted upon.

3.5 Legislation and police responses post-1970

In the 1970's we saw further legislation directed towards victims of domestic violence. The Domestic violence and Matrimonial Proceedings Act (1976) gave women the right to occupy the matrimonial home and provided for exclusion orders, and the Housing (Homeless) Persons Act (1977) made victims of domestic violence a priority category for re-housing if they had to leave home because of violence (Dobash and Dobash, 1992), with the Magistrates Court Act 1978 facilitating the use of injunctions to prevent further violence in the home (*ibid*). Later still, the Matrimonial Houses Act 1983, further clarified and streamlined powers to prohibit or restrict the right of a violent spouse to occupy the matrimonial home (Dobash and Dobash, 1992). Together these laws are meant to reinforce civil orders to protection (in injunctions and interdicts), introduce exclusion orders with the possibility of attaching the power of arrest for breach of the civil order, to define battered women as a priority category for housing and to facilitate the enforcement of the law on injunctions. Despite these legal duties, practice differs drastically between local authorities in terms of compliance with the law and government guidance (Levinson and Harwin, 2001).

Regarding police responses, one of the first Home Office circulars to the police in respect of domestic violence was the 69/1986 Circular 'Violence against women' (Home Office, 1986). Circular 69/1986 suggested aspects of good working practice on marital violence, making it clear that the police must ensure the safety of spouse and children at domestic disputes. As Bourlet (1990) argues, if the recommendations contained within it had been adopted by chief constables and embodied into force policies then a tremendous step forward would have been taken. Other commentators agree that the introduction of Home Office Circular 69/1986 had little effect on policy (Edwards, 1989; Freeman, 1987).

However, quite conversely, Sheptycki (1993) contends that it actually did make a difference, particularly in those areas where the use of arrest powers were emphasised, such as in the Metropolitan Police in London.

Another, and more demanding Circular 60/1990, 'Domestic violence' (Home Office, 1990) focused solely on the issue of policing domestic violence, and made it clear that victims of physical attacks in the home would be protected, having been influenced by concerns of the public, as well as concerns of key feminists such as Jan Pahl (1985), who argued that police action differs between similar acts of violence, depending on whether they occur in the home or in the street.

Prior to the 60/1990 Circular on domestic violence, it was argued that police services did not take it seriously their response to crimes between intimates (Edwards, 1989). The 1990 Circular sought to change this by urging the police to treat domestic violence as seriously as other violent crimes, and, more importantly, to consider pursuing a case even if the victim withdraws their support (it did not go as far as to advocate a pro-arrest or pro-charge position). Grace (1995) found that, although many police forces adopted most of the Home Office recommendations in their local area policies, these policies did not translate directly into practice. This left many officers leaving 'the ball in the victims court' (Hoyle, 1998). In other words, the police approach was reported as firmly based on the victim's choice.

More recently, Home Office (2000a) Circular 'Domestic violence', placed greater emphasis upon local police policy and prescribes how incidents of domestic violence should be policed, with a further Home Office (2000b) document, *Domestic violence: breaking the chain, multi-agency guidance for addressing domestic violence*, gave detailed advice on a partnership approach to policing domestic violence, an approach that has been developed in other parts of the world, for example, New Zealand and Australia (Strategic Partners Party, 1999, p.25).

However it was not until the introduction of The Domestic Violence, Crime and Victims Act (DVCVA) 2004, which came into force in 2005, that we seen substantial changes to the law relating to personal protection from assault. Previously the police were reluctant to arrest unless the victim had a non-molestation order in place, with the power to arrest attached.

A non-molestation order affords personal protection to victims of violence with breach punishable by up to five years imprisonment on indictment (Family Law Act, 1996), but Section 10 of the Act (DVCVA 2004) includes common assault as one of the specified offences in Schedule 1A to the Police and Criminal Evidence Act 1984 (PACE 1984). This enables a constable to make an arrest in a domestic violence context irrespective of whether a non-molestation order is in place. The DVCVA (2004) also included those who were in a relationship but who had never lived together, and same-sex couples, eligible for non-molestation orders.

Relevant legislation relating to domestic violence is also included within the appendices section of this review.

Although the police accountability and control have not been discussed in overtly political terms since the 1980's (Loveday, 2000), they continue to be important issues (Jones, 2003). Margaret Borkowski in her book, *Marital Violence* (1983), states that the police in their evidence to the Select Committee (Report from the Select Committee on Violence in Marriage 1975) stated that prosecution may just exacerbate the family relationship and that the mere arrival of a police officer at a domestic incident is enough to calm the atmosphere and deter future assault.

Borkowski goes on to argue that (at the time of writing c.1980) current police procedures allow the police to quickly disappear from the scene after calming the situation and passing on a few words of advice, leaving the victim in a continuing state of fear and with a feeling of not wanting to trouble the police again after calling them once before.

Violence against women in the home remained on the fringes of criminal justice responsibility, still perceived as a personal problem best dealt with by individual women or social services. In, *Women, Violence and Social Change* by Dobash and Dobash (1992), it reports on the thoughts of an Assistant Chief Constable from South Wales observed in 1990 prevailing police policy involves 'minimum involvement and disengagement' and there is 'no sign of a lasting improvement in police response'.

This comment further complements the Dobashes findings that dealing with 'domestics' is still considered 'rubbish' work unworthy of aggressive police action. In line with this thought Binney *et al.* (1981), in their study of women in refuges, uncovered that as many as sixty-four per cent of victims had not found the police helpful.

The most frequent complaint being that the police were unwilling to intervene because it was a 'domestic dispute', with police officers seeing victims only worthy of a police response if seriously injured. It is not surprising then that the Dobashes found, even in areas with pro-arrest policies; arrest was still an unlikely outcome of police involvement. Their studies found that police officers prefer to get in and out quickly, and use non-arrest tactics such as 'cooling-off'.

Further observations of police reactions and interviews with police officers revealed that they discouraged women from filing formal complaints, often giving strong advice against arrest, present victims with all the 'negative effects of and barriers to pursuing a prosecution' and pressure women not to press charges. In this way the justice system helps create the reality of dropped charges and reluctant witnesses about which it complains.

The Dobashes evidence also showed that when responding to public and private violence police action is shaped more by the concerns for public order and the maintenance of police authority than enforcement of the law and protection of the victim. Writing somewhat eight years later, Hoyle and Sanders (2000) found nothing had changed regarding public and private incidents of assault, and although the two types are legally identical, they are sociologically distinct. They further recorded that not only is the aetiology of domestic assault different to that of non-domestic assault, but the response of the victims will often be different too.

Lorna Smith found widespread recalcitrance in her Home Office study, published in 1989, which revealed that the police were often called only as a last resort, and often only after repeated violent attacks.

More recently, we have begun to see issues associated with policing domestic violence achieving a high profile, through the requirement for the police and local government to include measures to reduce domestic violence in their respective performance plans. An example of this can be seen in the Devon Domestic violence Partnership Business Plan, 2004/2006, the publication of the British Crime Survey Domestic Violence report (Walby and Allen, 2004), and hard-hitting television advertisements indicating an increased emphasis on issues relating to domestic violence (Women's Aid, 2009).

The issue of discretion available to front-line police officers in deciding if or how they should deal with reported incidents is a subject that was a major concern in the early 1970's (see, for example, Bottomley, 1973, Ch.2), and one that continues into the 21st century with the arguments presented by Sanders and Young (2003) that the importance of police discretion is due in part to the fact that in the police organisation top down control over policy implementation through complete and perfect compliance is difficult. First, because of the many services the police are expected to provide, and second because long chains of command in police organisations preclude close supervision over the front-line staff (*ibid*). Lipsky (1980) argues that this inevitably results in policy being adapted or changed by local managers and front-line staff into a working practice which makes their lives easier, resulting in their decisions being converted into street-level policy. Implementation issues such as this can have a particular impact on the policing of domestic violence.

3.6 Reporting and non-reporting of incidents

Many abused women have been ambivalent about calling the police: they fear they will not be believed or taken seriously; they may believe that the police can only respond to actual physical assault; they may fear it will provoke further or greater violence; and they may not want their partner/ex-partner to be taken to court (Paradine and Wilson, 2004; Alder, 1987; Kershaw *et al.*, 2000). Anima Mama's influential book on violence against black women in the home (*The Hidden Struggle*, 1989) explains racist stereotypes, lack of interest in the needs of black women, and racist immigration laws mean that women from Black and Minority Ethnic (BME) communities, in particular, are often reluctant to call the police, for fear of racism against themselves or their partner. Research shows that some black women even found that they themselves were assaulted or threatened with arrest when they called the police (Mama, 1989).

In the last decade, the police response to domestic violence incidents has come under increasing criticism (Edwards, 1986). Common criticisms found by Morley and Mullender (1994) were that incidents responded to by the police were not being taken seriously and were seen as civil rather than criminal matters. The same pattern emerged in Horley's article *Homing in on Violence* (1988) which found that one of the major reasons given by women for not reporting an assault was that they did not feel that the police would be sympathetic to their circumstances.

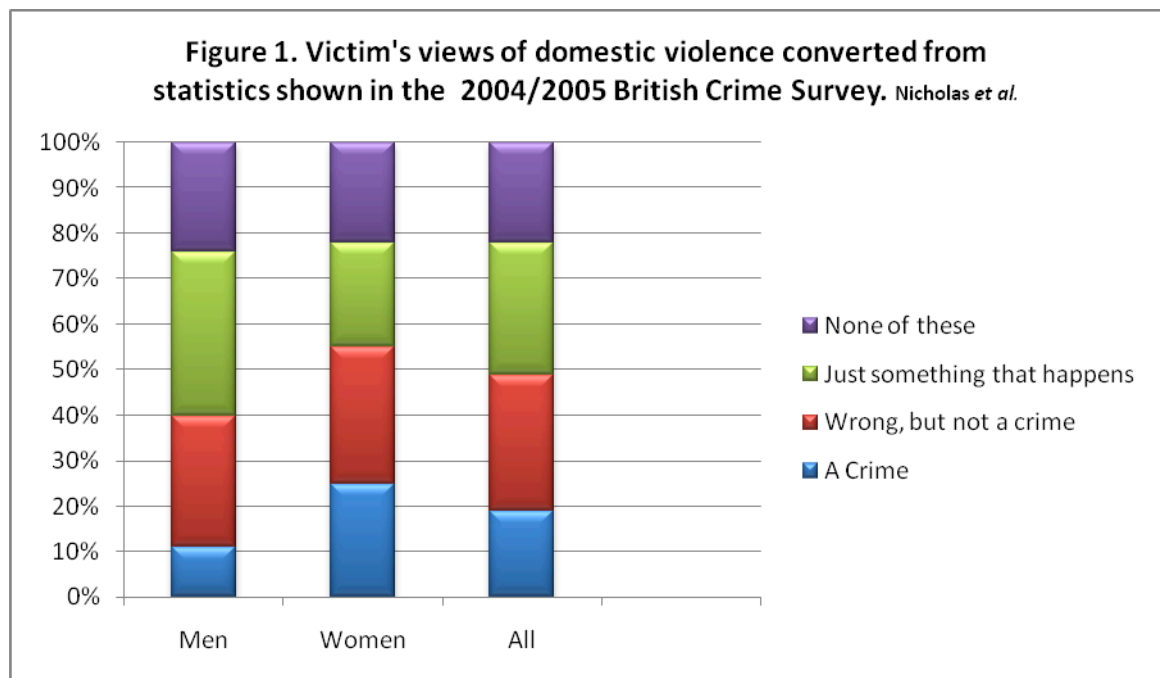
Hoyle (1998) found, as many researchers before her (Cretney and Davis, 1995; Buzwana and Buzwana, 1996), that the majority of victims of domestic violence either refused to make a statement or withdrew statements soon after making them, often before the offender was even charged. Smith (1989) joins the debate in his findings of inadequate recording practices by the police which obscured the true picture of the extent of domestic violence. Mayhew *et al.* (1993) gave conservative estimates of the under-reporting of domestic violence incidents as high as eighty per cent. It is therefore well documented that police figures suffer from the problem of the hidden figure of crime; that is, the non-reporting of crime to the police by the public and the failure of the police to record crime that is reported (Mama, 1989). It appears then, in the words of Openland (1982), "the police are copping-out in handling family disputes".

Accounting for sixteen per cent of all reported violent incidents, domestic violence has more repeat victims than any other crime, with repeat victimisation accounting for seventy-three per cent of all cases (Home Office, 2005a). Domestic violence is under-reported to the police for a variety of reasons, including victims being physically prevented, concerns by the victim and others of privacy, fear of reprisal, feelings of care for the offender, perceptions that it is not a police matter (Paradine and Wilson, 2004), and the fear of secondary victimisation during the court process (Alder, 1987).

The 2000 British Crime Survey found that, of those victims who did not report domestic violence to the police, 'privacy' was the main factor (Kershaw *et al.* 2000).

A Home Office study (Nicholas *et al.*, 2005) showed that about one-fifth of victims of domestic violence thought that what had happened was 'a crime' (19%), 30 per cent thought that 'it was wrong, but not a crime', and 29 per cent thought it was 'just something that happens' (Figure 1). Female victims were more likely (25%) to regard the

abuse as a crime than male victims (11%), whereas male victims were more likely to think of the abuse as 'just something that happens'.



The chart shows that male victims are less likely to view domestic violence as a crime; this would result in a lower reporting rate to the police and therefore have an effect on overall percentages of male victims. Walby and Allen (2004) say that more women than male victims view domestic violence as a crime because women suffer more serious injuries.

3.7 Contemporary context

Since 1993, many police services have introduced Domestic Violence Officers (DVOs) and pro-arrest policies. The main aims of these policies are to address the problem of victim non-cooperation and increase prosecution rates. The presumption is that arrest is always in the best interest of the victim; hence, the pro-arrest policy is to act according to apparent interests regardless of the victims view. The assumption is that by increasing arrest and prosecution the rates of domestic violence will lower. The danger that pro-arrest policies could actually increase the violence does not appear to be taken seriously and it is certainly not a danger that is addressed in Home Office policy. In contrast to the UK, a pioneering experiment in the USA (Minneapolis Domestic Violence Experiment, 1981-82) indicated that subsequent offending was reduced by half with arrest (Sherman and Berk, 1984). Although these results were welcomed by victim advocates, the results were intensely criticised for many methodological problems (Fagan, 1989).

Further experiments found that arrest was no more effective as a deterrent than any other intervention (Hirschel and Hutchinson, 1992; Dunford, 1992) or that arrest may actually increase the occurrence of future offending (Dunford, 1992; Sherman *et al.*, 1991). At a minimum, arrest policies represent a better criminal justice system response than decades of non-intervention, despite the criticisms that there is potential for police bias when enforced against the poor or Black and Minority Ethnic (BME) groups (Miller, 2000; Zorza and Woods, 1994). Eliminating much police discretion through pro-arrest policies can be consequential, it can increase the number of dual arrests because police would feel the need to arrest anyone involved in a cynical need to cover their own back (Martin, 1997). In turn, dual arrests could deter victims from calling the police again (Buzawa and Buzawa, 1990; Martin, 1997).

Individual police service policies mean pro-arrest policies are not universally implemented and arrest is not automatic, even where there is evidence of an offence. But women who choose arrest are supported by the domestic violence officer who provides support and assistance with civil remedies, child arrangement, separation, and so forth, even if prosecution is not sought. Taking forward a prosecution does not depend solely on the victim's wishes. The Home Office Circular 30/2005 covers simple cautioning of offenders for criminal offences and advocates positive action in cases of domestic violence. This means that evidential and public interest tests need to be considered and it may be that although the victim does not support the prosecution, it can still go ahead. In fact, ACPO (Association of Chief Police Officers) guidance (sec. 3.1 Duty of Positive Action) states that the decision whether or not to arrest a suspect rests with the officer, and victims should not, therefore, be asked whether they require an arrest to be made (ACPO, 2008).

Every police officer should now be aware of their expected actions when arriving on scene at a domestic violence incident as directed by the ACPO and which is indicated in s.3.4 of the ACPO Guidance on Investigating Domestic Abuse (2008):

3.4 Actions on arrival at the scene

On arrival at the scene, to ensure the safety of victims and children and to preserve evidence, officers should:

- Reassess victim and officer safety, including immediate risk, particularly in respect to access to or use of weapons;
- Make an immediate assessment of the need for first aid or other medical assistance such as an ambulance (this should include the needs of the victim, any children, any other persons and the suspect);
- Separate parties, including any children;
- Confirm the identity of the suspect (if they are no longer at the scene circulate a full description via the radio system);
- Establish who is or was at the scene, including any children;

- Request appropriate checks on the suspect and household (including warrants, bail conditions, civil orders and child protection register, ViSOR (Violent and Sex Offenders Register), INI (IMPACT Nominal Index; information sharing between forces), firearms licences or intelligence reports linking suspect and household members to weapons) if not already done.
- Make accurate records of everything said by the suspect, victim and any witnesses, including children;
- Record the demeanour of the suspect, victim and any other witnesses, including children;
- Consider taking photographs and/or using a video camera to record evidence;
- Report findings to the IO (Investigating Officer).
- Secure the safety of the victims in their home – if this is not possible, consideration should be given to taking them to another place of safety, e.g. the home of a relative or a refuge (this should be done according to local arrangements for housing and refuge provision);
- Obtain an overview of what has occurred, taking into account the established risk factors associated with domestic abuse;
- Ensure that information relating to the suspect is included in any risk management processes.

ACPO Guidance on Investigating Domestic Abuse ACPO NPIA (2008)

Individual forces are also recommended by the ACPO (2008) to *consider* measures or themes for performance review, including:

- Domestic abuse incident statistics;
- Domestic homicide statistics;
- Domestic abuse arrest and charge statistics;
- Domestic abuse-related crime statistics and detections;
- Repeat victimisation statistics

This recommendation takes us full circle to the very first sentence of this literature review:

Domestic violence is not a legally-defined offence and the police are not currently required to identify separately domestic violence incidents in their statistical returns to the Home Office (Plotnikoff and Woolfson, 1998).

This concludes the literature review section of the dissertation. I will now continue into Chapter 4 with the discussion.

Chapter 4: Discussion

The predominant aim of this dissertation was to critically examine the police response to domestic violence. The methodology adopted to perform the review was sufficient to ensure a concise and detailed analysis. The main concepts and theories that were proposed in the introduction were commented upon and related directly to the issue of domestic violence. This section of the dissertation will discuss how the findings from the literature review met the initial aims of the study.

The review has discussed the struggle for the recognition and treatment of domestic violence as criminal violence and the responses of both the government and the police (Home Office, 2003). It has reviewed the history of state and social acceptability and examined the 1990 shift in police policy. It also critically examined the post-2000 changes, the shift towards 'pro-arrest' policies and 'positive action'.

The elements of localism in police accountability structures has resulted in how the forty-three constabularies interpret Home Office evaluations of the new and still evolving police responses to domestic violence. During the 1990's, Grace (1995) found that all but three of the English and Welsh constabularies had developed domestic violence policies and that 50 per cent of forces had developed specialist domestic violence units. Nevertheless, what remains concerning is that interviews with officers discovered that a third had not heard of any new Home Office policy and half reported not receiving any new guidelines. So, although we did see a positive shift in police policy, resulting in some improvements and innovations, there remained variation and uneven implementation of the new policies across the country, which meant that even by the end of the 1990s the police response to domestic violence was still very much a postcode lottery. However, more recently, research has shown that victims of domestic violence are experiencing increasing satisfaction (Hester and Westmarland, 2005).

Attempting to reduce domestic violence through rehabilitation, rather than through punitiveness is consistent with the wishes of many victims who are more concerned with ending the violence than to punish (Davis and Cretney, 1997). Although some feminists argue that restorative approaches legitimate male violence (Stubbs, 1997), pro-arrest policies remove victim choice.

The criminal justice system also needs to expand its understanding of domestic violence beyond the male abuser/female victim model and to provide adequate protections for all victims regardless of gender or sexual orientation. The promotion of a gendered neutral approach continues to resurface (Hague and Malos, 2005) and further research into why most men do not engage in intimate violence is imperative to understand what role gender does play in domestic violence. Furthermore, although a symmetrical application of an arrest policy meets the equality tenet inherent in modern society, its intention to protect women as victims is easily misapplied and used against them resulting in inappropriate arrests.

The police response to incidents of domestic violence is significant in that they may be responding to a first disclosure or attempt at help-seeking. How the police respond to such incidents carries important messages. A sensitive response is likely to reassure a victim that their complaint is one that will be taken seriously, and respectfully, and the response may facilitate access to specialist domestic violence support services. In contrast, a poor response may deter the victim from seeking future help and leave the victim unprotected and at risk of further violence.

The dissertation will now continue into Chapter 5 with the conclusion.

Chapter 5: Conclusion

This dissertation has addressed the delicate issue of domestic violence, which by its very intrinsic nature and hidden occurrence, can often produce limited and indefinite figures. This is further complicated by the lack of firm policy requesting statistical returns from the police on incidents surrounding domestic violence.

During the research period for this review I spent time at the British Library at Boston Spa where I was introduced to a wealth of research materials including journal articles and texts written by well-established authors in my chosen field of study. This allowed the method adopted, and highlighted in the methodology section of the review, to prove accurate in providing a range of information from different sources, allowing for a critical examination of the selected concepts and therefore ensuring a strength of knowledge in the area.

The main findings of the review indicate that only time and solid research will tell if the criminal justice system can successfully reduce domestic violence. None of the initiatives described within the review will work in isolation. In many cases it is only when information from a range of sources is put together that risk to adults and children can be identified and properly assessed. The effective sharing of information about individuals in the context of domestic violence enables agencies to identify, assess, manage and reduce the risk that is inevitably associated with such cases. The best research suggests that a coordinated community response, which involves police, prosecutors, voluntary organisations, probation officers, treatment providers, and medical professionals, is essential. And, while both lethal and non-lethal intimate violence declined in the 1990s, so too has non-domestic violence. Thus, we must be cautious before attributing progress solely to more aggressive criminal intervention. Nevertheless, many remain optimistic that treating domestic violence as a serious public crime and not a trivial family matter will make for a safer society.

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Appendices

Relevant Legislation

The Serious Organised Crime and Police Act 2005

Section 110 of this Act amends the Police and Criminal Evidence (PACE) Act to allow for police officers to arrest without warrant anyone who:

- is about to commit an offence;
- is in the act of committing an offence;
- he has reasonable grounds for suspecting to be about to commit an offence;
- he has reasonable grounds for suspecting to be committing an offence;
- he has reasonable grounds for suspecting to be guilty of an offence he has reasonable grounds for suspecting may have been committed;
- is guilty of an offence;
- he has reasonable grounds for suspecting to be guilty of an offence. However, the power of summary arrest in this Act applies only if the constable has reasonable grounds for believing that the arrest is necessary for any of the following reasons:
 - To enable the name of the person to be ascertained (where the officer does not know and cannot readily ascertain the person's name, or where he has reasonable grounds for doubting whether a name given is the person's real name).
 - To enable the person's address to be ascertained.
 - To prevent the person:
 - causing physical injury to himself or another person;
 - causing loss or damage to property;
 - committing an offence against public decency (where members of the public cannot reasonably avoid the person); or
 - causing an unlawful obstruction of the highway.
 - To protect a child or other vulnerable person from the person in question.
 - To allow the prompt and effective investigation of the offence or of the person's conduct.
 - To prevent any prosecution for the offence being hindered by the disappearance of the person.

(Ref: <http://www.opsi.gov.uk/acts/en2005/2005en15.htm>)

The Human Rights Act 1998

The Human Rights Act has sometimes been quoted by perpetrators of domestic violence to prevent officers from effectively responding to or investigating domestic violence.

The relevant article is Article 8, below:

Right to respect for private and family life:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Paragraph 2, essentially means that there is nothing in this Article that prevents officers from using whatever lawful powers they have to enter private premises to protect the safety of others or to prevent disorder or crime. As such, Article 8 of the Human Rights Act does not prevent an effective police response to domestic violence.

Articles 2 and 3 of the Human Rights Act, however, provide that:

2. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
3. No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

It shall be the duty of a constable to preserve these rights and the first priority of the police is at all times to protect life and property. Therefore, the provisions in these two Articles outweigh the provisions of Article 2.

(Ref: <http://www.opsi.gov.uk/acts/acts1998/19980042.htm>)

Criminal Justice Act 2003

This Act allows evidence of bad character and hearsay evidence to be used in court in certain circumstances.

Sections 98 to 113 cover the provisions for the admissibility of bad character evidence within a trial. The Act defines evidence of a person's 'bad character' as evidence of, or of a disposition towards, misconduct. Misconduct is defined as the commission of an offence or other reprehensible behaviour. So, in addition to previous convictions, it may include evidence in relation to, for example, concurrent charges or cautions.

Section 116 (2)(e) allows for hearsay evidence to be given in cases where 'through fear the relevant person does not give (or does not continue to give) oral evidence in the proceedings, either at all or in connection with the subject matter of the statement, and the court gives leave for the statement to be given in evidence'. Section 116 (3) provides for a wide interpretation of 'fear' in this context, including fear of harm to another person. Hearsay might also be admitted even though the 'fear' does not relate to the offence in question, nor to action by or on behalf of the accused. A judge will consider the steps that have been taken to persuade the witness to attend to alleviate her fears.

Section 114 (1)(d) of the Act gives judges a general discretion to admit hearsay 'in the interests of justice', although Section 114 (2) sets out a number of factors to be considered before such leave is granted, such as probative value, importance, the circumstances in which the statement was made and the reliability of the witness and her evidence. Admission of hearsay under Section 114 (1)(d) will normally be considered only where admissibility under the other provisions is not allowed.

Section 120 (2) of the Act provides for the use of earlier written statements where that evidence is later contradicted either by oral evidence or other written statements. This means that the whole earlier statement becomes evidence of its truth, not just as evidence of the credibility of the witness.

Section 121 gives discretion to admit multiple hearsay, that is, a hearsay statement to prove an earlier hearsay statement, which may be relevant to a situation where information is relayed through more than one person before it is recorded. However, a judge must be satisfied that the evidence is of such high value, taking into account its reliability that the interests of justice require the later statement to be admissible. The discretion in Section 121 is a higher test than the discretion in Section 114 (1)(d). This is because multiple hearsay is more likely to be unreliable. However, there may still be circumstances where it can be reliable.

(Ref: <http://www.opsi.gov.uk/acts/acts2003/20030044.htm>)

Domestic Violence, Crime and Victims Act 2004

The Domestic Violence Crime and Victims Act 2004 added a number of new powers and amendments to existing ones to strengthen the victim's case when brought to the attention of the criminal justice system.

The Act has been rolling out in stages since January 2005. The remaining provisions will be implemented when funding becomes available and training is completed.

Measures impacting directly on domestic violence include:

- Creation of an offence of causing or allowing the death of a child or vulnerable adult (commenced March 2005).
- Giving cohabiting same-sex couples the same access to non-molestation and occupation orders as heterosexual couples, and making couples who have never cohabited or been married eligible for non-molestation and occupation orders (commenced on 5 December 2005).
- Making common assault an arrestable offence by adding it to the list of offences for which this power applied (replaced by changes to arrest provisions within Section 110 of the Serious Organised Crime and Police Act 2005).
- Creating a requirement to conduct reviews into cases of domestic homicide (under consultation, with commencement planned for December 2006).
- Making breach of a non-molestation order a criminal offence. Breaches will be punishable, on indictment, by up to five years' imprisonment.
- Enabling courts to impose restraining orders when sentencing for any offence.
- Giving any person mentioned in a restraining order the right to make representations in court if an application is made to vary or terminate the order. Police forces should ensure an effective response to the aspects of this Act as they are brought into effect through commencement orders in due course.

(Ref: <http://www.opsi.gov.uk/acts/acts2004/20040028.htm>)