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‘Enhancing “Safety and Justice”’: The Role of Specialist Domestic Violence Courts in England and Wales’

*Prof Dee Cook, Director of the Policy Research Institute, University of
Wolverhampton*

Dr Mandy Burton, Lecturer in Law, University of Leicester

*Dr Amanda Robinson, Lecturer in Criminology and Criminal Justice, University of
Cardiff*

Abstract

The government’s consultation paper on domestic violence ‘Safety and Justice’ (June 2003) acknowledged that domestic violence required focused attention by a range of agencies (in both civil and criminal settings) to address issues of prevention, protection and support. A key means of achieving this focus has been the development of specialist domestic violence courts (SDVCs) and fast track systems. This paper reports the findings of an evaluation¹ of five such systems in England and Wales at magistrates’ courts in Cardiff, Derby, Leeds, West London and Wolverhampton. This paper will firstly review relevant literature to outline some of the core components of any SDVC model and secondly, go on to assess the achievements of five different SDVC models studied which did succeed in enabling domestic violence to be tackled within a multi-agency framework designed with the safety and support needs of victims and children in mind. Thirdly, following on from a summary of the research findings, we will outline some of the key issues which partners in existing and future SDVCs need to address in order to further enhance safety and justice for domestic violence victims. Finally, the paper indicates policy implications and potential ways forward – for the criminal justice, statutory and

¹ This research was conducted by a collaborative team that included Dee Cook, Mandy Burton, Amanda Robinson and Christine Vallely (University of Wolverhampton) and was funded by the Crown Prosecution Service (CPS) and Department for Constitutional Affairs (DCA). The views expressed here are those of the authors and do not represent the official position of the CPS or DCA. The full evaluation report is available at <http://www.cps.gov.uk/publications/docs/specialistdvcourts.pdf>.

voluntary and community sector agencies – towards the development of a more holistic approach to challenging domestic violence.

Introduction and Context

The government's consultation paper on domestic violence 'Safety and Justice' (June 2003) acknowledged that domestic violence required focused attention by a range of agencies (in both civil and criminal settings) to address issues of *prevention, protection and support* for victims. A key means of achieving this focus has been the development of specialist domestic violence courts (SDVCs) and fast track systems (FTS). Such systems seek to either 'cluster' or 'fast track' domestic violence cases in order to achieve a variety of aims, some of which are to: increase the effectiveness of court systems in providing protection and support to women and appropriate sanctions to perpetrators; to enhance the coordination of criminal justice, public and voluntary and community sector agencies in working with domestic violence victims and perpetrators; reduce delays in the processing of domestic violence cases through the courts; and reduce rates of victimisation. This paper reports the main findings from an evaluation of five such systems at magistrates' courts in Cardiff, Derby, Leeds, West London and Wolverhampton, which informed government policy on the future development of specialist domestic violence courts.

The study referred particularly to the Crown Prosecution Service's Public Service Agreement (PSA) targets through which the 'safety and justice' agenda was to be driven by criminal justice agencies, namely: narrowing the 'Justice Gap' (by bringing more perpetrators to justice); increasing public confidence in the criminal justice system; and, at the same time, achieving value for money. But this project needs to be set not only in the rapidly developing policy context, but in the context of the dynamics of domestic violence itself, which is multi-faceted (incorporating emotional and psychological abuse as well as crimes of violence and/or sexual abuse).

Understandably, victims are often reluctant to be witnesses in court for a range of reasons which may include: fear and intimidation; concerns over housing, welfare and immigration status; their own relationship to the defendant; and (where there are children) the defendants' relationships with their children. The priorities of

prevention, protection and support established in *Safety and Justice*² provide the basis for evaluating the role of the criminal justice system in addressing domestic violence - providing both safety and justice for victims, within a supportive multi-agency framework that works with victims, perpetrators and their children.

1. Background to the Research

As we will discuss in part 2 below, SDVCs have operated in parts of the USA and Canada for twenty years, but the first specialist court in Britain (at Leeds) was established only in 1999. Our research evaluated five courts operating in England and Wales in late 2003, namely those at magistrates' courts in Cardiff (which was based on a FTS), Derby, Leeds, West London and Wolverhampton (all of which were SDVCs).³ At the start of the evaluation, the five courts were at very different stages of their development with one (Derby) being in operation for only six months, and another (Leeds) for four years. Police data indicated that the courts had widely varying case loads with 99 domestic violence arrests in one site (West London) over a 3-month period and 853 in another (Leeds) over the same period. They also operate in very different local and organisational contexts and so although our research was comparative in character, we did not seek to 'rank' the five courts in any way. Rather, the aim was to identify examples of good practice through which courts could enhance the services offered by both criminal justice and voluntary and community sector agencies to domestic violence victims and their children.

The wide ranging aims of the research required a mixed method approach, and a research process which was both reflective and iterative (with much learning from the process itself). Broadly, the evaluation consisted of the following elements:

1. **A literature review** of relevant literature on specialist courts from the US, Canada and the UK.
2. **Qualitative analysis**⁴ of information on the five SDVC sites including: existing evaluations and reports, site visits, interviews with key

² *Safety and Justice: The Government's Proposals on Domestic Violence* (Home Office, 2003) can be viewed at <http://www.crimereduction.gov.uk/domesticviolence37.htm>.

³ From this point forward, we will refer to SDVCs acknowledging that one site used a FTS.

⁴ Here the authors gratefully acknowledge the important contribution made by our colleague Christine Vallely (University of Wolverhampton), particularly to this component of the research project.

informants (in both criminal justice and voluntary and community sector agencies), ‘process mapping’, and gathering and analysing information about costs and benefits of differing SDVC/FTS models, where this was available.

3. **Quantitative analysis** of CPS files for the five court for one comparable period: August – October 2003.

It is worth noting that the research team had considered at length how best to access the views of victims and survivors, but the extremely tight time constraints of the project meant that any direct consultation on their perspectives on the success (or otherwise) of SDVC arrangements would be, at best, highly impressionistic. As an alternative, we consulted with community-based advocates and support workers engaged with victims and survivors who were well placed to assess their clients’ views on the new systems. Similarly, Victim Support and Witness Service staff were interviewed and the evaluation also drew upon (and did not seek to replicate) existing research on victim/survivor perspectives of SDVCs, notably the evaluations already conducted in Cardiff (Robinson, 2003), Leeds (Grundy, 2000), West London (Standing Together, 2003) and Wolverhampton (Cook, 2003).

Our discussion of the findings and recommendations from our research will follow on from the three components of the research indicated above. First, lessons learned from the literature are reviewed, followed by an examination of both *how* the courts work and *what* they have achieved in terms of key aims and targets.

2. Lessons from the Literature

The development of SDVCs occurred much earlier in some other jurisdictions, for example in parts of the US and Canada domestic violence courts have been in existence since the 1980s and early 1990s. These courts were developed according to a variety of different models, some operating in the civil setting only or dealing exclusively with criminal cases, others handling both civil and criminal matters (the integrated or combined model). The literature on specialist courts in other jurisdictions provides useful comparative material to inform the development and evaluation of specialist courts in England and Wales.

Lessons from the US

Court specialisation in the US has been grounded in ‘problem-solving’ or ‘therapeutic’ approaches to domestic violence (Fritzler and Simon, 2000). The problem solving approach provided impetus for the development of specialist courts in Florida, one of the forerunners in introducing SDVCs (in Dade County and Broward County). The courts were believed to increase efficiency and most criminal justice agency respondents to an evaluative survey felt that the judicial and prosecutorial expertise resulting from specialisation had a positive effect on the system for handling cases and helped to reduce recidivism (Florida Corrections Commission, 1999).⁵ SDVCs also began to be developed in New York, initially on the criminal ‘cluster court’ model, whereby criminal cases involving domestic violence matters are listed to a dedicated session for domestic violence cases only.

The dedicated listing of cases facilitated not only the allocation of specialist judges and prosecutors but also independent advocacy support for victims. Specialist support both within and outside the criminal justice system was found to enhance the quality of information available to the prosecution and increase the likelihood of victims remaining committed to the prosecution (Newmark et al., 2001). Some SDVCs in New York progressed from the criminal cluster court model to a combined civil/criminal model realising the benefits of the latter, in particular for ensuring judicial consistency in relation to all orders.⁶ Whilst the development of SDVCs can be driven primarily by system needs such as effective case management and efficient use of resources, many also have in mind ensuring victim safety and perpetrator accountability. A survey of SDVCs in California revealed that there were multiple objectives for establishing specialised procedures, including system needs, but respondents felt that the courts were more responsive to victims needs, improved enforcement and provided better services for perpetrators (MacLeod and Weber, 2000).

⁵ Defence lawyers had more negative views of the courts, some asserting they were biased and undermined the principle of judicial neutrality.

⁶ Westchester County Court started life as a criminal cluster court but moved to a combined model in 2001. Other combined criminal/civil SDVCs, such as the District of Columbia Superior Court domestic violence unit, started out as fully integrated. Evaluators of this court argue that it has a number of benefits over the criminal only model, notably a reduced burdens on the victim and court administration (Steketee et al., 2000).

By the late 1990s a plethora of SDVCs were in operation in the US and various attempts were made to compare them with a view to identifying good practice. One such review was undertaken by the National Center for State Courts (Kelitz, 2001). When the review was published it was estimated that there were over 300 courts with some specialised court structures, processes or practices distinct to domestic violence in the US, but there was much variation in these processes and a lack of systematic evidence of the benefits. The report identified cultural and organisational problems which had hindered the development of specialised domestic violence case management and also noted the concerns of some that: firstly, the pursuit of efficiency (in terms of reduced delays) may result in ‘assembly line justice’: and, secondly, that the promotion of information sharing may be detrimental to victims in some instances (for instance, where custody issues were involved). But the benefits of specialisation were also noted, in terms of increased judicial understanding of domestic violence issues, perpetrator accountability and more comprehensive support for victims at an early stage.

The review literature on specialist courts in the US proved valuable in identifying the core ‘components’ for effective SDVCs. The ‘components’ identified as a result of the Family Violence Prevention Fund survey of SDVCs (Sacks, 2002) are summarised in Box 1 below. They offer a useful checklist for those wishing to develop SDVCs or FTS and provided us with a further source against which to test and evaluate the five courts being studied.

Box 1: Core Components of Specialist Domestic Violence Courts Identified by the Family Violence Prevention Fund

- **Access to advocacy services**

Advocates act as a ‘liaison, buffer and contact’ between the victim and the court, a source of referrals to other services and, with consent, a conduit of information to the court.

- **Coordination of partners**

This was accomplished with regular meetings and joint training.

- **Victim and child friendly court**

Security at the court should be reviewed and if necessary improved, building on best practice (e.g., separate waiting areas, child care facilities, security guards trained in domestic violence).

- **Specialist personnel**

Specialist domestic violence training for all magistrates/judges, court administrators, prosecutors and other key personnel.

- **Even handed treatment**

Both parties should be adequately represented and the court's tone should indicate that domestic violence is being treated seriously.

- **Integrated information systems**

Systems and protocols in place for sharing and accessing information, to connect the court with community-based service providers and ensure compliance with orders.

- **Evaluation and accountability**

Plans for evaluation (and the systems to carry it out) should be in place from the outset.

- **Protocols for risk assessment**

All agencies should gather information on factors known to increase risk to facilitate risk assessment.

- **Ongoing training**

Training should be on a continuous rolling basis and be joint training (to increase each agency's understanding of each other's roles).

- **Compliance monitoring**

Through submission of reports to the court or regular review hearings, defendants' compliance with court orders should be monitored.

- **Sentencing**

Should be consistent and promote accountability from domestic violence offenders.

Lessons from Canada

In Canada a number of multi-agency approaches to domestic violence have been promoted (Hague et al., 2001). In Ontario the impetus for an improved judicial response to domestic violence came out of a domestic homicide review, following the killing of Arlene May (for detail see Hague et al, 2001). The new court which was subsequently established was evaluated by the Woman Abuse Council of Toronto, which concluded that specialised courts do make a difference. For example, men sent to the perpetrator programme from the specialist court had a lower breach rate than men sent by other routes (Woman Abuse Council of Toronto, 1998, 2003). The family violence court established in Winnipeg in 1990 deals with intimate partner violence as well as other forms of abuse. Evaluations of this court demonstrated that it was successful in reducing the time taken to process cases and in bringing about more appropriate sentencing. Prior to specialisation the most frequent sentences were conditional discharge, suspended sentences and probation: imprisonment was rare. In the two years after specialisation the most frequent sentences were probation, suspended sentences and imprisonment (Ursel, 1995). The review of Canadian initiatives to challenging violence against women concluded that 'specialisation has become the key to effective system reform' (Hague et al., 2001:45). However the authors noted the problems of making comparisons between Canada and England and

Wales; notably, Canada has pioneered vigorous prosecution and enhanced evidence gathering, at the time of writing it was felt that the CPS was reluctant to go down a similar route.

Developments in England and Wales

The criminal justice response to domestic violence has received a great deal of attention, not least as part of a Home Office review to identify effective approaches (Home Office, 2000). Both the police and CPS have policies designed to improve the way that they deal with domestic violence. The operation of these policies has been evaluated most recently in a joint thematic report by the CPS and police Inspectorates (HMIC and HMCPSI, 2004). The Inspectorates' report raises a number of issues of significance for the development of SDVCs in England and Wales, for example whether court specialisation impacts positively on case preparation. The value of 'enhanced' or effective evidence gathering, collecting evidence other than the victim's testimony to support prosecutions both with and without the victim, is now recognised (Home Office, 2000, Taylor-Browne, 2001). Such evidence, for example photos of injuries and 999 tapes, may be used to support a prosecution either with or without the victim (Ellison, 2003). The rarity of photographic evidence and other supportive evidence in domestic violence prosecutions (Hester et al., 2003) raises the question of whether the presence of specialist police officers in SDVCs and training for responding police officers could promote more effective evidence gathering.

The Inspectorates' report was generally optimistic about the development of SDVCs noting that there was some evidence (from the two specialist courts included in the inspection) of good practice in bail decision-making and in keeping victims informed of decisions. However whilst SDVCs were noted as having positive impacts on outcomes and handling cases 'with an appropriate degree of seriousness' the Inspectors commented on the need for the five site evaluation reported here to inform consideration of proliferation.⁷

Although it was not part of the literature review for our original evaluation, the further development of SDVCs will also now undoubtedly be informed by recently published Home Office research. Hester and Westmarland (2005) summarised the findings from evaluations of the domestic violence projects funded by the Home Office under the Violence Against Women Initiative part of its Crime Reduction Programme (CRP) to find out which approaches are effective in tackling domestic violence. In terms of supporting women through court, the research found that women find it particularly useful to be accompanied to court resulting in the recommendation that advocacy involving legal and other types of support and accompanying women to court should be key elements of projects aimed at reducing domestic violence. The importance of advocacy to the five SDVCs evaluated here will be discussed in the next section.

There are still issues surrounding the courts, which specialisation perhaps might address. For example women felt let down by lenient sentencing, especially where fines were imposed. Thus it was recommended that magistrates be trained to increase the proportion of custodial sentences where appropriate. Some projects had difficulties in finding out outcomes of cases for women they supported. This demonstrates the need for effective monitoring of cases to be prioritised when projects are being developed. Finally, Hester and Westmarland (2005) noted the need for further research on the use of evidence to ensure that projects and the police are collecting and passing on evidence that is useful to the CPS. Multi- agency working was a feature of all the projects in the CRP initiative. Unfortunately, whilst the importance of the level and form of involvement in multi- agency working was noted, it was not discussed in the overview in any depth. Multi-agency working is a key element of SDVCs as will be seen in the following discussion of the evaluation findings.

3. Research Findings

Before moving on to discuss our findings, it is worth noting here that many of the agencies we engaged with in our research used different definitions of what constituted ‘domestic violence’ (for detail, please see Annex 2 of our final report, at <http://www.cps.gov.uk/publications/docs/specialistdvcourts.pdf>). This meant that there were differences in the courts in terms of their scope in addressing:

- Offences between intimate partners only (following from the Home Office definition) – Leeds, West London
- Offences which may also include adult family violence – Wolverhampton and Cardiff
- Those which particularly address family abuse, including children – Cardiff and Derby.

Drawing on an analysis of all available existing documentary material and also the qualitative data gathered from the site visits and key informant interviews, this section will start by describing how the different courts work in practice. This then provides the basis for understanding what the courts have been able to achieve in terms of key government initiatives and PSA targets (to achieve Value for Money, Narrow the Justice Gap, Bring Perpetrators to Justice, and Improve Service to Victims), all of which are discussed in the following sections.

How the Courts Work in Practice

While the five magistrates' court sites evaluated were all distinctive (as we will see below⁸), there were key features that were broadly common to *all* courts and these included:

- A focus on **criminal** (rather than, at this stage, civil) matters heard in **magistrates'** courts (although the principles and protocols established at Cardiff did extend to the Crown Court too).
- Arrangements in place for **identifying/flagging domestic violence cases** and thereafter either 'clustering' or 'fast tracking' all domestic violence cases to designated sessions at 'specialist' courts
- The presence of **advocates** and/or police domestic violence officers at court to provide relevant information to the court and to advise and support victims.
- **Multi-agency working**, which is both central to, and crucial for the success of, all models.
- All courts and agencies recognise that **training** is a priority issue and must be delivered to everyone involved with cases of domestic violence.

⁸ As indicated in Box 1 below, differing terms are used among the courts studied to describe the specialist arrangements being used to process domestic violence cases. The terms 'cluster court', 'dedicated' and 'specialist court' are used to describe their differing models of specialisation.

In the qualitative element of the study we generated pen portraits and ‘process maps’ for each of the sites through which the defining features of each site were identified. These are summarised in Box 1 below.

Box 2: Summary Features of the Five Courts.

Court	Start Date and Type	Partners	Key Features
Cardiff	January 2002 Fast Track System	Cardiff Women’s Safety Unit (WSU); CPS; South Wales Police; Magistrates Court; Crown Court.	A weekly Pre Trial review (PTR) court for DV cases held on a Friday Thereafter, DV cases prioritised with 1 in 4 listing slots reserved, thereby fast tracking hearing and trials FTS procedure is also extended to the Crown Court WSU ⁹ members attend all PTRs as victim’s advocate All prosecutors and magistrates are trained in domestic violence and the FTS process. FTS processes and issues regularly reviewed. Focus on multi-agency, partnership approach with memorandum of understanding between all partners.
Derby	Piloted from May 2003 Dedicated Domestic Violence Court	Derby City Partnership; CPS; Police; Magistrates’ courts.	The ‘Dedicated Court’ deals with PTRs only, sitting on Wednesdays. Focus on multi-agency, partnership approach with memorandum of understanding between all partners.
Leeds	1999 Cluster Court	LIAP; HALT; STOP; ¹⁰ CPS; Law Society; Police; Probation; Magistrates; Magistrates’ Court	Deals with pre-trial hearings only Due to demand, 3 courts run concurrently on Mondays Police DV Officer and HALT representative are available at court. Focus on multi-agency, partnership approach with memorandum of understanding between all partners.

⁹ Cardiff Women’s Safety Unit (WSU)

¹⁰ Leeds Inter Agency Project (LIAP); Help, Advice and Law Team (HALT); Stop Terrorising and Oppressing Partners (STOP).

West London	October 2002 Specialist Domestic Violence Court.	Standing Together; ADVANCE; Eaves Women's Aid; West London Magistrates' Courts; Metropolitan police; CPS; Probation; Victim Support; and Witness Service.	Court deals with pre-trial hearings only, sitting Thursdays (PTR am. other hearings pm.) Advocates from ADVANCE and Eaves available at court, and police officer from Hammersmith and Fulham CSU. Trained magistrates and 4 District Judges sit regularly at court (legal advisors and listing staff also trained). Standing Together monitor court process, produce statistical returns and disseminate to partners. Focus on multi-agency, partnership approach with memorandum of understanding between all partners.
Wolverhampton	Piloted July 2002, fully effective Nov. 2002. Specialist Domestic Violence Court	WDVF; The Haven; AWAAZ ¹¹ ; CJSSC; Magistrates' court; CPS; VS and WS; West Midlands Police; City Council Housing Dept; UOW.	Deals with PTRs only, on Tuesday mornings. Criminal Justice Support Services Co-Ordinator (CJSSC) and West Midlands Police DV officer available at court. Court processes and issues regularly reviewed by multi-agency Steering Group, to whom CJSSC regularly reports. Focus on multi-agency, partnership approach with memorandum of understanding between all partners.

'Value for Money' - Costs and Benefits

Estimating the costs of domestic violence, including the provision of public services, is a difficult but essential exercise. Policy makers need to understand the gains that can result from effective interventions in domestic violence. A recent evaluation of the costs of domestic violence suggests that the scale and impact of domestic violence has been much underestimated (Walby, 2004). Given the substantial costs of domestic violence to the criminal justice system, estimated by Walby (2004) to be in excess of £1m in 2001, there are clear incentives to try to ensure the criminal justice response is as effective as it can be.

¹¹ Wolverhampton Domestic Violence Forum (WDVF); Asian Women's Adhikar Association (AWAAZ); Criminal Justice Support Service Co-ordinator (CJSSC); University of Wolverhampton (UOW).

Part of the remit of this part of the study involved assessing the costs and benefits of the SDVCs in processing domestic violence cases. We found that for very modest costs (mainly in terms of staff time to set up specialist procedures), all courts showed value in terms of:

- facilitating good multi-agency working across the criminal justice system;
- finding ways to begin reducing repeat victimisation; and
- developing different models to meet the CPS Public Service Agreement (PSA) targets of Narrowing the Justice Gap, Bringing Perpetrators to Justice, and Improving Service to Victims.

The main costs incurred by SDVCs related to advocacy, training, allocating police to the courts and the monitoring of cases. Training and monitoring are both essential for good practice in delivering effective domestic violence prosecutions and so, irrespective of specialisation/fast tracking, the core elements of domestic violence training and monitoring should be integrated and mainstreamed.

Where cost-effectiveness and cost benefits were concerned, it was established that there are significant financial savings to be made if domestic violence is responded to effectively early on, to avoid violence escalating in severity and frequency over time. A holistic approach to domestic violence, such as that provided by the specialist courts, is beneficial in these respects. The long term and most far reaching benefits of the specialist courts, in terms of reduction in repeat victimisation, are difficult to quantify (particularly in cases where the SDVC has not been running for long and longitudinal data on recidivism is limited). However, at the time of the research, most sites were reporting a reduction in repeat victimisation (of around 36% at two of the sites), which was significant: such reductions would not only signal cost savings and the 'value for money' for the agencies involved, but also address the wider 'costs' of domestic violence for victims, families and the wider society. When the human and emotional costs of domestic violence were included, Walby (2004) estimated the total cost of domestic violence in England and Wales in 2001 was £23 billion.

Quantitative Data Analysis

As already indicated, methods used in the evaluation included interviews with key informants and visits to all five sites, in addition to the coding and analysis of CPS domestic violence case files. The case files were coded by a trained team of researchers using a 10-page instrument which was developed for the study. The case file analysis provides the foundation for the findings and conclusions described in this and the following section, although site visits and key informant interviews are also important in informing our conclusions. Our sample of 216 case files consists of 50 cases each from Cardiff, Leeds and Wolverhampton, 35 from Derby and 31 from West London. These represented a portion of cases finalized in Magistrates' Courts during the 3-month period of Aug-Oct 2003.

Most of the offences in the sample were Sect 39 Common Assault or Sect 47 Assault/ABH. The overwhelming majority of cases represented male-on-female violence. Most victims were injured as a result of the offence, and most victims had a prior history of domestic violence with the defendant. Finally, in almost half of the cases children were known to be home at the time of the incident. The findings will now be discussed with reference to the government's key PSA targets as they apply to domestic violence.

'Narrowing the Justice Gap'

Charging

Charging is an important indicator with respect to domestic violence cases as historically charges have often been reduced. Therefore, the proportion of charges that are 'maintained' (remain the same) can be seen as a reflection of good performance. 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. Changes in the new Domestic Violence Bill provide powers of arrest for common assault, and this is expected to further reduce charging alterations.

Pre-Trial Review (PTR)

Pre-Trial Reviews were used in 37% of cases. They were much more likely to be scheduled in Cardiff and Leeds, although they are vital components of each site's innovative system. PTRs are considered useful by the courts because they provide an

opportunity for the defendant to change his or her plea to guilty without expending the resources necessary for a trial. In terms of implementing a specialist court or fast-track system, PTRs are valued as a tool that can expedite the finalisation of cases.

Victim Retraction

Victim retraction is viewed as a key performance indicator by the CPS, and is almost universally viewed by criminal justice officials as a problematic outcome primarily because it is seen to waste time and resources. However, it is doubtful that victim retraction is an appropriate method of measuring the success of any court. The intimate nature of the crime, personal pressures and possible intimidation faced by victims of domestic violence makes them more likely to retract than in other crimes. Bearing in mind the many factors that do (and do not) appear to shape a victim's decision to retract, some key findings can be noted.

In our sample half of victims decided to retract at some stage of the process. Those who did retract were more likely to be currently in a relationship with the defendant rather than the ex-partners or ex-spouses of defendants. They were also more likely to live with the defendant compared to victims who did not retract. Victims who were injured as a result of the offence were also more likely to retract than those who were not injured. However, vulnerable victims were not significantly more likely to retract and neither were those who were very frightened. Those victims who retracted did not differ significantly in terms of their age or ethnicity.

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. Leeds can be considered the exemplar, as in 16 of 17 cases where victims retracted a statement was present in the case file, and none of the statements were perfunctory as the CPS has a standard minute to police stating all the issues to be addressed. Leeds also had the lowest rate of victim retraction across the sites.

Speeding Up the Process

It was believed by interviewees that the SDVCs did speed up the process and that this was facilitated by the presence of a police domestic violence officer in court who

could provide timely information about the case. On average it took 10 weeks from arrest to finalisation, although there were significant differences between sites (e.g., cases moved fastest in Wolverhampton, where it took about 8 weeks).

Keeping in mind that half of victims did not retract at any stage of the process, those that did retract stayed with the process on average until about one month after the charging date. This indicates that *the first month of case progression is vital*, as it is during this time that victims are weighing up the pros and cons of continuing their involvement. The national goal of ‘speeding up the process’ therefore continues to hold merit.

A general concern that specialist courts or fast-track systems might be ‘speeding up retractions’ was not supported by the analysis of the case files. For example, in Wolverhampton cases moved through the system the fastest, but this did not have any bearing on how often their victims retracted. In Leeds victims retracted the quickest, but the most infrequently. In Cardiff victims continued with their cases a significantly longer amount of time before retracting, perhaps reflecting the notion of ‘supported retractions’ whereby the process of retracting takes more time and communication between victims and agencies such as the Women’s Safety Unit.

Civil/Criminal Interface

There was very little evidence of links with civil courts, and this remains an area for further development.¹² There remain many problems of information sharing and how best to take account of civil/family court issues. These need to be addressed if specialist courts are to maximise their potential as a key component of a holistic service for victims and survivors of domestic violence and their children.

‘Bringing Perpetrators to Justice’

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. Respondents thought that defendants did not necessarily plead guilty more

¹² Planning of the first ‘integrated’ court, in Croydon, is already underway by the CPS and DCA.

often, although evidence from the sites suggests that more guilty pleas are promoted by having better supported victims.

Across the criminal justice system, early guilty pleas are preferred to late guilty pleas because they use fewer of the courts' resources. However, it should not be forgotten that late guilty pleas do represent successful outcomes in terms of bringing perpetrators to justice. In cases of domestic violence they may also reflect the slow realisation by perpetrators that the case will be taken seriously by criminal justice agencies and the wider community.

Evidence

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). Our research thus echoes the findings of the Inspectorates' report (HMIC/HMCPSI, 2004) which found many 'lost opportunities' for evidence collection. For example, the case files indicated that 78% of victims were injured by the defendant, yet case exhibits (such as photos), medical statements and forensic evidence were infrequently found in the case files (30%, 12% and 11%, respectively).

In domestic violence cases there is a pressing need for better evidence from the start and, in this context, the notion of 'enhanced evidence' in such cases was dismissed by many of our interviewees, one of whom pointedly noted:

'You have either got the evidence or you haven't - from the word go.'

In this respect the word 'go' starts with the police officers who attend incidents. Our study did, however, identify good practice in multi-agency risk assessment tools adopted by the police (for example, those used in South Wales and in London), which encouraged a sharp focus on evidence and which, in longer term, may increase numbers of cases able to proceed without the victim. Other innovative attempts to increase the collection of evidence were joint training initiatives (involving voluntary and community sector support groups and police officers) and the purchase of equipment such as digital cameras.

Effective evidence gathering and multi-agency risk assessment may therefore give rise, where appropriate, to victimless ('professional') prosecutions by the CPS. Victimless prosecutions may be taken forward with the passive consent of the victim (although are not at her instigation), and where it may be seen as beneficial for her in removing from her the 'blame' and burden of responsibility for the prosecution of her current or former partner. But there may also be cases when, following retraction, her compliance is entirely absent. Our study found that most interviewees working in both criminal justice and voluntary sector agencies felt that careful case-by-case consideration needed to be given to compulsion of victims (via Witness Summons) in such cases. They did feel that such cases should only proceed after careful risk assessment, especially when child protection or sexual abuse issues were present.

Adjournments

Most adjournments were due to the lack of a full file: the responsibility for this, and the witness non-attendance which is more likely to follow serial adjournments, rests squarely with criminal justice agencies. Police resource issues were seen by many to shape the effectiveness of evidence gathering and the timely presentation of cases. For cases of domestic violence, there remains a pressing need for better evidence from the start. This is an endemic problem across the criminal justice system.

Bail

It was believed that the SDVCs had certainly made a difference to and improved bail decisions. It was felt to be important to have good information-sharing practices between the agencies to enable an informed approach to setting bail conditions, especially where children were concerned. Some respondents felt, however, that breaches of bail were not taken sufficiently seriously. Effective training of magistrates specifically on the nature of domestic violence cases was seen to be essential. Improving communication between civil and criminal courts regarding bail conditions would also be beneficial.

Bindovers

There was also variation across the sites in the use of binding over orders,¹³ which were more commonly used in Cardiff, Derby and Leeds, but infrequently used in West London and Wolverhampton. In addition, respondents' views about bindovers were contradictory both across and within the sites. Bindovers might be the result of poor evidence-gathering or over-reliance on the victim's testimony, but were regarded in certain cases as the best achievable outcome. When they *were* used, there was wide variation in the content of the orders themselves. Consulting victims about their use, and providing additional guidance to prosecutors about the use of bindovers in cases of domestic violence is needed.

Sentencing

Even in these specialist court settings, sentencing domestic violence offenders most often took the form of fines or other monetary penalties. Community rehabilitation orders were used infrequently, despite comments from victims about the need for 'help' for their partners. Only 9 of 69 convicted defendants received a custodial sentence, which on average was 12 weeks long. While the qualitative evidence suggested that magistrates were being more imaginative in their sentencing practices, analysis of the case files suggests that more guidance is needed for benches in the effective sentencing of domestic violence offenders.

'Improving Service to Victims'

Consultation

Our analysis of CPS files indicated that formal consultation with victims about pleas and bindovers rarely took place (except in Cardiff, and this is considered good practice that should be encouraged to ensure that prosecutors fully evaluate the safety of witnesses within cases). However, there was also a discrepancy between how frequently key informants *thought* Victim Personal Statements (VPSs) were being used and evidence of their use *in practice*. For example, in Wolverhampton they were considered by our interviewees to be used infrequently but the majority of VPSs

¹³ Briefly, a 'binding over order' is an exercise by the magistrate of their power within civil (rather than criminal) jurisdiction to require the defendant to recognize to the court that they misbehaved. Such orders will specify a specific sum of money over a specific period of time, requiring defendants to keep the peace. Failure to do so may result in an arrest, a return to court, a forfeiture of the money, and/or additional charges.

identified in the sample of case files were in fact from victims in Wolverhampton. 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. Overall the sites had made substantial progress in their attempts to consult victims, but consultation could be made a more consistent feature of case processing in the courts studied, and at national level.

Victim Satisfaction

Where victim satisfaction is concerned, our research clearly shows that more women victims of domestic violence are being supported, as the SDVC sites provided a framework within which advocacy and support can take place. Evidence suggests that victims were very satisfied with the advice, support and information provided by lay advocates and others in the voluntary and community sectors. Importantly, victim satisfaction surveys conducted at the SDVCs point to a link between supported victims and their participation in the criminal justice process.

While our study found that the implementation of SDVCs demonstrably improved victim satisfaction, this was not solely or principally attributable to the *processes* of clustering or fast tracking domestic violence cases. Rather, our research indicated that increased satisfaction derived firstly from the *signals* sent by the SDVCs (to the victim that she was being supported, valued and taken seriously, and to the perpetrator that domestic violence was being taken seriously by the criminal justice system), and, secondly, from the *support* victims received at or through the SDVC (from criminal justice, advocacy and voluntary and community sector support agencies). As one victim advocate we interviewed expressed it,

'[we] can carry her that short distance to the court.'

For some women, the presence of advocacy support at SDVCs was, in itself, reassuring. As one survivor commented:

'They were sitting there ready to step in, whether you had asked for it or not... you did have the chance to grab a hand if you needed it.'

(Standing Together, 2003)

A community-based support worker astutely observed that ‘*victims do not want very much.... women value one-to-one contacts by telephone to keep them updated and supported.*’ In this respect, our research indicates the crucial importance of one-to-one contact and support – from criminal justice as well as voluntary and community sector support and advocacy groups.

Equality and Diversity

There remains a worrying paucity of data in relation to ethnicity and disability, which were poorly recorded by most criminal justice agencies working with the courts evaluated here and often noted in research elsewhere. If victim safety and support is to be enhanced through SDVCs, there is a pressing need for them to collect comprehensive and accurate data on which to base planning and resource allocation decisions, bearing these diversity issues in mind. We also found significant problems around access to translation and interpreting services – for the police, the courts and in the wider support community. The need for more culturally sensitive decision-making was also noted by some of our interviewees. At the same time, we found a lack of data and awareness of issues around same sex relationships, both in relation to the processing of domestic violence cases and in terms of domestic violence support (which is geared primarily to male-on-female abuse). Our study thus indicated the need for SDVCs to either introduce or step-up data collection, monitoring and agency training, in order to meet these challenges posed by diversity issues.

4. Issues for Policy and Practice

While our research was in progress, the recommendations from the HMIC/HMCPSI *Joint Thematic Inspection of the Investigation and Prosecution of Cases Involving Domestic Violence*¹⁴ were being drafted. In examining the issues for policy and practice emerging from our study, we concur with their recommendations which will help to improve the response of the criminal justice system to domestic violence and ensure the streamlining of cases within the courts (HMIC and HMCPSI, 2004).

¹⁴ Available at <http://www.hmcpai.gov.uk/reports/jointins.shtml>.

In the course of our research we found there was little evidence available to enable a comprehensive comparison between specialist and non-specialist courts in processing domestic violence cases. But, where available, information and data on the working of court and support systems *before* the establishment of SDVCs/FTS and analysis of data (both qualitative and quantitative) *after* implementation does indicate that their introduction serves to:

- act as a beacon of good practice in terms of victim-centred justice;
- enhance victim satisfaction;
- send a message to the victim that she is being heard;
- send a message to the offender that domestic violence will not be tolerated and that the offence is taken seriously;
- increase public confidence in the criminal justice system;
- provide a catalyst for multi-agency working;
- promote the coordination of effort to support the victim.

We therefore recommended that courts should be provided with the strategic drive and resources to implement effective SDVC/FTS arrangements in ways which were best tailored to their needs, and those of the victims and witnesses they serve. Differing models and adequate resources will be necessary to deliver SDVC/FTS models in differing local contexts in England and Wales. With this in mind, our overall recommendations were as follows:

Summary of Recommendations

1. **Definition:** Development of a unified definition of domestic violence that should be used across all agencies.
2. **Extension:** In the interests of consistency and continuity of support, it is desirable that specialist arrangements be applied to trials, and work within the Crown Court. Linkages with civil courts are also recommended to facilitate this.

3. **Multi-agency partnerships:** Meetings of all court agencies (criminal justice, statutory and voluntary sector) should be held at least monthly, to review operations and discuss emerging issues.
4. **Protocols** for each agency within the court system should be developed. Information-sharing protocols to cover information to be shared between agencies and between criminal and civil courts are vital.
5. **Monitoring:** Forms to collect details of cases completed by all agencies should be developed and centrally coordinated. A dedicated administrator, or budget, for inputting data, and plans for continuous monitoring of SDVCs/FTS is necessary.
6. **Training:** Domestic violence awareness training for all agencies, including equality and diversity issues is a priority issue. Training for each agency on their protocols also needs to be included.
7. **Risk assessment:** Given the significance of domestic violence for individual, family and public protection – most notably for women and children – it is essential that all agencies engaging with victims, survivors and their families use appropriate and informed assessments of risk.¹⁵
8. **Equality and diversity:** There should be universal collection of ethnic data for both victims and defendants in CPS files. There should be advocacy support for victims to address their differing access, cultural, linguistic, religious and social needs. In addition, there is a need for more awareness raising and training on the specific needs of domestic violence victims from a range of minority groups for all agencies.
9. **Language and culture:** There is an urgent need to address the problems faced by women from minority ethnic groups whose first language may not be English. Interpreters and translators must be available for use by both criminal justice and voluntary support agencies, or at the very least a budget set aside to use Language Line (and Minicom, for people with hearing impairments) in all courts. If interpreters are to be used, they must be suitably qualified and independent. Provision should be made for all information to be available in

¹⁵ We recommend that the Cardiff model is disseminated more widely and the Multi-Agency Risk Assessment Conference (MARAC) model they use is similarly supported, in line with its adherence to the positive multi-agency ethos of SDVCs. For more information, see reports available online at <http://www.cardiff.ac.uk/socsi/whoswho/robinson.html>.

different community languages and other requested formats such as large print.

At the time of our research some SDVCs were, not surprisingly, still struggling with the challenges posed by genuine multi-agency working, particularly in terms of information sharing and developing clear and effective working protocols. Links between agencies were not as effective as they might have been, with differing IT systems proving formidable barriers to effective multi-agency working. In addition, criminal justice agency links with voluntary and community sector organisations around SDVCs needed to be more firmly grounded in the ethics of equality and trust. At the same time, the perennial problem of insufficient resources clearly affected both criminal justice organisations dealing with domestic violence and the voluntary and community sector support groups whose invaluable work remains crucial to the success of SDVCs.

SDVCs themselves may be seen as grounded in principles of what has been termed 'therapeutic jurisprudence'. This signals a welcome move away from traditional adversarial principles and instead adopts a coordinated and problem-solving approach in an effort to meet the needs of victims, their families and the community (Ostrom, 2003). The therapeutic approach posits that the legal system can promote the well being of both survivors and perpetrators of domestic violence (Hartley, 2003). But for this approach to work there must be commitment from all parties – from police and judiciary to healthcare and voluntary and community sector support workers. Our research findings reflect the views of Uekert (2003) who argued that effective coordinated community responses to domestic violence require not only active and engaged stakeholders, but also a consensus amongst those stakeholders on the most appropriate responses to domestic violence in their communities. One significant challenge faced by SDVCs will be the tension between the often competing organisational goals and targets at both the local and national levels.

Reflecting on our research, it is apparent that the governance of criminal justice gives rise to conflicting goals for differing agencies engaged with domestic violence cases: for example, for the government (and the criminal justice agencies whose targets it sets) 'Narrowing the Justice Gap' means speeding up cases, although this may have

adverse consequences for some victims who need extra time for support. Similarly, 'Bringing Perpetrators to Justice' may not be what all domestic violence victims want and may also place them at greater risk of repeat victimisation, especially given perceived 'leniency' of current sentencing practices (which focus mainly on financial penalties). It is essential, therefore, to reconcile the aims of broad policy priorities with the very specific features and risks of domestic violence cases. SDVCs can provide an important context for bringing together criminal justice professionals with those support agencies and advocates who can help to reconcile policy and practice with victim and family needs. A coordinated response also requires effective **monitoring** of processes, identified as an essential component of SDVCs in the US, and exemplified in England and Wales by the input of Standing Together into the West London court.

Therapeutic jurisprudence and the problem-solving approach that accompanies it also requires that we envisage and treat victims and survivors as people (not 'cases') and take account of the complex realities of their daily lives. This may mean acknowledging the potential of the legal system to address domestic violence, while equally acknowledging (from the victim's perspective) the problems which beset its operation in practice. Ruth Lewis argues that we need to recognise the limits of criminal justice initiatives which so often fail victims of domestic violence by not providing them with the protection, safety and 'justice' they need and also failing to hold perpetrators accountable for their actions (Lewis, 2004:205). The law is just one element (albeit a crucial one) of a necessarily wider social response to domestic violence: this response, Lewis contends, must also include community-based and preventative strategies. Our research supports this view in suggesting that SDVC arrangements alone cannot achieve enhanced satisfaction and sense of 'justice' for victims of domestic violence – this requires a range of allied community-based support initiatives. While SDVCs provide a very positive focus for these activities, their long term success depends on the effective coordination and delivery of a range of policies which are likely to lie outside the scope of the criminal justice system. The work of umbrella support organisations such as Standing Together (in North London)

and the Women's Safety Unit (in Cardiff) show what can be achieved in the context of such a supportive wider policy framework.¹⁶

Finally, it is important to recognise that 'Safety and Justice' will inevitably come at a price. The implementation of the SDVCs we studied was often accomplished with little resource, in spite of constraints in criminal justice funding and in the face of cost-cutting drives. But the SDVCs we studied were also implemented with the benefit of enormous commitment from the voluntary and community sector – in the medium and longer term this commitment needs not only recognition, but adequate core funding. Traditionally the voluntary and community sector's role has been seen in terms of 'partnership working' and, in criminal justice as in other policy spheres the partnership mantra has promised much, but has often failed to deliver significant change or added value in terms of client satisfaction (Cook, 2002). However, the SDVCs evaluated here did offer us an exemplar of what effective partnership working should look like and what its potential benefits may be. When our research recommended the roll-out of SDVCs in England and Wales it recognised the vital importance of advocacy and support in making them work. The costs of victim and child safety will involve funding advocates and a range of public and voluntary support services at SDVCs and in the wider communities they serve in a genuinely holistic response to domestic violence and abuse.

¹⁶ The genuine multi-agency environment in Cardiff that devised the Women's Safety Unit and the FTS has continued to foster the expansion of support arrangements for victims of domestic violence, including multi-agency risk assessment conferences for high-risk victims, secondment of health care staff into the WSU, in-house civil legal services for WSU clients, and advocacy expanded to include male victims.

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