

**Partnership and Power: Domestic
Violence, the Women's Sector, and
the Criminal Justice System**

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Date of submission for examination January
2018

Declaration

This thesis entitled *Partnership and Power: Domestic Violence, the Women's Sector, and the Criminal Justice System* has been composed solely by myself and is my own original work. It has not been accepted in any previous application for a degree. All quotations have been distinguished by being italicized or separated from the body of the text and indented. Sources of information have been specifically acknowledged.

Signed:

Date: 19th of January 2018

Abstract

This thesis is a sociological investigation into partnership between the criminal justice system and women's organisations, and its impact on survivors of domestic violence. To examine this, the criminal justice initiatives of the charity Standing Together Against Domestic Violence were researched – Hammersmith and Westminster Specialist Domestic Violence Courts and the Impact Project in Hammersmith Police Station. These initiatives have placed domestic violence specialists inside the police station or courts to reform the way domestic violence is investigated and prosecuted, and how survivors are supported through the process. Qualitative research was conducted which included semi-structured interviews with key stakeholders, and observations of the domestic violence court's while they were in session. The data yielded was analysed using intersectionality based policy analysis, and focused on the power dynamics between the criminal justice system, women's organisations and its impact on marginalised survivors. The emergent themes of this research focus on how these initiatives have influenced the safety of survivors; how they impact on survivor freedom in terms of self-determination and survivor criminalisation and; how they impact on police and perpetrator accountability.

Taking an intersectional approach to criminal justice policy on domestic violence, this thesis offers a unique contribution by examining how survivors from a range of social locations experience the police and courts. My findings indicate that while increased specialism in the criminal justice system has increased the safety for some survivors, it has increased the vulnerability of others.

Dedication

I would like to dedicate this thesis to Mandy Graham. I was 9 when you were murdered and as you were my friend's mum, I only have a handful of memories of you. Your denim jacket, your long ginger hair tied up in a scrunchie, and the mountains of ironing you always seemed to be tackling. I'm sorry this is all I remember of you, and I'm sorry you are not here. These words are written in your memory and you are why I do what I do.

Acknowledgements

My sincere appreciation goes to my supervisor Professor Jackie Turton. I was extremely fortunate to have her patience and encouragement, and without her support I would not have come so far. My mum Fiona Day and my brother Jourdan Day for always believing in me and listening to me even when you had no idea what I was talking about! I would also like to thank my mum's best friend/my surrogate mother, Bisi Ogunjimi-Hudson for being such a positive influence in my life. I would also like to thank my grandmother Batsheva Kantor for providing me with respite when I needed it. I miss you everyday, and hope to see you soon.

I would like to thank my friends, housemates and Sisters who have supported and lived with me while doing this research; Mica Coca, Hero Austin, Nadia Vogel, Shanice McBean, Aamna Mogate, Chris Holdin, Jesse Onono, Sapphire Macintosh, Roisin Armstrong, Virginia Wilson, Jumanah Younis, Lily Sakula, Sarah Hop, Nathaniel Arnott-Davies, Marwa Belghazi. Veronica Asenso Afriyie. Thank you to a community of friends, Sisters and comrades who have provided a loving home, both physically and emotionally.

I would like to thank Deirdre Armstrong and David Somerville for offering their home as a writing retreat for the summer of 2017, and to Sameera for being a supportive housemate during this period. I would also like to thank the rest of my Edinburgh community for taking care of me: Alex Hall, Órla Ní Mhuirí and Ellie Muniandy.

I would like to thank everyone at Sisters Uncut. There are far too many names to mention but having the opportunity to ground my research in grassroots, intersectional activism has made me feel so privileged. I would also like to thank the extended activist community of anti-racists, environmentalists, revolutionary creative's, feminists, anarchists and trade unionists who gladly gave their free time to proof read my work: Hannah Wright, Kevin Smith, Alexandra Kelbert, Adam Elliot-Cooper, Ray Filar, Aisling Gallagher, Mwen Rukandema, Bessie Spencer, Aisha Sharif and the others mentioned elsewhere. Thank you to Florence Dent for being to a key ingredient and to Jake Coleman for all the statistics help.

This research was funded by Economic and Social Research Council and Standing Together Against Domestic Violence and would not have been made possible otherwise. Thank you also to Nicole Jacobs for making this all possible. I would like to thank my partner Rees Arnott-Davies for being everything.

List of Abbreviations

ACPO	Association of Chief Police Officers
BME	Black Minority Ethnic
BSA	British Social Attitudes
CAADA	Coordinated Action Against Domestic Violence
CAQDAS	Computer Aided Qualitative Data Analysis Software
CCR	Coordinated Community Response
CEO	Chief Executive Officer
CHIS	Covert Human Intelligence Sources
CJS	Criminal Justice System
CPS	Crown Prosecution Service
CRP	Crime Reduction Programme
CRPD	Convention on the Rights of Persons with Disabilities
CSU	Community Safety Unit
DAIP	Duluth Domestic Abuse Intervention Programme
DDV	Destitute Domestic Violence
DV	Domestic Violence
DVO	Domestic Violence Officer
DVU	Domestic Violence Unit
EU	European Union
HBV	'Honour' Based Violence
HMCPSP	Her Majesty's Crown Prosecution Inspectorate
HMIC	Her Majesty's Criminal Justice Inspectorate
HMSO	Her Majesty's Stationary Office
HOC	House of Commons
IBPA	Intersectionality Based Policy Analysis
IDSVA	Independent Domestic and Sexual Violence Advocate
IDVA	Independent Domestic Violence Advocate
IPV	Intimate Partner Violence
KPI	Key Performance Indicator
NCVS	American National Crime Victims Survey
NFA	No Further Action
ONS	Office of National Statistics
PCC	Police and Crime Commissions
RFG	Recency Frequency Gravity
SBS	Southall Black Sisters
SDVC	Specialist Domestic Violence Court
STADV	Standing Together Against Domestic Violence
UN	United Nations
VAW	Violence Against Women
VAWG	Violence Against Women and Girls
VIW	Vulnerable or Intimidated Witnesses'
WHO	World Health Organisation
YJCEA	Youth Justice and Criminal Evidence Act

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Chapter 1

Introduction

1.1 Introduction

In April 2012 I began work as an Independent Domestic and Sexual Violence Advocate in East London. Although I had already spent some time in frontline social care work, little could prepare me for the daily accounts of ‘intimate terrorism’ (Johnson, 2008) and ‘coercive control’ (Stark 2007) described by the survivors with whom I worked. A great deal of the role was based around the criminal justice system. I quickly found that supporting survivors through a criminal justice based resolution to their abuse was beset by problems. The attitudes of police officers and prosecutors; bureaucracy; paternalistic policies and procedures; and a lack of safeguarding had led me to wonder whether there were limits to a domestic violence strategy based in the criminal justice system. When I came across the charity Standing Together Against Domestic Violence and their criminal justice initiatives, I was struck by the difference in response, and the extent to which domestic violence had been made a number one priority with the police and courts in Hammersmith and Westminster. I wondered how such close a partnership had been forged between a voluntary organisation and statutory criminal justice services. My doctoral research was conceived in this context.

This introductory chapter has six sections. Firstly, I introduce my research aim, questions and theoretical framework. Secondly, I detail the background of the initiatives being researched, their project aims and some of the outcomes they have achieved so far. Thirdly, I provide the Home Office definition of domestic violence, and problematize this with a

discussion on gender asymmetry and violence, to contextualise how the term will be used throughout this thesis. The fourth section will discuss differing feminist philosophies on the roots of women's oppression, and their related response to domestic violence and the criminal justice system. The fifth section will provide grounding for the intersectional analysis that will be discussed in Chapters 5, 6 and 7, by defining the social locations that will be analysed (class, ethnicity, migration, 'honour' based violence, disability and migration) alongside gender. These relate to the social location of gender which underpins the whole thesis, and is discussed through the sections on domestic violence and feminist philosophy. The final section will provide an overview of the thesis structure.

1.2 Aim of the Study

The aim of this study is to examine the relationship between the criminal justice system, women's organisations, and survivors in relation to criminal justice partnerships. The initiatives researched were three projects based in the charity Standing Together Against Domestic Violence (STADV): Hammersmith and Westminster Specialist Domestic Violence Courts (SDVCs) and The Impact Project in Hammersmith Police Station. I addressed my research aim with the following questions:

1. How have women's organisations and the criminal justice system worked in partnership on domestic violence?
2. How has partnership between women's organisations and the criminal justice system shaped their respective and collective responses to domestic violence?

3. How does partnership between women's organisations and the criminal justice system impact on survivors from different social locations?

To answer these questions, data was collected through a combination of interviews with stakeholders and founders of the initiatives, as well as court observations. The theoretical framework was grounded in feminism, and the data collected was analysed using intersectionality based policy analysis: a framework for examining policy from the perspective of marginalised groups (Hankivsky, 2012a; Palència, Malmusi and Borrell, 2014), the aim of which is to develop policies that are sensitive to a range of social locations such as class, ethnicity, gender, sexuality, migration status or religion as well as others. This will be discussed in more detail in my Methodology, Chapter 4. The topic and approach taken are important because there has been a growth in criminal justice initiatives for domestic violence that are based in partnership. While there have been a number of evaluations assessing the outcomes of these initiatives (Cook, 2003; Cook *et al.*, 2004; Vallely, Robinson and Burton, 2005; CPS, 2008) there has been no research into how survivors from different backgrounds experience these relatively new initiatives. This thesis offers new insight into the power relations between women's organisations and the criminal justice system, and how this has influenced responses to survivors from a range of social locations.

1.3 Background

1.3.1 Hammersmith and Westminster SDVCs

Hammersmith SDVC opened in 2002 under the name West London SDVC. It was the first such court to open in London (the first SDVC in England and Wales opened in Leeds in 1999). This was the culmination of years of partnership between STADV and the local criminal justice teams. In the early 1990s, representatives from STADV and their sister organisation ADVANCE (an advocacy support service for survivors) attended domestic violence training by Ellen Pence, co-founder of the Duluth Domestic Violence Intervention Programme (DAIP). DAIP is a systems focused intervention that aims to reform every stage of the criminal justice system to focus on safety for the survivor and perpetrator accountability. It has largely been associated with a mandatory or pro arrest policy, with the aim of prosecuting most domestic violence cases.

Armed with this new model, STADV and ADVANCE approached the newly appointed Chief Superintendent of Hammersmith and Fulham to propose a new approach to policing domestic violence. Interviews with the former Chief Superintendent reveal that he was initially interested by the proposed increase in arrests and prosecutions that the model promised (as discussed in Chapter 7).

STADV partnership with Hammersmith and Fulham police began with the agreement of a pro-arrest policy across the borough, and a steering committee made up of representatives from STADV, ADVANCE, the police, the Crown Prosecution Service (CPS), adult and children's services and the housing department. This committee was formed as a safeguarding

measure alongside the pro-arrest policy, to monitor the local domestic violence response.

Although this period witnessed an increase in the number of perpetrators arrested for domestic violence, most cases continued to be discontinued at court. Several years of institutional advocacy from STADV and the Chief Superintendent eventually resulted in an agreement with the CPS to open London's first Specialist Domestic Violence Court in Hammersmith in 2002. Based on its success, STADV partnered with the CPS to open a second SDVC in Westminster in 2013.

Although the structure of the courts have changed over the last 15 years, the current programme involves dedicating one courtroom, one day a week to be used for domestic violence cases only. A highly developed system of flagging and tracking ensures that all domestic violence cases in the jurisdiction are identified and sent to the SDVCs. In the courts under examination by this research, domestic abuse cases are discussed every Wednesday in Hammersmith and Thursday in Westminster. Both courts are comprised of a number of components:

Dedicated prosecutor: both Hammersmith and Westminster SDVCs have dedicated domestic violence prosecutors in post. This means that their sole responsibility is to prosecute domestic violence cases coming through their respective courts, and will not generally be expected to work on cases unrelated to domestic violence. The dedicated prosecutor's role involves reading through the case notes, identifying key aspects of the case, especially relating to potential risks. The prosecutor will also liaise with other stakeholders such as the

SDVC coordinator and the IDVA who may provide additional information such as a risk assessment score or any particular requests from the survivor. The prosecutor will then present the case to the Magistrates. The objective of the prosecutor is to ensure the conviction of the defendant based on the charges brought by the Crown Prosecution Service. However, unlike prosecutors in generic Magistrates courts, the prosecutors in the SDVCs may also request a number of additional measures that are solely aimed at managing the risk to the survivor. Such measures may include tailored bail conditions, remand in custody, and special measures such as giving evidence behind a screen or a restraining order. Lastly, where the defendant has been found guilty, the prosecutor will also seek appropriate sentencing, which may also be influenced by the safety implications to the survivor. However, although the SDVC has widened the scope of the prosecutors remit to include risk management to the survivor, this must also be balanced against the public interest of a case being prosecuted. Ultimately, the prosecutor's objective is to ensure the successful prosecution where there is evidence to do so and where it is in the public interest.

Magistrates: The magistrates are not dedicated to the SDVC, but are selected from a pool of 10 that have gone through detailed training in domestic violence. The training was conducted by STADV and covers the dynamics of domestic violence as well as the remedies that magistrates have at their disposal to lower risk. In the SDVC, there are 3 magistrates who sit on the bench. Although all 3 magistrates have an equal responsibility in the decision making process, the chairperson (in the middle) speaks on behalf of the others. The aim of the magistrates is to listen to the case from the perspective of both the prosecutor and the defence. Although the magistrates have

been trained in domestic violence, this is to ensure they are able to utilise the law to make safe decisions and should not influence the outcome of any trial. The magistrates may only pass judgment on the evidence presented.

Independent Domestic Violence Advocate: both Westminster and Hammersmith SDVCs will have an IDVA available in the courtroom for the entire day. The IDVAs, employed by ADVANCE, rotate this role on a weekly basis. The IDVA's role is to read through all the cases listed for the SDVC day, to identify any that are already being supported by ADVANCE and to gather information from the survivor about any on-going risks, and any requests she has from the hearing. For any cases that are not being supported by ADVANCE, the IDVA will liaise with the police to request that their services are offered. The IDVA will then spend the day passing information to stakeholders, making notes of the decisions made and then contacting survivors to provide updates. The IDVA will also be available to support survivors who are giving evidence in a trial. The ultimate objective of the IDVA is to support the survivor in anyway she deems appropriate.

SDVC coordinator: the court coordinator oversees and manages all proceedings in the SDVC. During the week, the coordinator tracks domestic violence cases to ensure they will be heard in the SDVC. She also reviews all cases to ensure that all the required information is included, and approaches stakeholders when anything is missing. The coordinator will also monitor court process and outcomes, and will raise problems in the monthly SDVC steering committee. Senior representatives of all the stakeholders involved in the SDVC attend this meeting. While the SDVC coordinator has the objective of ensuring that perpetrators of domestic violence are held accountable

through conviction, the safety of the survivor is a priority over successful prosecutions.

Dedicated probation officer: A dedicated probation officer is available to provide information on previous convictions, risks posed by the defendant, and to make recommendations for sentencing. For sentencing, the probation worker will use information from the other SDVC stakeholders, and make recommendations based on on-going risk to the survivor. The probation officer has also been provided with specialist domestic violence training by STADV. The aim of the probation officer is to ensure the most appropriate sentencing from the perspective of the offender. However, additional domestic violence training ensures that a more detailed risk assessment is available to the probation officer in the SDVC in making their recommendations.

1.3.2 The Impact Project

The Impact Project involved the introduction of three main work streams that aim to: a) reduce the risk posed by perpetrators; b) hold more perpetrators to account through the criminal justice system; c) increase survivor confidence in the Criminal Justice System. The Impact Project is based within Hammersmith Police Station, and the team comprises three roles:

Project manager: the project manager's role is to oversee all Impact Project operations, to supervise the case analyst and criminal justice IDVA and to increase the number of cases charged through providing legal expertise to officers. The role is currently filled by the former Hammersmith SDVC dedicated

prosecutor. This means that she has expert knowledge what the CPS requires to charge cases. A large part of the Impact Project's goal is to increase the amount of evidence collected in order to shift focus away from survivor testimony, and therefore increase prosecutions. The project manager provides training to frontline response officers in how to collect and record evidence from the incident onwards, so that prosecutors can use such evidence at a later stage. This also involves providing one to one briefings to Community Safety Unit (CSU) officers, who are responsible for investigating the case after the incident. The project manager will then liaise with officers regarding their cases, instructing them on actions to be taken to increase the likelihood of the CPS accepting the charges. Ultimately the project manager has the objective of increasing the number of domestic violence cases charged and eventually convicted.

Case analyst: the case analyst's role is to review all domestic violence cases coming into the CSU. As part of the Impact Project's partnership with the CSU, she has been given special access to the police database. This is a rare occurrence for anyone employed outside of the criminal justice system. Cases will be analysed for the details and evidence gathered (such as 999 tapes, medical evidence, or additional witness statements). Where evidence is missing, either the case analyst or the project manager will approach the officer in charge of the case to address this. The person in post had previously been the full time Hammersmith SDVC coordinator, but the role has now evolved so it is split equally between the Impact Project and the SDVC. The ultimate objective of the case analyst is to identify and address discrepancies in case files to increase the likelihood of charging and eventually conviction.

Criminal Justice IDVA: the IDVA offers practical support to all survivors who consent to being supported. This includes updating the survivor in the progress of the case, helping her understand the criminal justice process, and being available to support her at court. The IDVA will also provide support outside of the criminal justice process, being a single point of contact between all agencies working with a victim whilst also supporting the survivor to utilise as many resources as possible to lower the risk to her. The IDVA is co-located in Hammersmith Police Station, working there 3 days a week, meaning that she is available to take referrals, liaise with police and support survivors at the police station. While the focus of the IDVA is to ensure survivors have a better experience of the criminal justice process, the ultimate aim of the IDVA is to manage the risk as defined by the survivor.

Police Officers: The police station hosts the Impact Project in an office within the Community Safety Unit or CSU. The CSU focuses on domestic violence as well as hate crimes. The first response officers who attend the incident will subsequently refer the case to an investigating officer in the CSU for all on-going proceedings. Both the first response officers and CSU officers have attended domestic violence training, although the CSU officers have more access to domestic violence specialism through proximity to the Impact staff. As stated above, the ultimate aim of Impact is to increase the number of cases charged and convicted through enhanced evidence gathering. From the police perspective their ultimate aim to increase the sanction detection rate, a police term, which refers to the percentage of recorded offences that result in a sanction against the suspect. In this sense the officers and Impact have similar objectives. However, similar to voluntary sector employees in the SDVCs, Impact staff must maintain survivor

safety as central.

The Impact Project has produced a report, which shows the conviction rate at Hammersmith SDVC in the years before and after the introduction of the Impact Project. The report published by the Impact Project covers the years 2011-2018. The results are shown the table 1.1.

Hammersmith SDVC	2011/12	2012/13 Baseline	2013/14	2015/16	2016/17	2017/18 Q1
No. Charged and prosecuted	154	155	212	231	258	74
No. Convicted	100	92	144	171	188	62
Proportion Convicted	64.9%	59.4%	67.9%	44.0%	72.9%	83.8%

Table 1.1

Each period up to 2017 has seen a steady increase in the number of domestic violence cases being charged and sent to court for prosecution. Interestingly, although 2015/16 saw an increase in those charged, this did not translate into convictions as this period saw a significant dip in those convicted. It is hard to know for certain why this might be. Suggestions put forward by stakeholders point to this being a period of significant change, with the introduction of the Impact Project creating a certain amount of upheaval. Further, the SDVC coordinator who was previously working full time in that post, began working a dual role as court co-ordinator for Hammersmith as well as the case analyst for Impact Project.

Initially it was expected that placing the SDVC coordinator in the Impact Project would ensure that domestic violence cases

had specialist attention from the point of incident, and therefore less work would be required by the time cases reached court. However, the member of staff in post as co-ordinator/case analyst found that initially there was significant work required in devising standard procedures, and training and briefing police officers. However, while the upheaval of making the co-ordinator part time and launching a new project at the police station may have been significant, it seems unlikely that her position alone would account for such a steep fall in convictions. Stakeholders involved in both programmes also pointed to a large influx of new officers in the CSU at Hammersmith in July 2015, with previous officers being deployed elsewhere. Stakeholders informed me that this meant the loss of experienced and trained officers, and it took considerable time to locate, brief and train the new officers at the police station.

While we cannot know for certain, the theory that the 2015/16 dip in convictions was related to the programmes teething problems may be further evidenced by outcomes in subsequent years. In 2016/17, Hammersmith saw a leap in convictions to a rate higher than before the introduction of Impact. Further, the first quarter of 2017/18 has seen a conviction rate of 83.8%, significantly higher than the 75.4% for the CPS nationally (CPS, 2016). However, it should be noted that the CPS data covers all domestic violence cases, while Impact data relates only to those charged.

The data collected as part of this thesis alongside the data published in the Impact Project report has provided some context for what the SDVCs and the Impact Project are trying to achieve. Further, it has highlighted some of the problems involved in launching a new programme, and how difficult it

can be to identify what influences outcomes. These tables have provided important context for what Hammersmith SDVC, and more recently Impact, are achieving in terms of convictions. However, while perpetrator accountability through conviction is an important aim of both programmes, this is only one part of the service. This thesis will focus on centring the survivor, and how these initiatives empower survivors to lower the risk to them.

1.4 Domestic Violence

Throughout this thesis the phrases ‘domestic violence’ and ‘survivors of domestic violence’ will be used. However, the word ‘violence’ may not reflect the numerous other types of behaviours that distinguish this phenomenon from other types of abuse. Indeed, use of the word ‘violence’ over abuse may invite others to decide that domestic violence has not occurred unless bruises and broken bones can be seen. It is important to note that while violence does indicate abuse, abuse does not necessarily indicate physical violence. Therefore the word *violence* will be used instead of abuse to reflect the reality of what is being described, using the most encompassing interpretation of that word.

Similarly, the word ‘domestic’ does nothing to identify who is being abused and by whom. The Home Office definition states that domestic violence is:

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

While this definition does narrow the parameters of who can be said to have committed domestic violence against whom, interestingly, this definition does not identify the phenomenon as being gendered. And despite the fact that empirically speaking most abuse is done by men, against women, in recent years this is becoming increasingly 'controversial' in popular discourse (Stanko, 2000).

The claim of sexual symmetry in the prevalence of violence in intimate partners has existed for some time. In the late 1970's Straus utilised data from the U.S. national survey, to make the claim that women were actually *more* likely to use violence in the context of a relationship than men (1979). Later surveys by Straus and Gelles (1986) found that 11.6% of husbands and 12.1% of wives were victims of their spouse's abuse. Steinmetz (1977) then used the same survey to make the claim that there was a serious and unrecognized phenomenon of 'battered husbands' and a 'battered husband syndrome.' Steinmetz and others championing the theory of sexual symmetry maintain that violence in relationships comes down to 'violent couples' rather than a problem of men beating women (Straus, Gelles and Steinmetz, 1980; Steinmetz, 1981, 1986; Shupe, Stacey and Hazelwood, 1987; Steinmetz and Lucca, 1988).

However, the evidence that domestic violence is a gendered crime is substantial, both nationally and globally. International studies estimate that between 40%-70% of all female murder victims are killed by their partners or former partners

(depending on the country) (Krug *et al.*, 2002) and that approximately one in four women will experience domestic violence in their lifetime (Council of Europe, 2002). Nationally, two women are killed every week at the hands of a partner or ex-partner (Povey, 2005; Coleman and Osborne, 2010) and half of all women murdered in the UK are dead as a result of domestic violence (Home Office, 2001; Povey, 2005; Osborne, 2012). Comparing like with like, 7.5% of women and 4.3% of men reported having experienced some type of abuse in the last year and overall 30% of women and 16% of men had experienced domestic violence since the age of 16 (ONS, 2017).

While these figures indicate a substantial weighting towards women as victims of violence, the extent to which men experience incidents of violence cannot be said to be insignificant. Certainly, it is true that men do experience violence within the context of a relationship. However, further analysis is required for a fuller picture of the dynamics at play. Although we see that UK men experience domestic violence at a rate of 1 in 9, understanding the *impact* rather than individual *instances* of violence adds crucial nuance to the picture. In 1992 Dobash and Dobash *et al.* published a detailed response to claims of gender symmetry in partner violence, maintaining that over-reliance on data from individual self-reporting ignores the swathes of empirical evidence that women disproportionately experience violence and abuse.

Evidence shows that women experience significantly higher rates of severe and dangerous violence including death, injury, and hospitalisation (Mirrlees-Black, 1999; Archer, 2000; Tjaden and Thoennes, 2000; Johnson and Bunge, 2001; Gadd *et al.*, 2002; Kimmel, 2002; Saunders, 2002; Walby and Allen, 2004). Women are also more likely to experience repeat victimisation, a longer history of violence, post-separation

violence and stalking, fear, threats and intimidation (Jacobson *et al.*, 1994; Mirrlees-Black, 1999; Budd *et al.*, 2000; Tjaden and Thoennes, 2000; Hamberger and Guse, 2001; Johnson and Bunge, 2001; Dasgupta, 2002; Gadd *et al.*, 2002; Saunders, 2002; Walby and Allen, 2004). Lastly, violence from men is the leading cause of harm to women between the ages of 16-44, not only in the UK but globally (Heise, 1994). The leading cause of harm towards men of a similar age is suicide and self-harm (ONS, 2015).

Dobash and Dobash *et al.* (1992) suggest that the mistaken belief that men and women experience abuse at a similar rate lies in a combination of an over-reliance on self-report studies at the exclusion of other evidence, and a lack of theory on intimate partner relationships. With that in mind, a better analysis of power dynamics is necessary to illustrate the theoretical underpinnings of such abuse. The steep inequality in who 'does' and who has violence 'done' to them is reflective of patriarchal gender relations. As will be discussed in the subsequent sections, feminists disagree on the roots of violence against women, and therefore the roots of women's oppression. Regardless of how this began, feminists agree that men experience considerable power and privilege over women both institutionally and personally. Male perpetrators use violence and abuse to increase their power and maintain their position over women. It is this dual nature of power imbalance that women face in the home alongside institutional marginalisation outside the home that can explain the inferior response from the police and courts. Indeed, institutional bias sees a male dominated justice system failing to hold male perpetrators to account because women are structurally devalued (Okin, 1989).

In summary, the term 'domestic violence' will henceforth refer to all forms of abuse in the context of an intimate partner relationship where men are the perpetrators of violence against women. For the purpose of efficiency, domestic violence will henceforth be abbreviated to DV.

The initial arguments found in this section lay an important contextual foundation for why it has been the women's movement that has been the bastion of change with regards to DV, and why some feminists feel that reform of the criminal justice system is so crucial. The next section will therefore discuss the range of feminist perspectives on women's oppression and criminal justice reform.

1.5 Feminist Perspectives on Criminal Justice

Throughout this thesis, a number of different criminal justice strategies will be discussed and analysed. The approaches I will present are associated with different feminist perspectives on how to view and treat violence against women in the home. Radical and liberal feminist perspectives have tended to dominate the discourse around the criminal justice response to DV. Part of the reason for this may lie in how these perspectives conceptualise gender inequality, as they lend themselves to a response to DV based in criminal justice. Other feminist perspectives, such as Marxist feminism and intersectional feminism, have tended to be critical of feminist approaches to inequality that focus solely on gender, and intersectional feminists have problematized approaches that seek gender equality through criminal justice. In order to ground the discussion and analysis of these approaches to DV it is important to define different feminist theories of gender

inequality and how they relate to different criminal justice approaches.

1.5.1 Radical Feminism

Radical feminism is distinguished in its conceptualisation of gender inequality as being based in men's total domination over women in a system of 'patriarchy'. Patriarchy describes a system in which all men are in positions of power over all women, and is not related to any other form of social inequality. Radical feminists espouse different positions on the roots of male domination, with many placing it with the appropriation of women's sexuality and bodies, and others seeing male violence as the root cause in itself (Brownmiller, 1976; Firestone, 1974; Rich, 1980). In essence, the system of male domination originated at the point at which men discovered they could overpower women physically and sexually, with the threat of violence acting as a constant check on women's agency.

This conception of the roots of male violence has influenced radical feminist approaches to DV. Radical feminist approaches to criminal justice have emphasised the importance of the societal-level changes needed to end patriarchy. This 'greater good for all women' approach therefore translates into strict mandatory arrest and no-prosecution policies; widespread recourse to the criminal justice system for survivors; and a reconfiguration of DV as a public 'crime against the state': all of which sends the message to society that the state opposes violence against women (Cassidy, 2006; Hanna, 1996). Social change is the ultimate goal of the radical feminist approach to criminal justice, which maintains that prosecuting violence

against women facilitates a less patriarchal society (Cassidy, 2006; Daly and Chesney-Lind, 1988; Dempsey, 2007; Hanna, 1996; Nichols, 2014).

1.5.2 Marxist Feminism

A Marxist-feminist analysis identifies current power relations between men and women as being related to the division of labour within capitalist societies. In essence, the division of labour under early capitalism dictated that men were waged workers, employed outside the home, and women were unwaged workers forced to 'sell' their labour in exchange for 'maintenance' from their husbands wage (Dalla Costa, 2008). Whereas men were at some liberty to seek work anywhere they wished, women (through the institution of marriage) would be entirely reliant on their husband's wage to survive, and would not be at liberty to seek better conditions elsewhere, even if she were neglected or abused by her current husband. This rigid separation of productive, working, public life from the 'unproductive', private sphere has been identified by many as the roots of the historical acceptance of violence towards women in the home (Federici, 2012). Women have traditionally been confined to the private sphere, and where problems have arisen, it has not been the responsibility of the public to intervene, as the privacy of the home has traditionally been 'gloried' as the last frontier that can 'keep souls alive', away from the hardships of work and the outside world (Federici, 2012).

Some Marxist Feminists have proposed reform of the criminal justice system so that survivors of male violence have recourse to stop abuse (Rafter and Natalizia, 1981). However, Marxist

Feminist attention to criminal justice approaches to DV in general has been minimal compared with radical and liberal approaches. That said, the theory has been influential in identifying and theorising the private and public spheres as being related to women's oppression, which has provided some explanation for the lack of institutional response to DV for many DV activists (Pahl, 1985).

Although Marxist Feminism is not a concept that will be referred to in relation to policy responses to DV in this thesis, it provides a grounding for the different conceptions of women's oppression, and contextualises other feminist approaches to criminal justice. Additionally, intersectionality defines social class as one of the major power structures influencing peoples' lives, and therefore a class analysis has been utilised as part of my framework for data analysis.

1.5.3 Liberal Feminism

Unlike Marxist and radical feminist theory, liberalism does not posit an overarching analysis of the roots of women's oppression. Rather, focus lies on the denial of equal rights to women on the same basis as men, and the argument that sexist attitudes serve to maintain inequality between the sexes (Walby, 1990).

The focus for liberal feminism is on the right of individual women to self-determination and freedom. As it stands, customary and legal constraints are the primary obstacle to women's freedom, and therefore the liberal feminist project focuses on achieving legal and political parity with men. Therefore, focus on criminal justice responses to DV focuses on

reforming criminal justice institutions to increase choice for individual survivors. In practice this has meant a focus on changing systems and procedures in the police and courts to minimise sexism. Liberal feminists are also critical of approaches that remove survivor choice in criminal justice proceedings, such as the mandatory arrest and no-drop prosecution strategies favoured by radical feminists. For some liberal feminists, the removal of choice from individual survivors perpetuates gender inequality by defining women's lives through paternalism (Kuennen, 2007, 2010; Mills, 1999, 2003). Liberal feminist approaches maintain, therefore, that systems and institutions ought to be reformed to provide protection for survivors of DV, but that survivors should be free to decide whether or not to utilise them.

1.5.4 Intersectional feminism

Kimberle Williams Crenshaw (1991) coined the term 'intersectionality'; however, intersectionality has its roots in the black feminist movement, which has been critical of mainstream feminism's focus on the white, middle class woman's experience of oppression. In the 1970s and 1980s, this became a central debate amongst black women in the UK and the US who felt that their interests were being marginalised. This critique was first articulated as the need for an 'integrated analysis and practice' by the Combahee River Collective in 1977, which in turn led to the adoption of a 'triple jeopardy' approach to racism, sexism and classism (Evans, 2015).

Crenshaw developed this critique by demonstrating the ways in which black women's interests are frequently marginalised

through a singular focus on either 'class' or 'race' or 'gender', despite the fact that many black women experience oppression at the intersection of all three.

In 1989, Crenshaw used the example of the legal case *DeGraffenreid v. General Motors*, to illustrate the particular oppression of black women. In this case, black women had been fired under a 'last hired-first fired' round of lay offs. This led the women to take action against General Motors for discrimination on the grounds of ethnicity and gender, as the company did not hire black women before 1964. However, the court directed that the women must make their claim either as women or as black workers, meaning that General Motors could avoid litigation on either ground by demonstrating their employment of white women, and black men (Crenshaw, 1989). Through such an example, Crenshaw demonstrated a unique reality, whereby the failure to understand the *intersecting* oppression these women experienced had left them with no legal recourse to protect themselves against injustice.

Since Crenshaw presented her analysis of black women workers, the concept of intersectionality has developed further. It has been variously described as a theory, a methodology, a paradigm, a lens or a framework. Through such discourse, many definitions have been proposed. But for our purposes, intersectionality can be defined thus:

Intersectionality promotes an understanding of human beings as shaped by the interaction of different social locations (e.g., 'race'/ethnicity, Indigeneity, gender, class, sexuality, geography, age, disability/ability, migration status, religion). These interactions occur within a context of connected systems and structures of power (e.g., laws, policies, state governments and other political and economic unions, religious institutions, media). Through such processes, interdependent forms of privilege and oppression shaped by [class], colonialism, imperialism, racism, homophobia, ableism and patriarchy are created (Hankivsky, 2012a).

Black and intersectional feminists have problematised the use of the criminal justice system to further gender inequality, especially when this is put forward at the expense of other forms of oppression. Some black and intersectional feminists have labelled responses to DV that are rooted in criminal justice as 'carceral' feminism (Sokoloff and Dupont, 2005; Bumiller, 2008; Sudbury, 2016; Sweet, 2016). In particular, there has been criticism of criminal justice strategies that leave some more vulnerable to punitive measures than others (such as minority men and women, or poor communities). Although intersectional criminology has gained considerable momentum in the US over the last three decades, in the UK this has been more limited (Parmar, 2017). Nonetheless UK based intersectional researchers have contributed to a growing body of intersectional research on DV such as through a focus on the abuse of Asian women (Wilson, 2015; Gill and Harrison, 2016), or a focus on disability (Thiara, Hague and Mullender, 2011) for example.

Although these definitions of different sections of the feminist movement provide an identifiable guide to different approaches to DV, it should be noted that in practice there is a great deal of overlap between these positions. Although action

on DV began with the women's liberation movement, those active on DV did not necessarily develop their own coherent theory on the roots of women's oppression. As Shepard and Pence argue, "*safety became to the battered women's movement what liberation was to radical feminism*" (1999: p. 6). However, approaches on the best route to safety and/or liberation are clearly influenced by the different feminist positions discussed here. How this happens in practice will be discussed throughout this thesis.

1.6 Intersectionality and Social Locations

As will be discussed in the chapter on methodology, I took the decision to apply an intersectional framework to the data collected, as this was felt to be most applicable. The term *social locations* will be used as a summary term, which refers to the groups that people belong to based on their position in history and society. Everyone has a position in society based on their gender, ethnicity, geographic location, sexuality, social class, ethnicity and disability to name a limited few (Anthias, 2002). This term is chosen for its capacity to encompass all possible social groups, without naming and privileging some over others. Through this research, survivors' from a number of social locations were either discussed by respondents or observed in court.

One of the challenges of intersectional research is being truly sensitive to the "matrix of domination" (Collins, 1990) may be an obstacle to in-depth analysis. On the other hand, failure to reflect on the multiplicity of social locations has invisibilised some groups (Evans, 2015).

The aim of this research has been to examine the provenance of a number of criminal justice strategies through the literature review, and then analyse how such strategies impact survivors from a number of different social locations. However, it is important to define the social locations that will be discussed, to provide context and grounding for the analysis chapters. Gender has not been provided with a section here as it is the social location that underpins all others, as the reality of DV is that it is gendered – and this has been discussed at length in the sections proceedings this.

1.6.1 Class

Social class is a subjectively defined concept based on a model of social stratification in which people are organised into a set of hierarchical social categories. There is no agreed upon definition of class but the Marxist concept of class is perhaps the most influential understanding and will therefore be used here.

Marx identified capitalism as the system that defines current social divisions. The capitalist mode of production designates people into either a property owning class, the 'bourgeoisie', who own the means of production, or a working class, 'the proletariat', who are forced to sell their labour in exchange for a wage (Sayer, 1989). Women's historical relationship to the capitalist system was discussed in the sub-section on Marxist feminism above. Today, manual workers account for a much smaller proportion of the population compared with the form capitalism took when Marx was writing over 100 years ago. While the mid 20th century witnessed an increase in living standards for workers, the last 30 years have been

characterised by de-industrialisation and neo-liberal economic policies: prioritising free trade, deregulation, privatisation and low government spending (Payne, 2006). For the working and non-working poor this has translated into a combination of high unemployment rates; insecure and low pay for those in employment and increased homelessness (Ostry, Loungani and Furceri, 2016; Shelter, 2017). The current economic terrain has made it even more difficult for survivors of DV to end abuse, as access to financial independence and safe and secure housing is increasingly lacking (Kelly, Sharp and Klein 2016).

1.6.2 Ethnicity

As with class, ethnicity or 'race' are both highly disputed terms, with little consensus on meaning. What is clear is that the term 'race' is relatively modern. Kumar (1978) characterises this new language as a product of the 'Great Transformation' of Europe and its colonial expansion from the late fifteenth century onwards. Through their global exploration, Europeans came into contact with unfamiliar human societies, whose physical appearance was different from their own. This first encounter rapidly developed into conquest and a reconfiguration of the ancient institution of slavery into the one that would fit the requirements of colonial expansion and capitalist production (Davis, 1984; Payne, 2006). Europeans attached notions of superiority to the colonial campaign, which in itself required justification. Through the exploitation of physical differences between the conquerors and those conquered, a distinctive way of explaining human variation emerged (Payne, 2006). By the mid-19th century, 'race' science was considered a legitimate form of knowledge production, which characterised human variation in terms of divisions

between static and hierarchically ranked 'races', delineated by biological difference. By the mid-20th century, the horrors of the Second World War and the holocaust discredited race science. Nonetheless, biological notions of 'race' and racism have persisted in political and social discourse, as a result of which inequality and discrimination between white people and ethnic minorities persists in areas such as education, employment and attention from the criminal justice system (Modood *et al.*, 1997; Bhatti, 1999; Lammy, 2017).

In the case of DV, this means that female survivors from ethnic minorities may face gendered violence from an intimate partner, alongside racial discrimination in a white supremacist society. The issues relating to ethnicity and DV will be discussed throughout this thesis. At this point the important thing is to set out the terms that will be used in relation to ethnicity. To reflect the fact that 'race' science has long been discredited, this word will henceforth no longer be used. Instead, ethnicity will be used to reflect cultural, rather than physical variation between groups under discussion. Lastly, 'people of colour' or 'women of colour' will be used to refer to all non-white people. The decision to use the term 'women of colour' is related to its roots in the anti-DV movement in the 1970's, when the term was coined to include all women experiencing multiple layers of marginalisation based on gender and ethnicity (Silliman *et al.*, 2004). Furthermore, intersectional researchers commonly use these terms and therefore their use here provides continuity with longstanding discussions in intersectional theory.

1.6.3 'Honour' Based Violence

In recent years, public discourse has become increasingly concerned with the issue of 'honour' based violence (HBV). Broadly speaking HBV refers to any form of violence against women in the context of a patriarchal family and social structure that is committed in order to maintain a value system based on norms and traditions concerned with 'honour' (Gill and Brah, 2013). A number of different forms of abuse are included under the umbrella of HBV, including: forced marriage; female genital mutilation; assault; rape; and murder. Where the term 'honour' is used, it will be enclosed in speech marks to challenge any notion that the perpetrators are morally defensible, as well as to problematize the term (Gill, 2009).

There is a tendency in the West to see HBV as related to specific cultural traditions found in Muslim communities (Piper, 2005). It should be understood, though, that scholars argue that contrary to the dominant ideology, HBV crimes are not confined to a particular religion, culture, type of society or social stratum (Mojab and Abdo, 2004; Ortner, 1978). As HBV is an increasingly politicised category that is often exploited in Islamophobic narratives, there is a danger that specialist attention that highlights HBV as an unusual form of violence against women will reinforce orientalist tropes (Gill and Brah, 2013; Payton, 2014).

Such difficulties pose significant obstacles to survivors of HBV who may experience gendered oppression from their family, as well as xenophobic oppression from wider society and the institutions that they may need to access to stop the abuse. This will be discussed in more detail in the Chapter 5.

1.6.4 Disability

As with the other categories discussed so far, disability is a contested concept. The medical model has traditionally characterised disability as a distinct pathology of physical and mental defects located in the body of 'afflicted' individuals (Slorach, 2015). This model has become increasingly challenged and contrasted with the social model of disability, which outlines how a disabling society operates in practice.

The social model positions disability as a social construct and a 'dynamic and culturally determined interaction between a person's individual function and the social meaning and response imposed upon that function' (Howe 1999, 2). This framework points to social and attitudinal barriers created by society which fails to acknowledge and address the needs of disabled people, in itself 'disabling' them (Union of Physically Impaired Against Segregation, 1976; Shakespeare and Watson, 1997; Corker and Thomas, 2002; Swain *et al.*, 2004).

The medical model has nonetheless remained dominant, and the roots of current conceptions of disability have also been linked to its relationship with the labour market. For example, Marxist theory has placed the origins of modern day disability oppression in its relationship to capital. Namely, that from the moment the economy was organised based on wages provided in exchange for labour, people with disabilities have been deemed unprofitable compared to able-bodied workers and have thus been marginalised or excluded from society on that basis (Slorach, 2015). A society which determines the utility of its citizens on the basis of their productivity disables those with particular ailments, marginalising them and refusing to meet their needs. The vast majority of those with disabilities

must therefore rely in some way on able-bodied people to survive. This places able-bodied people in positions of enormous power over those with disabilities, leaving them extremely vulnerable to abuse. This will be explored in further detail in Chapter 4.

1.6.5 Immigration

Although migration can be traced back to the earliest human activity, 1.75 million years ago, it has become an increasingly politicised and contested activity in recent years. In the UK, the post-war period has seen mass migration; initially this was largely from countries belonging to the former British Empire, but more recently migration to the UK has occurred through the freedom of movement afforded to those within the European Union (EU) (however this is due to change after Britain's referendum vote to leave the EU). People may also settle in the UK through application as an asylum seeker, under the United Nations 1951 Refugee Convention (Koopmans *et al.*, 2005). It is also possible to migrate to the UK with visas relating to employment, study or family union.

Migration in almost any form has become increasingly controversial in both public and political discourse, with an Ipsos Mori poll finding that immigration was the biggest concern for UK voters in 2016 (Ipsos MORI, 2016). A further survey, conducted by British Social Attitudes (BSA) found that Britain's decision to leave the EU was largely based on anti-immigrant sentiment (Swales, 2016). The years preceding the EU referendum saw increasingly strict immigration controls for non-EU migrants, and further criminalisation and detention

for those contravening regulations (Joint Council for the Welfare of Immigrants, 2017).

It has been argued that immigration controls should be categorised as a form of institutionalised racism, based on the tendency for the strictest regulations to be placed on those from non-white countries (Hayter, 2004). This has often been compared with the freedom of movement afforded to the largely white EU member states (Koopmans *et al.*, 2005). However, the recent decision to leave the EU may suggest a shift in British ethnic self-conceptions to exclude all non-native people.

These issues create a host of problems for migrant survivors of DV. UK immigration laws frequently bind migrant women to their perpetrators, who may be their sponsor in obtaining legal status (Raj and Silverman, 2002; Joshi, 2003). Non-EU migrants are also usually prevented from receiving any financial support from the state due to their status as people with ‘no recourse to public funds’ (Gill and Sharma, 2007). Although the recent Destitute DV (DDV) concession makes an exception for women in the UK on a spousal visa, this does not address the situation of all migrant survivors, with many eligible applications denied (SBS, 2014). The status of migrant survivors will be discussed in more depth in Chapters 4 and 5.

1.7 Partnership

Multi-agency partnerships have largely been perceived as the answer to long-standing problems in the policing and prosecution of DV cases. The multi-agency approach has been a formal approach to tackling DV since the official

encouragement of Domestic Violence Forum's (DVF's) promoted by the publication of Home Office guidance in the 1990s (HOC, 1990). Very much a precursor to the current MARAC system and operating similarly, DVFs involved various statutory and voluntary organisation (police, courts, women's refuges, advice services and relevant local authority departments) attending regular meetings to share information on DV cases with the aim of addressing problems in practice and policing (Hague, 1997).

Since this early example of multi-agency practice, the strategy of partnership on DV has widened considerably. Many of the UK's current DV initiatives are based on some form of partnership, often between voluntary and statutory agencies. In 2005, New Labour announced the National Domestic Violence Delivery Plan. There were seven working objectives, which included the aims of increasing the rate of DV reporting and to increase the rate of perpetrators brought to justice. With this in mind, the government rolled out Specialist Domestic Violence Courts and Independent Domestic Violence Advocates nationally, both programmes that rely on multi-agency partnership between voluntary and statutory sectors. Building on the 2005 policy, the government then announced the national introduction of MARACs, as a means on managing the risk identified by IDVAs (Hester and Westmarland, 2005).

There has therefore been a significant shift in DV policy, from one based on minimal statutory responsibility and towards a national role out of initiatives based on multi-agency partnership. However, while this may be a sign of a cultural shift, strategies based on partnership have not come about without difficulties. For one, who is 'in' the partnership and who is 'out' has presented problems since the

institutionalisation of multi-agency practice. Specialist services for BME survivors have critiqued that such partnerships, which tend to rely on criminal justice measures, fail to take account of the fact that minority women tend not to come to notice through the criminal justice system, and often do not want this kind of remedy. Further, this has led to a situation in which specialist BME services are increasingly defunded and shut out of the national partnership agenda (Gill and Banga, 2008).

The introduction of criminal justice partnerships on DV could be seen as developing out of the penal voluntary sector, which is defined as “charitable and self-defined voluntary agencies working with prisoners and offenders in prison and community-based programmes” (Corcoran, 2011, p. 33). Although most criminal justice partnerships on DV are aimed more towards working with the survivor of abuse than working with the perpetrator, the aim of perpetrator accountability ensures they would qualify under this definition. For some criminologists, the increase in the penal voluntary sector coinciding with disinvestment in the welfare state, represents an ideological shift towards a marketised, criminal justice solution to social ills (Maguire, 2012). This will be discussed in more depth in the policy chapter of this thesis.

1.8 Survivor Safety

Widespread, practical attention towards the safety of DV survivors largely began with the feminist movement in the 1970s. The part of the movement focusing on who was then called ‘battered women’ began in Britain in 1971 when feminists established the Goldhawk Road Women’s Liberation

Movement Centre in Chiswick, London. Quickly, women began disclosing to each other the severe abuse they experienced from their partners (Pizzey, 1974; Sutton, 1978; Dobash and Dobash, 1979). The desperate need for services and support became evident after a woman escaping her violent husband was allowed to use the centre as emergency accommodation, and the decision was then taken to transform the centre into a 24-hour refuge for women fleeing DV.

Over the succeeding 40 years refuges, helplines, self-help groups and advocacy all grew out of this grassroots movement. Although they were practically different, they were all rooted in the principle of providing a safe space for women to talk about what had happened to them, be believed and respected and through this able to explore their options (Kelly, Sharp and Klein, 2014).

As discussed under the concept of partnership above, efforts to safeguard survivors of DV soon expanded into statutory service provision through the criminal justice system, as well as housing, civil courts and children and adult social services (Hester, 2013). Over time, all of these remedies have been developed into two main areas of DV intervention: survivor focused support that includes voluntary sector services, advocacy and re-housing; and more perpetrator orientated interventions such as those through criminal and civil justice systems and perpetrator programmes (Home Affairs Select Committee, 2008). Although all of these interventions are different in nature, improving survivor safety remains the overall aim.

Over the last 15 years, there has been significant attention made towards integrating the identification, assessment, and

management of risk into the mainstream response to DV in the UK (Robinson, 2010a). In 2005, a new national infrastructure focusing on risk and DV was introduced in the Domestic Violence National Action Plan (Home Office, 2005), as mentioned above. Independent Domestic Violence Advocates (IDVAs) were to play a crucial role in assessing and responding to risk. Soon after the national roll out of the IDVA model, a common risk assessment tool was launched with ACPO in 2008. The tool was previously known as the CAADA/DASH risk assessment checklist and has recently been renamed the SafeLives/Dash (Howarth *et al.*, 2009; SafeLives, 2015). Further, in 2008 the Tackling Violent Crime plan recognises DV as a priority area with IDVAs and Multi-Agency Risk Assessment Conferences (MARACs) as the core strategy in risk reduction. MARAC is a forum where agencies (e.g. police, schools, domestic violence services, health services, social services, probation) attend a monthly meeting to coordinate the response to the highest risk DV cases in the local area (Smartt and Kury, 2006; Matczak *et al.*, 2011).

Through the advent of IDVAs and MARACs, there has been a concerted effort to both assess risk, and standardise the response to risk nationally. However, concerns have been raised that the risk-focused model is diverting resources away from community-based work and towards criminal justice and statutory focused solutions (Coy and Kelly, 2011). Further, there has been disquiet around a strategy that streamlines resources to those designated high-risk, as those assessed as standard risk may inadvertently experience an escalation in abuse as a result of the reduction in early intervention support (Select Committee on Home Affairs, 2008). Indeed, two UK studies found that in around a third of domestic homicide cases, there were very few previous incidents of assault, and

hardly any contact with agencies (Dobash et al, 2007; Regan et al, 2007). Further, the only common forms of abuse found in these cases were high levels of coercive control and jealous surveillance, and whilst included on the SafeLives/DASH, would not alone constitute high risk. Despite the increased attention and resources on survivor safety and risk, there remains little agreement on the remedies and strategy most likely to achieve this goal.

1.9 Survivor Criminalisation

Those who are critical of some criminal justice remedies for DV have raised survivor criminalisation as a concern. For some, the increase in the arrest and detention of survivors and of women more generally is an unintended consequence of policies that were intended to criminalise male perpetrators (Shepard and Pence, 1999). Others maintain that the criminalisation of innocent but vulnerable people is an inseparable reality of the wider criminal justice system, and an inevitable consequence of any increase in criminal justice powers (Allard, 2016). Either way, criminal justice policies have been associated with an increase in the arrests of women (Buzawa and Buzawa, 1990, 1996; Mills, 1998; Federal Bureau of Investigation, 2004; Hester, 2009). This trend is largely associated with the question of whether survivors or the state should hold ultimate control over criminal justice proceedings in abuse cases. The arrests of survivors or women more generally has been linked to both the arrest and prosecution stages of DV cases. In the first instance, mandatory and pro-arrest policies dictate that police officers must make an arrest wherever there is evidence of a disturbance, which has been linked to an increase in the arrests of women more widely

(Buzawa and Buzawa, 1990; Hester, 2009). Mandatory or ‘no drop’ prosecutions are more directly associated with the arrests of survivors; as such policies have relied on the arrest of survivors to forcibly give evidence in cases of DV. Although such a policy has rarely resulted in a conviction for survivors deemed to be in contempt of court, the strategy does nonetheless rely on the physical detention (or threat of physical detention) of survivors of abuse (HMCPSI, 2016).

As discussed above, feminists from the radical, liberal and intersectional traditions have each put forward an analysis of the criminal justice response to DV, and the extent to which it can or should be utilised to support survivors. These arguments will be discussed further in chapters 5, 6 and 7.

1.10 Victim Rights

The status of victims of crime has transformed over the last century. In the study of criminology, the study of victims has shifted from the margins of theory to an established discipline of victimology. The criminal justice system has changed considerably from treating victims as an after thought and instead employing a ‘victim focused’ agenda (Zedner, 2002, p. 419). It was during the post war period of welfare focus that victims of crime began to receive serious academic and policy attention. A political shift at this time had expanded government responsibility to include providing citizens with protection from ‘disease, squalor, and ignorance, idleness, and want’ (Mawby and Walklate, 1994, p. 70). Influenced by the turning tide in welfare reform, social reformer Margery Fry utilised the principles of collective responsibility and social insurance to contend that the state was obliged to compensate

victims of crime (Dignan, 2005). Although it was a considerable time after the post-war welfarist period that saw a growing interest in the victimisation of women, this precursor opened up a space and language through which feminists could make legitimate demands on the state. Indeed, the advent of the battered women's movement of the 1970s saw intense criticism of a criminal justice system which tended to dismiss such crimes as 'domestic' or 'family affairs' (Cretney and Davis, 1997a). As discussed above, the subsequent criminal justice response of introducing a pro-arrest policy and witness summons' to compel survivors to give evidence were intended to improve the wellbeing of victims of DV, by mandating the arrest and conviction of perpetrators of such crimes. However, the compulsory nature of such policies has been criticised as heavy-handed, as the decision to arrest and prosecute lies with the state rather than the victim or survivor (Schechter, 1982). While the police may not be obliged to make arrests in all DV cases in the UK, the introduction of Key Performance Indicator (KPI) set arrest targets at 80% for DV incidents, thus instituting a pro-arrest policy (Hoyle, 2008). While survivors of abuse frequently call the police for help, research suggests that a significant number do not want this to result in arrest, and the majority do not want to initiate a prosecution of their perpetrator (Hoyle and Sanders, 2000). Nonetheless, a pro-arrest policy is often deployed regardless of the wishes of the victim. At the prosecution level, the justice system has long claimed that victim withdrawal is one of the biggest barriers to successfully convicting perpetrators of DV (Hall, 2009). Indeed, a report by HMCPSI in 2004 found that victims retracted their statements in 44% of domestic violence cases (HMCPSI, 2004). In practice therefore, it does appear that victims are exercising their agency to absent themselves from the criminal justice process.

The extent to which this is their 'right' however, continues to be contentious, as policies that either compel witnesses to give evidence or that continue proceedings in her absence have been proposed as a response to high levels of victim withdrawal (Hanna, 1996; Ellison, 2002). This raises important questions about what is meant by 'victim rights', as a conflict arises between the right of citizens to be protected from potential abuse (assuming the justice system can do this), and the right of victims to exercise autonomy over how crimes committed against them will be responded to. This relates to the radical and liberal feminist positions on the criminal justice response to domestic violence discussed above, and survivor autonomy is a key concept that will be discussed throughout the literature review.

1.11 Survivors

At this point, it is essential to establish an understanding of survivors of DV themselves. First of all, it is important to note that the term 'survivor' will generally be used throughout. This is done to reflect the considerable public discourse over the past few decades, which has moved to empower those who have experienced abuse by referring to them as such over the alternative term 'victim' (Dunn, 2005). Early in the battered women's movement, feminists sought to reconceptualise the language used to describe those women who remained in abusive relationships. It was argued that constructions of abused women as passive and trapped tended to pathologise them as 'victims' without any agency (Barry, 1979). Further, some contend that the powerlessness associated with the term 'victim' has the double impact of negating abused women's association with the term (as they

may feel they *do* exercise agency) as well as stigmatising women with the implication that they are somehow responsible for their fate out of a learned helplessness (Andrews, 1992).

Liz Kelly contends that the term 'survivor' as opposed to 'victim' began to be widely used in the early 1980's (Kelly, 1988). Antithetical to the helplessness associated with the term 'victim', advocates of 'survivor' maintain that its superiority is found in the overtones of strength and agency. Perhaps unsurprisingly, a feminist movement that was at the time building a national network of safety infrastructure also sought to develop language that empowered women to feel that they could change their circumstances. As this thesis is grounded in that feminist tradition, the term survivor will generally be used to refer to those who have experienced abuse in the context of an intimate partner or familial relationship.

At this point it is also important to understand the extent of DV, including how many survive DV and how many do not survive. The British Crime Survey reveals that of those aged 16 to 59; just over one in four women have survived at least one instance of DV. Young women aged between 20-24 reported the highest levels of DV, with 28% stating they had been assaulted on at least one occasion by their partner, and 28% stating they had been threatened or assaulted (Walby and Allen, 2004). Further, two women a week are killed in the UK by a current or former partner (Smith *et al.*, 2012).

It is important to understand how survivors conceptualise safety and what kinds of remedies they seek in order to feel safe. In terms of a criminal justice response, there is a

significant body of research, which suggests that when survivors call the emergency services, this is done to cease violence in the immediate term. Research conducted by Hoyle and Sanders (2000) for example, found that the majority of survivors, who called 999, did so in the hope that the police would end the violence as quickly as possible. Survivor's understanding of what the criminal justice system can offer in terms of safety after a 999 call becomes more complex with each subsequent stage of the criminal justice system. For example, Hoyle and Sanders study of pro-arrest policies in Thames Valley police found that just over half of all the women they interviewed wanted the police to arrest their perpetrator when they called 999, with a large minority wanting an alternative response such as to remove the perpetrator without arrest. Of those that did want the perpetrator arrested, the vast majority did not want this followed up with a prosecution (Hoyle and Sanders, 2000). Indeed, wider research suggests that survivors may have ambivalent conceptions about the criminal justice systems capacity to offer them long-term protection. For example, some survivors may not feel that a prosecution is not in their best interests if they are financially dependent on the perpetrator (Kuennen, 2007; Goodman and Epstein, 2008; Hare, 2010). Further, there is evidence to suggest that survivors often utilise the criminal justice system to meet their personally defined goals, and may drop out of the process once these goals have been met. Such goals may be to leverage a divorce or to invoke the threat of prosecution to manage the situation (Kuennen, 2007). Research has found that it is often when survivors feel their needs have been met and that the violence has ceased, it is at this point they will disengage from the criminal justice process (Ford, 1983, 1991; Bennett, Goodman and Dutton, 1999; Hoyle and Sanders, 2000). Therefore, how survivors conceptualise safety and

outcomes may not always be in concert with the criminal justice system, which tends to seek a criminal conviction. The conflict between survivor's conceptions of safety and preferred outcomes versus those of the criminal justice system and domestic violence support services relates to the third research question on which this thesis is based, and will be addressed through each of the analysis chapters.

1.12 Thesis Structure

Following this introductory chapter, Chapter 2 will review literature that focuses on the criminal justice response to DV, and the range of reform proposals that have come from the feminist movement. I consult literature from feminist scholars and empirical research into a range of criminal justice responses over the last forty years. In doing so, I will identify the gaps within the literature which form the basis for the current study.

Chapter 3 introduces the range of policy measures that have been proposed to address the criminal justice response to DV. The chapter will discuss the provenance of recent policy initiatives that have been introduced in the UK, and the empirical evaluations that have so far investigated their effectiveness.

Chapter 4 will outline my methodological framework. In this chapter I discuss how feminist methodology has shaped my research design, and how intersectionality was used to interpret my data. I also provide the theoretical grounding for intersectional research. Finally I will outline my research design; this includes how interviews were conducted and

transcribed, how court observations were conducted and how data was then themed and analysed.

Chapter 5 is the first of three analysis chapters. This chapter will discuss how the criminal justice initiatives under research have influenced survivor safety. This chapter will discuss how partnership between women's organisations and criminal justice organisations can increase safety for some survivors, while increasing vulnerability to state oppression for others.

Chapter 6 will discuss issues of survivor self-determination, and increased vulnerability to criminalisation through the initiatives under research. In particular, this chapter will discuss mandatory arrest and prosecution, and the influence these measures have had on survivors, their choices and their freedom. This chapter will also discuss how the initiatives under investigation have responded to unintended consequences such as the increased arrests of survivors.

Chapter 7 will discuss the procedures that the initiatives under examination have developed for the purposes of perpetrator accountability and state accountability. Firstly, this chapter will discuss the procedures that have been put in place for enhanced evidence gathering, and how partnership can equalise power relations between agencies, as well as hold the state to account. The chapter goes on to describe how these procedures are used to prosecute DV cases in the absence of the survivor, and some of the issues arising from this. Lastly, this chapter will highlight new strategies to prosecute perpetrators based on crimes other than DV.

Chapter 8 is the concluding chapter of this thesis. This chapter will discuss some of the policy implications of the findings

presented, summarising the benefits and drawbacks in the partnership of women's organisations with the criminal justice system. This chapter will also put forward recommendations for policy and practice that can promote equality of service for survivors from different social locations.

Chapter 2

Literature Review

Women have long attempted to use the law to protect themselves from abuse, although historically the criminal justice system adopted an ambivalent position on violence occurring within marriage (Pleck, 1987; Gordon, 1989; Lambertz, 1990; Clark, 1992). While the social contract between government and citizen was much clearer, (robbery and murder were crimes punishable, often by death) legal authorities could not decide whether the social contract also applied to women in the private sphere (Clark, 1987). The legal ambiguity did not prevent some wives from attempting to prosecute their husbands for violence towards them throughout the 18th century. However, women were constantly met with dismissal from judges who were loath to undermine male dominance in the home (Clark, 1992). Indeed, 18th and 19th century law has generally been typified as prioritising crimes against property over crimes against the person (Gordon, 1989). This preoccupation with property initially overlapped with violence against women only in the respect of rape, which was only significant if it concerned the 'property' of a man – a virginal daughter or a wife (Clark, 1987). This statute of female sexuality as property would have far reaching implications, as marital rape was not made illegal until 1991 (Radford and Stanko, 1994). Legislation against violence towards wives was eventually brought forward, but again this was driven by the anxieties of the property owning classes. Parliament overcame its long held opposition to interference in the private sphere as the threat of universal suffrage loomed, with the government defining wife beaters as working

class brutes who did not deserve the right to privacy (Clark, 1992). In 1853 the Aggravated Assaults on Women and Children Act was passed, giving magistrates the power to impose long sentences for wife beaters convicted without a jury trial. By 1857, the Divorce Act allowed for women to petition for divorce based on cruelty from their spouse, although the Act required more significant grounds from women than it did men (D'Cruze, 2000). These legislative changes may still have been based on a determined commitment to a hierarchy based on gender and class, but they were nonetheless significant steps in recognising that wife beating was wrong.

Despite these legal changes, a life free from male dominance was still very much out of reach for most women, who did not have the means or social support to live independently regardless of whether they were being abused. Campaigning by the Women's Co-operative Guild fought for the right of married women to own property in their own right. In 1870 the Married Women's Property Act saw that women were permitted to own their own property, thus challenging earlier divorce sanctions that left women destitute (Moyse, 2009).

The twentieth century witnessed a monumental sea change in attitudes towards male violence. However, while law and policy has increasingly criminalised DV, cultural norms and priorities have meant limited progress has been made in ending abuse in the home (Dobash and Dobash, 1979; Walby and Allen, 2004).

Significant achievements have nonetheless been made in both the acknowledgment of violence against women and in the provision of support for those who wish to flee. The feminist

movement from the 1970s onwards has forced DV from behind closed doors and into the public consciousness through activism; providing services; engagement with policy makers; and through conducting empirical research. This chapter will start by detailing how the women's movement initiated the fight against DV. The following sections are then divided into police practice and prosecution practice, with sub-divisions breaking down key themes in each case. The section on police practice begins by exploring the historical response to DV, followed by a subsection on the recent development of mandatory/pro-arrest, and then a further subsection on the unintended consequence of an increase in the arrests of women. Following this the section on prosecution practice similarly begins with an overarching examination of the historical response from courts; followed by a section on no-drop prosecution as a strategy put forward by radical feminism; and then a further subsection on survivor-centred approaches that are advocated by liberal feminists. This section ends with a critique of what some have called 'carceral' feminism, which has been linked to strategies that rely too heavily on the justice system to deal with DV, thus exacerbating other forms of oppression. As this chapter will demonstrate, the best way to deal with DV, both within and without the criminal justice system, continues to be problematized and the argument for intersectional research will be made.

2.1 The Women's Movement and The Development of Refuges

In the early 1970's 'a new social movement emerged that would not only directly and unequivocally assist battered women but would also, through its policies, procedures, and actions, directly and indirectly challenge patriarchal ideas and practices' (Dobash and Dobash 1979: 223). Initially referred to as the 'battered women's movement', this upsurge in women's activism sowed the seeds of what we now refer to as the DV sector – a complex national network of service provision.

Arguably it has only been through the activism and work of those engaged in this movement that DV was put on the national political agenda as something that required state and public intervention. Borkowski, Murch and Walker (1983) have even argued that DV might have remained hidden had the women's liberation movement at the time not regarded it as symptomatic of the more general oppression women faced in society.

The battered women's movement began in Britain in 1971 when feminists established the Goldhawk Road Women's Liberation Movement Centre in Chiswick, London. Quickly, women began disclosing to each other systematic and server abuse they experienced from their partners (Pizzey, 1974; Sutton, 1978; Dobash and Dobash, 1979). The desperate need for services and support became evident after a woman escaping her violent husband was allowed to use the centre as emergency accommodation, and the decision was then taken to transform the centre into a 24-hour refuge for women fleeing DV.

The connection between early refuges and the wider women's movement is twofold. Refuges provided physical, emergency accommodation for women in danger, but also served a symbolic purpose by challenging men's economic dominance over women and proving that self-sufficiency was a viable alternative (Dobash and Dobash 1992). Over time women activists set up consciousness raising groups centring on DV across the country, many of which later established their own local refuges (Dobash and Dobash 1979). By 1978, Val Binney et al. were able to locate 150 refuges in England and Wales that collectively had accommodated 11,400 women and 20,850 children between 1977 and 1978 (Binney et al., 1981)

In a very short space of time, a national movement of women thrust the issue of DV to the forefront of the national political agenda, whilst also creating a national network of safe houses that likely saved the lives of many women and children. Alongside creating safe accommodation for women fleeing, many of those involved in the movement began to argue widely for DV to be seen as a public rather than a private problem. Indeed, as consciousness grew amongst survivors, activists and academics, the roots of DV was increasingly identified as lying in the social construction of the public and private spheres. A large part of the strategy to address DV therefore was to bring the issue fully into the public domain.

The earliest strategies to challenge indifference to DV involved creating safe houses that were often run collectively and based on consensus, thus avoiding the institutional and interpersonal hierarchies that many felt were the roots of such violence. Over time, some in the movement began to push for the support of stronger state interventions. However, there was not always agreement on the suitability of the state to meet the

needs of survivors of DV. Domestic violence was understood by many to be an abuse of power and control based in patriarchy, and in which the state was complicit. Parts of the movement identified the state as a locus of patriarchal power, and felt that it could not be relied on to provide the solution (Bumiller, 2008). Those arguing in favour of institutional reform felt that without this, DV would continue to be left in the domain of the private sphere (Radford and Stanko, 1994). Despite these differences, reforming the criminal justice system became the focus of a large part of the women's movement, which felt that the criminal justice response was woefully inadequate and urgently needed attention (Pahl, 1985). Within that section of the women's movement that has taken up the goal of criminal justice reform, disagreements persist on the best *kinds* of criminal justice policy and strategy to employ in ending DV. The following sections will discuss the critical discourse around these strategies, divided by the two main stages of the criminal justice system, arrest by the police; and by prosecution in the courts.

2.2 Police Practice

2.2.1 The Police Decision to Arrest

Throughout the 1970s and 1980s, research into DV and the criminal justice system largely focused on the problem of the 'first response' by police officers. Anecdotal evidence from women involved in the movement painted a picture of widespread police reluctance to involve themselves in domestic incidents. The theory that police inaction on DV came down to the rigid expectations of the private/public divide was bolstered by submissions to the Select Committee Report on

Violence in Marriage. One example of which was made by the Association of Chief Police Officer's, where it was stated that:

Whilst such problems [domestic violence] take up considerable police time during, say, 12 months, in the majority of cases the role of the police is a negative one. We are, after all, dealing with persons 'bound in marriage', and it is important for a host of reasons, to maintain the unity of the spouses (*Select Committee on Violence in Marriage*, 1975, p. 336).

This was subsequently supported by further evidence as feminist academics sought to investigate reports from survivors using empirical research. A 1978-9 study conducted in Staffordshire by Faragher found a great deal of unwillingness on the part of the police to invoke criminal justice sanctions in a DV context. Of the 26 incidents examined, 10 involved a criminal offence; five involved assault, 2 were breaches of injunctions; and 3 involved theft or damage. Out of the five assault charges, only two resulted in arrest: 'although in one of the two cases it was clear that the arrest was made primarily because of the presence of an observer' (Faragher, 1985, p. 113). Although the sample size was small, the findings are stark and were crucial in establishing the empirical evidence for a phenomenon that was being raised by survivors organising at the time. A decade later in West Yorkshire, Jalna Hanmer (1989) found similar levels of police reluctance. Interviewing 55 officers, Hanmer found police would generally arrest as a 'last resort' and shockingly that some officers had never made an arrest in a DV case in the course of their career. Further, Pagelow (1981) found that even where women had asked the police to arrest the abuser, often no arrest was made. As the years elapsed, further damning evidence came to light, suggesting that if the police did anything at all (and they often did not) this would involve mediation, the facilitation of a

‘cooling down’ period, or an informal warning (Grace, 1995; Wright, 1995).

As a response to widespread police inaction, many began to advocate for strategies grounded in arrest. It was argued that this tendency to take a ‘settle the disturbance’ (Hanmer, 1989, p. 57) approach alongside gatekeeping access to the criminal justice system left women without protection, exposing them to further danger and escalating violence (Edwards, 1986a, 1986b; Morley and Mullender, 1994). The prevailing attitude in the police was that violence committed in the home should remain private and in the home, and that any remedy should reflect this. However, as demonstrated in the introductory chapter of this thesis, because it is generally *women* who are confined to the private domain, violence occurring in the home generally translates into violence against women. A gendered analysis for the reasons behind police inaction is taken a step further by Dobash and Dobash (1979) who argued that DV was typically treated less seriously than other violent crimes, because institutions such as the police were built on the assumption of this separation between what happens in public, which is their remit, and that which happens behind closed doors, which is not. Dobash and Dobash suggest that these wider societal and institutional structures explain why front line officer tactics are grounded in patriarchy. They identify police officers as agents of a patriarchal legal system, working in a predominantly male workforce, who were therefore more likely to support the notion that women should be subject to their husbands’ authority (Dobash and Dobash, 1979, p. 212).

At the beginning of this chapter, it was made clear that throughout history there has been a legal commitment to

maintaining male supremacy even where concessions were made to vulnerable women (Clark, 1987, 1992; Pleck, 1987; D'Cruze, 2000). However, the late 20th Century and early 21st century has seen a significant shift in action on DV within the criminal justice system. The increase in women police officers in the 1980s was seen as a sea change as many Woman Police Constables of WPCs took it upon themselves, or were assigned the task of improving support towards survivors of abuse (Jackson, 2012). Although it was arguably the gendered expectations of female officers that drove many changes, it is important to acknowledge the work of those striving to improve the system in often challenging circumstances. This will be discussed in more depth in the policy chapter of this thesis. Further, the introduction of pro-arrest policies has dramatically increased the number of arrests for DV, a measure that is the focus of the next section of this chapter. Although significant strides have been made to overcome the patriarchal foundations within the police, there is evidence to suggest the police still have a long way to go before they might be considered a force for equality. Research has found that there is still a tendency for officers to view DV as less desirable or even less serious compared to other kinds of crimes (Prokos and Padavic, 2002; Walklate, 2004). Research has also found that police still maintain gendered myths around survivors of abuse, with this being particularly pertinent in sexual violence investigations where police officers estimate false allegations of rape to be at 50%, despite records indicating it is at 3% (McMillan, 2016). Research by Kelly, Lovett and Regan (2005) found that within the police there is a persistent cultural narrative which positions 'real rape' as being based in certain strongly held criteria which most women failed to meet. The connection between earlier criminal justice conceptions of rape as being based on sexual property and female virginity

appear to still be contributing to the way in which police officers view female victims of sexual violence today.

It is this apparent contradiction between the potential for police protection in cases of violence against women, and the reality of police ambivalence that remains a critical question for feminists to date. On the one hand, the power instilled in the police to put criminal sanctions on perpetrators to stop the abuse at the scene is unmatched by any other institution. On the other hand, the patriarchal foundations on which the police force is built may still influence and drive discretion in favour of male perpetrators and against female survivors. This quandary raises questions about how far a criminal justice strategy could take the movement to end DV, and will be explored in more depth in the succeeding sections.

2.2.2 Pro/Mandatory Arrest Policies

Despite the aforementioned complications, some feminists devised pioneering new strategies to overhaul the police response to DV. Local feminist activists founded the Duluth Model AKA The Duluth Domestic Abuse Intervention Project (DAIP) in 1981 in Duluth, Minnesota. The authors of the program proposed that each stage of the justice system and its policies needed to be reshaped to ensure that survivor safety was centred over all else. This is a strategy grounded in a coordinated multi-agency response, including local DV services, the police and courts and other agencies such as social services or housing. Proponents of the model argue that the power of the criminal justice system to intervene in DV in combination with the expertise of DV services can be utilised to create new policies and practice that make survivors safe

and hold perpetrators accountable for their violence (Stark, 1996; Shepard and Pence, 1999). Although the Duluth Model encompasses each stage of the criminal justice system, this section will focus on the positive arrest policy element.

Putting forward a radical feminist strategy on DV, Duluth instituted a mandatory arrest policy that directed well-trained first response officers to arrest perpetrators in *all* circumstances where there was evidence of injury to the victim. Advocates argued that this approach would lessen future incidence of DV by removing the immediate danger to the survivor whilst also acting as deterrence to perpetrators.

Sherman and Berk (1983) attempted to test the claim that mandatory arrest policies had a positive affect on the deterrence of future violence. Their study of Minneapolis found that arrest was twice as likely to deter future abuse compared with mediation or separation. This was largely considered a coup for those arguing that mandatory police involvement protected women from on-going violence, and was the catalyst for half of all police departments in the US enlisting mandatory/pro-arrest policies by 1986 (Buzawa and Buzawa, 1990; Ferraro, 2001).

However, these initially positive findings have since become the source of disquiet in the field of DV research, as replication studies have complicated earlier conclusions. Sherman (1992), who conducted the original study, led a further study in Milwaukee on the effects of arrest on perpetrators. This time the study design reorganised perpetrators into three possible interventions: full arrest, short arrest, and no arrest. He found that repeat incidents of violence *increased* when the persons arrested were unemployed, unmarried, high school dropouts

or African American. Violence decreased when the persons arrested were employed, married, or white. Sherman concluded that when Milwaukee police arrest 10,000 African American men, they produce 1803 more acts of DV - primarily against African American women - in any given year than in cases in which the African American men are warned and not arrested. When, on the other hand, Milwaukee police arrest 10,000 white men, they produce 2504 fewer acts of DV against white women when compared to cases in which the white men are warned. Sherman surmised that if three times as many African Americans as whites are arrested in Milwaukee (which would be typical given police practices in that city), a mandatory arrest policy would prevent 2504 acts of violence primarily against white women, at the price of 5409 acts of violence primarily against African American women (Sherman, 1992; Mills, 1999). Similar results have been found by a subsequent meta-analysis, which has revealed that while overall arrest policies had a small protective effect, this varied by socioeconomic status of the perpetrator (Sherman, 1992; Maxwell, Garner and Fagan, 2001). Arrest continues to be found to have a negative effect for men who lack a stake in conformity, such as the motivation to stay in employment (Maxwell et al., 2001; Maxwell, Garner and Fagan, 2002). Again, the partners of men from racial minorities were found to be more likely to experience retaliatory violence (Maxwell et al., 2002).

Placing Sherman and Berk's initial findings alongside the subsequent challenge to their results, encourages a more intersectional account of DV and criminal justice. The initial study subsumed all perpetrators and survivors into one group, with the white and employed majority presumably dominating and skewing overall results. It may be that early feminists at

Duluth saw the police failure to arrest perpetrators as symptomatic of the wider gender disparity and patriarchal priorities of the police force. Forcing the police to take responsibility by arresting all perpetrators would help to equalise gender relations and reforming the police as a patriarchal institution. However, such a strategy prioritizes gender as the primary explanatory model for DV at the exclusion of other forms of oppression (Sokoloff and Dupont, 2005). Indeed, the homogenising nature of a blanket policy in which *all* male perpetrators of DV are arrested to protect *all* women survivors, fails to take account of how gender intersects with other forms of inequality or oppression such as racism and class privilege. The damaging effect of this was shown by the subsequent replications of the Minneapolis pro-arrest study which demonstrated that while a pro-arrest policy may work on white and/or employed men, it had the opposite effect on unemployed men and black men and may have put black women in particular at further risk.

2.2.3 Increase in the Arrest of Women

A recent increase in the number of women being arrested for DV has been linked to the problem of 'mutual' arrest: the practice of arresting both parties where it is unclear who the "primary" perpetrator is (Buzawa and Buzawa, 1990; Chesney-Lind, 1997). Despite attempts to clarify procedures, claims of wrongful arrests of women due to mutual arrest persist (Bible, 1998). The phenomenon of mutual arrest has largely been linked to mandatory arrest policies, which state that an arrest *must* be made where there is any evidence that violence had occurred. Although only a tangential link, the phenomenon of increased arrests of women for assault was first identified in

the USA with a 30.8% increase in female arrests occurring between 1994 and 2003. Male arrests for this offence fell by about 5.8% (Federal Bureau of Investigation, 2004, p. 275). Similar trends have been found in the UK with Marianne Hester's examination of Northumbria's police force data indicating an increase in women arrested for DV. While the study did not encompass such a lengthy timeframe, an increase from 9% to 11% of arrests of women was found between 2001/2. A larger gradient was found with women recorded as perpetrators (but not necessarily arrested) with an increase from 8% to 12%, indicating a clear underlying trend despite the shorter timeframe compared with the US data (Hester, 2009).

Studies in the 1970s had already put forward masculinization or 'emancipation' arguments to explain crime committed by women (Adler, 1975; Simon, 1975). Statistics pointing to increased arrests of women were seen by some as proof of 'role change over the past decades' that created more females as 'motivated offenders' (Anderson, 2003: p. 1). Feminist and mainstream criminologists have debated the phenomenon but have generally concluded that this explanation alone is unsatisfactory (Weis, 1976; Steffensmeier, 1980; Chesney-Lind, 1989; Greenfeld and Snell, 1999).

As discussed in the introduction to this thesis, women certainly can and do use violence in a domestic context, but research has indicated that the impact of violence is disproportionately felt by women (Mirrlees-Black, 1999; Archer, 2000; Tjaden and Thoennes, 2000; Johnson and Bunge, 2001; Gadd *et al.*, 2002; Kimmel, 2002; Saunders, 2002; Walby and Allen, 2004). However, when considering the arrests of women for DV, it is also important to discuss the violence than

women do use in relationships, and the context for this.

As was also discussed in Chapter 1, a lens which looks at the full context of a relationship, rather than individual instances of violence, is important in understanding the relational power of those using violence. When an act of violence is considered in the context of an intimate relationship, evidence suggests that men's use of violence towards women is connected to a 'constellation of abuse' that comprises a range of intimidating and controlling behaviours (Pence and Paymar, 1993; Dobash, Dobash and Cavanagh, 2000). Michael Johnson's work distinguishes between four types of DV, separated by the degree of control that motivates the use of violence (Johnson 1995; Johnson 2000; Johnson and Ferraro 2000). 'Common couple violence' refers to violence in relationships whereby both partners use violence in particular situations, at a fairly low frequency, and unconnected to control. 'Intimate terrorism' is a pattern of abuse in which violence is one of a number of tactics used to assume control over a partner. This form of violence is more frequent, unlikely to be mutual and has a propensity to escalate and result in serious injury (Johnson, 1995). Women primarily use 'violent resistance' as an instrumental form of violence used to defend themselves or their children, or as an expressive act that conveys their frustration at a situation beyond their control. Lastly, 'mutual control' refers to relationships where both parties vie for control. This is considered to be a rare pattern of violence in intimate relationships (Johnson, 1995, 2008).

Additional research demonstrates that women are rarely the initiators of violence, and where they have used force, this is most likely to be in the context of 'violent resistance' (Stark and Flitcraft, 1988; Johnson and Ferraro, 2000; Hamberger

and Guse, 2001; Dasgupta, 2002; Kimmel, 2002). Further, women's use of violence has rarely been found to constitute 'intimate terrorism', and therefore feminist consensus is that in general men ought to be acknowledged as the perpetrators of such abuse, and women generally the victims (Browne, 1987; Campbell, 1999; Daly and Wilson, 1988; Dobash, Dobash, and Cavanagh, 2000; Dobash and Dobash, 2004; Lloyd and Taluc, 1999; Pence and Paymar, 1993; Stanko, 1990; Miller, 2005). Research has also found that in many instances where women have been arrested for DV, their behaviour was the result of defensive or retaliatory violence (Arnold, 2009; Chesney-Lind and Pollock, 1995; Osthoff, 2001).

Given the evidence around men and women's differential use of violence in relationships, it is important to understand how mandatory arrest policies are increasing women's vulnerability to arrest. A Canadian study (Comack, Chopyk and Wood, 2000) provides an in-depth picture of the impact of mandatory arrests on women. Looking at the gender dynamics in a random sample of 1,002 cases (501 men and 501 women) in Winnipeg between 1991 and 1995, the researchers found that the 'zero tolerance' policy introduced by the police force in 1993 had a dramatic effect on women's arrest patterns. Although there were increases in arrest for men *and* women, the increase in arrests of women was more dramatic. In 1991, 23% of DV charges were levied against women with this number increasing to 58% by 1995 (Comack et al., 2000, p. 2). Further, Susan Miller's research into mandatory arrests in Delaware, based on data from police ride-alongs and interviews with officers, gives credence to the theory that the increase in female arrests may be related to this policy. She found that officers, concerned about potential lawsuits, had developed an 'expansive definition' (2005, p. 89) of DV which

included a wide range of family disturbances. Officers 'did not believe there was an increase in women's use of violence' (p. 105) but because of the 'wider interpretation of violence...her fighting back now gets attention too' (p. 107). Crucially, police also felt that male perpetrators demonstrated greater skill in deploying the justice system to further control their female partners. Officers reported that men were increasingly prepared to report violence committed by their partners as well as use 'cross-filings' (also known as counter-allegations) as a means of circumnavigating the justice system, whilst also intimidating survivors. Officers stated that in Delaware, as the legislation matured, the name of the game was who can 'get to the phone first' (Miller, 2005, p. 127).

The unintended consequence of mandatory arrest policies leading to an increase in women being arrested for DV is certainly a cause for concern. However, as with the differential effect on perpetrators, it is important to question how any increase in the number of women being arrested may be impacting different demographics. A New York city based study found that a significant majority (66%) of DV survivors arrested along with their abuser (dual arrest cases) or arrested as a result of a complaint lodged by their abuser (retaliatory arrest cases), were African American or Latina, 43% were living below the poverty line, and 19% were receiving public assistance at the time of their arrest (Haviland and et al., 2001).

Wider research has also identified that women of colour that come into contact with the criminal justice system for any matter face significantly more punitive responses compared with white women at every stage. In the UK, the Ministry of Justice published findings as part of a review into ethnic

minority involvement in the criminal justice system. The 2016 review concluded there was a statistically significant difference between the experiences of women of colour and white women at arrest, charging and prosecution. Additionally, women of colour generally are more likely to have their cases heard at Crown Court and are more likely to receive custodial sentences on conviction (Uhrig, 2016). The Macpherson Inquiry into the police handling of the murder of the black teenager, Stephen Lawrence, famously found the Metropolitan Police to be 'institutionally racist' (Macpherson, 1999). The disproportionately severe treatment of women of colour at each stage of the criminal justice system supports the notion that bias is at play.

Adelman et al. (2003) provide some insight into how institutional bias may impact on minority survivors' experience of the police, in their theoretical examination of police practices. The authors argue that the police have the power to determine who is a legitimate and deserving victim, and that this is routinely deployed with discrimination. The authors suggest that based on their perceptions of minority communities, officers may question the credibility of abused minority women's complaints. Many abused women of colour experience either 'gendered racism', 'racialized sexism' or 'classism' when they contact the justice system (Adelman et al., 2003).

Ethnic minority communities in the US and the UK have a long established relationship of tension and mistrust of with the police (Overby, 1971; Rossi, Berk and Edison, 1974; Mama, 1989.) It is important to reflect, therefore, on how increased police powers are likely to impact on already volatile 'race relations'. As has been discussed, the initial goal of

pro/mandatory arrest was intended to equalise one form of oppression (gender) by taking action on DV. However, additional powers instilled in the police may exacerbate other forms oppression (such as class prejudice or racial prejudice), especially if they are not addressed at the same time. If an increase in arrests of women is indeed an unintended consequence of pro/mandatory arrest policies, then the increased criminalization of women could be contributing to gendered injustice. Additionally, if marginalised communities are disproportionately feeling the burden of an increase in punitive measures, the case for further intersectional research has been made.

2.3 Prosecution Practices

Prosecutorial practice in cases of DV has received considerably less attention from feminist activists and academics compared with the police. This may simply be because historically, the gatekeeping tactics of the police (see above) kept the numbers of survivors making it to this stage low. Or perhaps criminal courts lack the immediacy of the 'first response' 999-call dynamic to warrant the same level of scrutiny.

Notwithstanding differences in attention, empirical research into prosecutorial practice reveals a number of themes familiar from studies into policing.

Research conducted by Steven Cammiss (2006) into the mode of DV trials in Magistrates' courts sheds some light on the reasons for differences in prosecution rates. The research, conducted in 2001 was based in one CPS area, including two English Magistrates' courts; one urban and one county court. The author shadowed twenty-one prosecutors, with 100 trials being observed across the two sites.

Cammiss found that there was a significant tendency for prosecutors to reduce the severity of charges, and argue for cases to be heard in the Magistrates' court rather than escalated to the Crown Court, regardless of the seriousness of the original charges or any aggravating features present. He found that while 43% of all cases were retained in the Magistrate's court, 76% of all *domestic violence* cases were deemed suitable for summary trial. Therefore, while 66% of all cases went to Crown Court, this was only true of 24% for DV. Cammiss determined that this was not due to any differences in the types of crimes being committed between domestic and non-domestic assaults, but was evidence of differential treatment of DV cases. This conclusion is supported by previous research conducted by (Cretney and Davis, 1997a) who found the practice of reducing s.47, actual bodily harm to s.39 of common assault, to be a more frequent occurrence for DV compared with non-domestic assaults.

Cammiss' observations of court proceedings sheds some light on the dynamics underlying DV prosecutions. He found that prosecutors often held a degree of cynicism towards DV cases, expecting that the survivor would not want to give evidence against her partner. Indeed, the assumption and expectation of survivor withdrawal is persistently put forward as the primary reason for prosecutorial inaction and low conviction rates for DV (Cretney and Davis, 1997b; Hoyle and Sanders, 2000; Robinson and Cook, 2006).

Cammiss also observed that prosecutors distanced themselves emotionally from DV complainants (in one instance a prosecutor deliberately avoided meeting a witness despite her attendance at court), preferring instead to focus on practical

and administrative considerations. He observed that prosecutors tended to want to avoid the additional work associated with Crown Court trials, and would advocate heavily for DV cases to remain in the Magistrates' court. This was even the case with serious incidents that involved significant injuries. Prosecutors frequently manipulated difficult evidence, deliberately downplaying aggravating factors such as injuries or threats to kill, to construct an argument for the case to be heard summarily. Where these features existed in non-DV assault cases Cammiss found, they were routinely presented as reasons to commit the case to Crown Court. Burton's (2000) study of Magistrates' courts, found that prosecutors often chose not to pursue a case all together, even when the survivor wanted this, with the reason most often given being to 'protect resources' (p. 186).

Evidence suggests that where DV is concerned, efficiency was routinely prioritized over notions of 'justice', with crimes against women being the most likely candidate for diminution (Cretney and Davis, 1997a; Burton, 2000; Cammiss, 2006). If prosecutors use skilful management to guide DV cases towards a solution they deemed suitable, based on their own assumptions, this raises questions of due process and justice. The survivors voice is inevitably lost through such a process, as there appears to be very little opportunity for them to influence or change proceedings. While some have argued that keeping DV cases in Magistrates' courts is more sensitive to the difficulties arising from lengthy court cases, survivors themselves may feel that the harm done to them goes unacknowledged or underestimated. Cretney and Davis (1997a) found through interviews with survivors that they frequently experienced the reduction of charges and lenient sentencing to be undermining to their lived experience and felt

dissatisfied at the end of the process as a result. One could argue that prosecutors disregard for the opinions of survivors is yet further evidence of a patriarchal justice system which devalues women's experiences at every stage.

Historically, we can see the reduction of charges at every stage of the criminal process as contributing to the systematic minimisation of DV by the criminal justice system. From the evidence presented here, even if a survivor's assault were serious or unusual enough for the police to have deemed it appropriate to be charged, there is a high likelihood that it would then be de-escalated to a lesser charge once in court. Although arguments in favour of this form of case management claim that it may be more sensitive to the difficulties arising from lengthy court cases, ultimately the survivors voice is lost through a generalised, minimising response.

If the assumption that survivors will withdraw their support for prosecution invariably leads to charge reduction and/or case discontinuance, this raises questions about where responsibility lies for the prosecution of DV cases – the survivor, or the state? The very nature of DV – the levels of trauma and fear experienced by survivors, alongside the complex and personal dynamics inherent within it – may mean that survivors are simply unable or unwilling to take a central role in court proceedings. However, if this is uniformly accepted by prosecutors who at best, attempt to ensure sanctions are given on minimal terms, or at worst accede the wholesale dismissal of DV cases, one might question whether such a response effectively decriminalises DV (Shepard and Pence, 1999)? As with arguments in favour of the police taking more responsibility for DV through increasing arrests, some feminists have argued that courts too ought to reconfigure

procedures to ensure perpetrators are held accountable, and survivors are safe. However, how this is to be achieved and the level of survivor involvement is the source of continued disagreement amongst feminists and criminal justice practitioners. The following sections will critically discuss the various proposed prosecution strategies: no drop prosecution either through compelling survivors or victimless prosecution, and models that advocate individual survivor choice.

2.3.1 No-Drop Prosecution

A major reason given for high discontinuance rates in DV cases is victim reluctance (see above). However, it has also been found that judges and prosecutors perceptions of such cases as minor, private crimes has also been responsible for high dismissal rates (Hanna, 1996; Gilchrist and Blissett, 2002). Some have even argued that a situation in which survivors have felt unable or unwilling to testify, alongside the ambivalence and indifference from criminal justice operatives, led to a situation in which DV was effectively decriminalised (Shepard and Pence, 1999). This is further exacerbated by the routine use of threats of violence or apologetic manipulations from perpetrators. As a means of forcing DV up the prosecutorial agenda, some have argued for hard 'no-drop' policies in which courts must prosecute all cases of DV. One approach has been to remove the choice to prosecute from survivors, by forcing them to give evidence. Ultimately, under such a policy survivors may be held in contempt and jailed for not complying (Hanna, 1996; Lyon, 2002; Cassidy, 2006; Messing, 2011; Nichols, 2011, 2014; Wilson, 2015). An alternative proposal to compelling survivors to give evidence, is 'victimless' prosecution, whereby the defendant is

prosecuted based on evidence other than the survivors testimony. Both are associated with radical feminist approaches to justice, although liberal feminist positions have also proposed victimless prosecutions. For example, those involved in the Duluth Model have maintained the importance of ensuring that DV is criminalised, and therefore practice 'victimless' prosecution even when the survivor did not want this. However, Shepard and Pence (1999) add the caveat that prosecution should never be at the expense of safety concerns. In this sense, the strategy taken at Duluth combines radical and liberal feminist approaches, although survivor choice over proceedings does not extend beyond safety concerns.

The radical feminist argument for no drop prosecution has posited that the inadequate responses from the courts was evidence of the patriarchal priorities of the judiciary, which some felt could only be reversed by removing discretion from criminal justice operatives (Schechter, 1982; Shepard and Pence, 1999; Nichols, 2014). Feminist practitioners partnered with survivors, child abuse reformers, anti-rape advocates, researchers, and stakeholders in the justice system to argue that the state should assume responsibility for prosecution (Schechter, 1982; Shepard and Pence, 1999; Allen et al., 2011).

The radical feminist perspective therefore argues that women in society have the right to live free from abuse, and that this overrides any individual right to liberty. It also argues that a criminal justice remedy has the potential to ensure that future victims are also free from violence (Dempsey, 2007). It is argued that the alternative to wide-scale prosecution is societal and institutional tolerance of DV and gender inequality (Nichols, 2014). Therefore the goal of radical feminist activism is empowerment of *all* women by protection of the justice

system, whether as current or potential survivors.

In the US no-drop policies have coincided with a dramatic increase in the number of perpetrators prosecuted and convicted, with Goodman and Epstein (2008) finding an increase from 40 to 4,500 prosecuted cases in Washington DC between 1986 and 1996. In the UK context, while there have been moves to increase the number of DV prosecutions; we have not seen the implementation of strict no-drop policies that have been brought in in some areas in the US. However, while courts are at liberty to dismiss cases in the UK, they also have the option of deploying a witness summons to survivors, demanding that they give evidence in court. A witness summons comes with the power to issue a warrant for the arrest of a witness who has not complied with the conditions of the summons.

In 2016 Her Majesty's Crown Prosecution Inspectorate (HMCPSI) conducted a review into the use of witness summons nationally, in relation to all crimes. It found that in some areas, it was common for Magistrates to automatically issue a witness summons in *all* domestic abuse cases. This was regardless of whether the victim or witness at the stage of application was reluctant or causing any difficulties. Interestingly, the review identified that witness attendance at court was declining generally and although the use of the summons procedure had increased, there was little evidence to indicate that this had improved witness attendance (HMCPSI, 2016). Part of the reason for this may lie in how witness summons were executed: the HMCPSI review found that while witness summons were widely used, applications to actually arrest those who had breached the summons was rare. Further, research has found that prosecutors frequently

feel that 'forced' evidence from summoned witnesses or witnesses 'turned hostile' is inevitably of very low quality and not in the interests of justice (Hall, 2009).

The policy of threatening to arrest and actually arresting survivors who fail to comply with court directives has received a great deal of criticism. Arguments over whether or not umbrella policies of mandated survivor involvement largely centre on arguments between the 'particular' and the 'general'. While radical feminists argue that such a policy reduces societal intolerance for DV, critics claim that the wholesale removal of choice from women perpetuates gender inequality at the individual level (Nichols, 2011). For some, the removal of a survivor's choice alongside physical detention for those that do not comply, mimics the control and coercion exhibited by abusers (Mills, 1999).

As a response to the problems associated with compelling survivors to give evidence, some have instead argued in favour of 'victimless' prosecution. Advocates for victimless prosecutions argue that where survivors are unwilling or unable to engage, the state should consider continuing in her absence (Friedman and Schulman, 1990; Rebovich, 1996; Ellison, 2002; Burton, 2006).

San Diego, California initiated one of the first wide scale victimless prosecution strategies. San Diego attorney, Casey Gwinn explains the rationale behind the city's victimless prosecution strategy:

Taking the responsibility for the prosecution away from the victim, and placing it on the prosecution agency, is done to insulate the victim from the batterer's anger, retaliation and coercion to "drop" the charges while simultaneously recognizing the fact that the victims face a multitude of competing survival necessities that may lead them to believe that having the criminal case dismissed is ultimately in their interest...

About 70% of cases are provable without the victim based on 911 tapes, photographs, medical records, spontaneous declarations by the victim to the officers, admissions by the defendant, neighbor testimony, relative testimony and general police officer testimony related to the cases and the subsequent investigation (see Ellison, 2002).

Victimless prosecution as a strategy has been variously associated as both a radical and liberal feminist approach depending on how it is executed. In one sense, enhanced evidence gathering techniques could be used as a straight alternative to compelling survivors to give evidence, and prosecutions may continue regardless of the wishes of the survivor so long as there is enough evidence to proceed (Hanna, 1996). This interpretation of victimless prosecution is a slight variation on those that rely on compelling survivor testimony, but retains the essence of the radical feminist approach, which prioritises a structural response over individual desires. However, many of those in favour of victimless prosecution maintain a critical stance on the institutional over-reliance on survivors' testimony, while agreeing that in some circumstances it is safer not to proceed (Shepard and Pence, 1999; Burton, 2000; Ellison, 2002, 2003). Identifying that survivors are often more able to assess the safety implications of proceeding with a prosecution has meant that victimless prosecution can also be associated with liberal feminist approaches. However, other liberal feminists that prioritise survivor-centred approaches have been critical

of any attempts to proceed without the survivor, which will be discussed in the next section.

There has been limited empirical investigation into the efficacy of no-drop prosecution, especially in relation to survivor choice. In 1993 Ford and Regoli conducted a randomized study of mandatory prosecution. Their study of Indianapolis, Indiana compared mandatory prosecution with drop-permitted policies for DV cases. The researchers randomly allocated 480 men charged with assault into one of three pathways a) diversion into counselling before trial b) prosecution to conviction with recommendation for counselling as part of the sentence c) prosecution to conviction with presumptive sentencing. Ford and Regoli found that whether the survivor had a choice over proceedings affected the perpetrators behaviour. They found that where a survivor filed charges under a drop-permitted policy, but stayed with the process, such survivors were less likely to experience on-going abuse when compared to the mandatory prosecution cohort. However, they also found that survivors in the drop-permitted category who did drop charges were at the highest risk of re-abuse of all categories.

It should be noted there are limitations to Ford and Regoli's findings. For risk and political reasons, the researchers only looked at those with no known prior criminal record for DV. Further the sample of 480 defendants is fairly small, making application to other areas difficult. Nonetheless, Ford and Regoli conclude that there is preventative potential when women are given a choice over proceedings regardless of what her decision is. They hypothesize that this power may come from a) being able to use prosecution as a bargaining chip b) the opportunity to ally with professionals to increase safety (such as police, prosecutors) and c) empowering survivors by

allowing them to determine sanctions for the perpetrator. Ford and Regoli's research presented a complex picture on the potential benefits and limitations of a choice-based and mandatory prosecution policies, but does not quite answer the question of whether choice in prosecution is protective or not.

However, other research suggests that mandatory prosecution may work better or worse depending on who the perpetrator is. Fagan *et al.* (1984) found that mandatory arrest and prosecution was less likely to be effective when applied to repeat or persistent offenders, and was actually more likely to increase abuse in such situations. They evaluated federally supported demonstration programs in six communities, testing criminal justice interventions in family violence. The cross-sectional study included both serious and less serious assaults among 270 self-selecting program users, analysing both legal and social interventions. Follow up was over a six-month period, and involved victim self-reporting of repeat abuse. Fagan *et al.* found that in cases of less severe abuse, 15% of respondents experienced repeat abuse, compared to 33% of those with more serious histories of abuse. Where prosecution was attempted and defendants had a more severe history of abuse, more serious legal sanctions was associated with increased incidence of violence. Fagan (1989) concluded that a combination of failed prosecutions and successful prosecutions with light sanctions did little to protect survivors. He added that, particularly in cases of severe or repeat abuse such interventions tended to make the situation more volatile.

In 2001, similar evidence emerged through The National Institute of Justice in relation to prosecutions that either compel victim testimony, or continue in her absence. The reports authors Dugan, Nagin and Rosenfeld (2001) found that

across 48 States, increased DV prosecution had led to increased domestic homicide of women. Enlisting the support of exposure reduction theories and other empirical research, the authors of the report hypothesised that since it is already known that domestic homicides most often occur after separation, the observed increase may be down to interventions that exacerbate the perpetrators anger at an already vulnerable period, whilst also failing to effectively reduce all potential avenues of contact with the victim. This risk may be present when compelling survivors to give evidence against their will, as well as with victimless prosecutions. However, with victimless prosecutions, proceedings may continue without any input from the survivor over whether it is a safe course of action, especially since the strategy requires no survivor presence at all. Indeed, with either approach, it could be argued that the courts are only able to take *administrative* responsibility for prosecution. Ultimately, the perpetrator may still *emotionally* hold the survivor responsible for having contacted the police in the first place.

Mama (1989) found this in her research on Caribbean women, where a number of survivors stated that even though it was a neighbour who triggered criminal justice involvement, a woman's screams was enough for the men to seek vengeance on them. A number of the women also identified a history of police brutality as an exacerbating factor in the men's anger, seeing any acceptance of police involvement as a 'betrayal', regardless of whether the survivor herself had initiated it or not. Criminal justice personnel are generally protected from any potential violence through the state apparatus. Once proceedings conclude, the situation may have become more volatile, with the survivor becoming the only realistic focus for

the perpetrators blame and recriminations.

If the survivors of persistent perpetrators are more likely to experience on-going abuse when they do not have a choice over proceedings, it is also crucial to develop an understanding of who is most vulnerable to repeat abuse. Traditionally, the feminist movement has sought to emphasise the common experience of survivors' by identifying the presence of DV across all sections of society. While not disputed, such emphasis has become increasingly questioned by intersectional scholars and activists who recognize the unique experiences of marginalized women (Richie, 2000; Ristock, 2002; Russo, 2002).

Kanuha (1996) argues that the suggestion that DV affects *'every person, across race, class, nationality, and religious lines equally is not only a token attempt at inclusion of diverse perspectives but also evidence of sloppy research and theory building* (p. 40). She posits that the *'tag line that domestic violence affects everyone equally trivializes both the dimensions that underlie the experiences of these particular abuse victims and more important, the ways we analyze the prevalence and impact of violence against them'* (p. 41). Similarly, Richie (2000) challenges this notion of universal risk: poor women of colour are, she states *'most likely to be in both dangerous intimate relationships and dangerous social positions'* (p. 1136). The American National Crime Victims Survey (NCVS), bolsters her argument showing that the DV rate among African American women is 35% higher than that of white women and nearly three times higher among women of other ethnicities (Bureau of Justice Statistics, 2004).

The additional vulnerability of women of colour has also been

identified in the UK. Aisha Gill (2004) conducted interviews with 18 South Asian female survivors of DV. Gill found that the women she interviewed frequently faced significant additional barriers to ending their abuse, as leaving an abusive partner also meant exclusion from a community that might otherwise offer protection in a white majority, white supremacist society. Other research has found that immigration laws (which disproportionately impact on women of colour) frequently bind migrant women to their perpetrators, who may be their sponsor in obtaining legal status (Silverman, 2002; Joshi, 2003). Gill describes Asian women as being 'doubly victimised' firstly by their perpetrator and secondly by a society which fails to provide meaningful and appropriate support that would empower survivors of colour (Imam, 2002; Gupta, 2003; Imkaan, 2003; Newham Asian Women's Project, 2003).

Survivors' with physical and learning disabilities have also been found to be additionally vulnerable to DV, with 50% of disabled women experiencing abuse in their lifetime (Magowan, 2003). As well as being more likely to experience violence, women with disabilities are more likely to experience severer and longer lasting abuse compared with able-bodied women (Smith, 2008; Baladerian, 2009; Baldry *et al.*, 2013). Hague, Thiara and Mullender (2011) conducted a series of focus groups and in-depth interviews with 30 female survivors of DV with physical or sensory impairments. They found that disabled women's opportunities to leave were hampered by the fact that their perpetrator was often also their carer, and the women's impairments were frequently weaponised so as to further entrench their dependency and the perpetrator's control. Thiara *et al.* also found that where women wanted to escape, they also had to face finding alternative ways to meet complex needs such as accessible accommodation, transport

and assistance with personal care or support from those fluent in sign language (Hague, Thiara, and Mullender, 2011). Women with learning difficulties have been found to experience significant barriers to justice when attempting to deal with their abuse through the law. Douglas and Harpur (2016) found that women with a learning disability are frequently socially and physically isolated by their perpetrators, and infantilised by court operative who fail to provide meaningful support or protection. In short, the routes to safety for disabled women are significantly more complex compared to able-bodied survivors, leaving them vulnerable to repeat and long-term abuse (Nosek, Howland and Hughes, 2001; Humphreys and Thiara, 2002).

The discussion so far has focused on the experiences of cis-gendered women in heterosexual relationships, as the discourse on DV continues to be dominated by the experiences of women in these categories. The prevalence of DV in same sex couples has been found to range from 11% to as much as 73% (Island and Letellier, 1991; Lie *et al.*, 1991). However, because these studies rely on self-selected samples, a true picture of the rate of abuse towards gay and lesbian survivors is difficult to estimate. Renzetti and Miley (1996) argue that as long as same-sex relationships remain stigmatised, lesbians and gay men will continue to hide their sexuality and thus random samples will contribute little. However, the very dynamic that makes uncovering the rate of DV amongst same-sex couples so difficult has also been identified as a barrier to ending abusive relationships. For example, evidence suggests that lesbians who are not out, or voluntarily open about their sexual orientations, remain silent about abuse in their relationships, thus increasing their vulnerability to repeated incidents of abuse (Butler, 1990; Ristock, 2002). Research on

the experience of trans survivors is beset by similar difficulties to that found with lesbians and gay men. Nonetheless, efforts continue to be made to shine a light on the experiences of trans folk. The Scottish Transgender Alliance (2010) advertised a survey across a number of online platforms, gaining 60 useable responses. Of those that responded, 80% disclosed experiencing DV from an intimate partner. Although the methodology and sample make representation difficult, the figure remains surprisingly high. A further concern around the experience of trans survivors, is the severe lack of available services as specialist services for trans survivors are extremely limited, and based on the exemption under the Equality Act 2010, many trans women will be turned away from women only refuges.

Understanding this from an intersectional perspective, it could be argued that as some women are more vulnerable to DV than others, a universalising policy of prosecuting *all* DV cases is likely to have a differing impact on different groups. If it is the case that repeat offenders of DV are more likely to increase abuse as a result of unrelenting prosecution policies, the safety implications, especially for already marginalised women – who may have nowhere to run to – are considerable. This has led to some arguing in favour a survivor-centred approach to prosecution.

2.3.2 The Survivor-Centred Approach

Many liberal feminists opposing strict no-drop prosecution strategies that either compel survivors or continue in her absence have championed survivor choice as an alternative approach (Daly and Chesney-Lind, 1988; Jaggar, 1988; Mills,

1999; Chesney-Lind, 2006; Nichols, 2013, 2014). It has been argued that both mandated and victimless strategies fail to take into account the multifaceted and legitimate reasons that survivors' may have for requiring a cessation in proceedings (Nichols, 2014). For example, some survivors' feel that a criminal conviction of their partner is not in their interests if he is the bread winner or pays child support (Kuennen, 2007; Goodman and Epstein, 2008; Hare, 2010). Further, some liberal feminists have identified the importance of autonomy and negotiation for survivors, some of whom use the criminal justice system to meet their own goals. Such goals may include using prosecution as leverage to gain a divorce, or invoking the threat of prosecution as a warning to manage the situation (Ford, 1983, 1991; Bennett, Goodman and Dutton, 1999; Hoyle and Sanders, 2000). Advocates of survivor choice posit that an over-emphasis on perpetrator coercion as the only explanation for survivor withdrawal, fails to recognise that survivors often have rational and legitimate reasons for dropping a prosecution. With the removal of choice over proceedings, such feminists argue that the already limited ways in which survivors are able to navigate their own lives diminishes further (Mills, 1999; Nichols, 2014).

Whilst a survivor's freedom to negotiate her financial or other interests is important, arguments about the safety implications of victimless prosecution are most serious. While radical feminists in favour of victimless prosecution suggest that removal of the survivor from proceedings protects her from retaliatory abuse, some suggest that this alone does not prevent further abuse (Kuennen, 2007). Evidence from the US on the impact of increased prosecution on domestic homicides discussed in the last section, may support the argument that victimless prosecutions do not necessarily insulate survivors

from further violence.

Arguing in favour of rights-based practices, advocates of the survivor-centred approach prioritise the individual responses to abuse over an institutional one (Daly and Chesney-Lind, 1988; Jaggar, 1988). Advocates argue that recourse to the criminal justice system for survivors is crucial, but that use of it must be based on choice rather than compulsion. While radical feminists claim that the failure to prosecute all DV cases perpetuates inequality, many liberal feminists assert that limiting women's choices constitutes gendered injustice (Nichols, 2011). In particular, feminists arguing from a liberal perspective are concerned that policies that compel survivors to engage or continue against her wishes, are paternalistic and ultimately mimic the coercion of the perpetrator (Hanna, 1996; Mills, 1999, 2003; Kuennen, 2007).

Practice that facilitates individual survivor choice has been variously referred to as survivor-centred, survivor-defined, woman-defined or the empowerment model (Herman, 1997; Mills, 1999; Goodman and Epstein, 2008; Nichols, 2013). Whereas radical feminist perspectives emphasise the importance of social change through the criminal justice system, the primary goal of liberal feminist practice is to empower survivors by respecting their choices. This should involve a collaborative approach to assistance, which is centred on the goals the survivor has defined for herself. The practitioners role is not to direct survivors to a particular course of action, but instead to listen to her needs whilst offering knowledge and resources to help meet her aims (Goodman and Epstein, 2008).

There is growing empirical support for approaches based in

survivor choice, with studies finding lowered rates of re-abuse and depression, higher satisfaction with the justice system and greater well-being (Bybee and Sullivan, 2002; Belknap and Sullivan, 2003; Jordan, 2004; Zweig and Burt, 2006, 2007; Moe, 2007; Goodman and Epstein, 2008; Bennett and Goodman, 2010; Filson, 2010; Bell *et al.*, 2011; Nichols, 2011, 2013, 2014; Nurius *et al.*, 2011).

While, Ford and Regioli (1993) were not able to prove conclusively that survivor choice is directly associated with safety, the authors did suggest that the power to influence proceedings was positive. More recently, Zweig and Burt's (2006) logistic regression sought to predict women's perceptions of the legal system based on the level of collaboration with community agencies. They used a sample of 1,509 across 26 community areas. The researchers found that the more both victim service and legal system agencies worked together to assist women, the more positive and fewer negative behaviours law enforcement participated in, the higher women's sense of control when working with law enforcement. Further, the higher women's sense of control when obtaining a protective order, the more effective they found the protective order to be. They and other researchers have also found that where control was removed from the victims, such victims are less likely to use the justice system in the future (Moe, 2000, 2007; Zweig and Burt, 2006).

While champions of survivor choice are not limited to those referring to themselves as 'liberal feminists', they have tended to dominate discourse around survivor self-determination and the criminal justice system. This commitment is reflected in an engagement with liberal political philosophy, which is grounded in a discourse founded in individual rights, choice

and freedom. However, liberal feminism in general has been criticised for focusing on individual choice at the expense of an understanding of structural oppression. Some have suggested that such 'choice' is framed by a white western paradigm (Hudson, 2006) and fails to address the limitations of choice experienced by the less privileged women. By championing the self-determination of individual women, whilst also acknowledging wider power structures such as class, ethnicity, gender, sexuality, disability, migration status, religion – an intersectional approach may begin to address some of the limitations found in 'radical' and 'liberal' feminist perspectives. Where radical feminism prioritises a national, institutional response as paramount over individual desires, intersectional feminism seeks to elevate the power of marginalised individuals. Equally, whereas liberal feminist strategies focus solely on individual, self-determination, intersectionality seeks to locate those individuals and their needs in the context of wider power structures of oppression.

Although radical and liberal feminisms perspectives have dominated discourse on the uses of the criminal justice system in combatting DV, some sections of the movement have been critical of enlisting a criminal justice strategy at all. For example, Marxist feminists, black feminists, multi-cultural feminists and some intersectional feminists have referred to those strategies that rely on the police and prisons to manage the violence of perpetrators as 'carceral' feminism (Sokoloff and Dupont, 2005; Bumiller, 2008; Press, 2013; Sudbury, 2016; Sweet, 2016). Those critical of carceral feminism see the violence of the police and prison industrial complex as exacerbating violence and abuse through further brutalising perpetrators. While this is a valid argument, it cannot be denied that a 999 call is currently the only route to emergency,

physical intervention for survivors in danger. However, while the police certainly can and do save lives through their interventions, this chapter has illustrated the widely different impacts their intervention can have, depending on the strategy employed. This is all the more apparent when we consider how uniform or blanket policies may have had unintentionally negative impacts on black and/or working class women. Ultimately there is a paradox laden within the criminal justice system. For example, black, working class women may have no other resources to manage their abuse, other than by contacting the police. However, they and their perpetrator may face further oppression and violence from the state when the police arrive at their doorstep. Rigorous, intersectional examination of current policy would be able to elucidate this dilemma for black and working-class and other groups of marginalised women, providing an analysis that is currently missing from policy research into DV. This would provide a greater understanding of how the criminal justice system could be utilised to support and protect survivors when they need it, whilst also being sensitive to the way in which some survivors face additional vulnerabilities when coming into contact with such institutions. This thesis therefore actively acknowledges and is underpinned by the understanding that DV, and therefore DV policy, will be experienced differently by different communities based on their particular intersection with power relations. Looking at DV policy through the prism of intersectionality, therefore provides a framework for understanding and potentially differentiating service provision in a way that increases the power and self-determination of *all* survivors.

2.4 Chapter Summary

This chapter has explored the problem of DV, who experiences it and why it was the women's movement that led the call for change. The chapter then explored the origins of the women's movement and what went into the decision to move away from grassroots community organising and towards criminal justice reform. Since the 1970's numerous authors (Cretney and Davis, 1996, 1997a, Edwards, 1986, 1991, Dobash and Dobash, 1979) have criticised the response of the police, CPS and the court's handling of offences within this context. The subsequent sections discuss the proposed solutions to criminal justice inaction and their relationship to different sections of the feminist movement for criminal justice reform. Radical feminist support for pro/mandatory arrest and prosecution was discussed alongside its aims and associated problems such as increased risk to certain kinds of (black, working class) survivors as well as the reported increase in the arrests of women. Mandatory prosecution is similarly aimed at ensuring that removing choice and discretion will lead to an increase in DV prosecutions. Radical feminists have put forward various arguments for how this is to be achieved, whether through mandated testimony and victimless prosecution. However, liberal feminist positions have criticised both proposed solutions for removing choice from survivors and therefore 'mimicking the control and coercion exhibited by abusers' (Mills, 1999). Liberal feminist positions therefore champion survivor choice, even where this means ending a criminal case. The next chapter on policy will examine how these feminist positions and proposals have played out in policy in the UK.

Chapter 3

Policy Review

Having explored the problems associated with the criminal justice response to DV in the literature review, this chapter moves on to explore how policies in England and Wales have developed in response.

The first part of this chapter will establish how police practice shifted after DV was highlighted as an issue by feminists in the 1970s. Following this, the chapter will go on to discuss prosecutorial policy and practice as it changed in the 1990s. The subsequent section will discuss more recent policy changes and the national introduction of SDVCs and IDVAs, initiatives that are the subjects of research for this thesis. To provide further context, the following section will then discuss the origins of DV court specialism and some of the debates that surrounded their introduction. The final section will focus on the introduction of DV advocates.

3.1 Police Policy

As the chorus of activists, refuge residents and researchers increasingly reported a policy of non-intervention from the police, the government sought to investigate claims by establishing the Select Committee on Violence in Marriage 1974-1975. The endeavour would largely vindicate those calling for change, for example, evidence from the Metropolitan Police stated:

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

More importantly, the committee concluded that the policy of non-intervention failed to apply the law appropriately and agreed that change was imperative. Crucially, the committee directed Chief Constables' to review their practices in maintaining records, to enforce the law more effectively and to provide further training to police officers when responding to incidents of DV (Select Committee on Violence in Marriage, 1975: pp. 26–27). This was the first governmental acknowledgment of the inadequacy the criminal justice system response and was largely received positively by the feminist movement (Hester, Kelly and Radford, 1995).

After this, government acknowledgment of the need for change in practice towards DV continued to grow; however, material change on the ground was slower in coming. While it would be some years before national reform of the police response to DV, there were pockets of change occurring in some local police jurisdictions. In the 1980s, the Metropolitan Police recruited Domestic Violence Officers (DVOs) to be specifically assigned DV cases. The introduction of DVOs coincided with a growing number of women officers in the force, and it was women officers who were largely positioned in such roles (Hanmer, 1989; Commons, 1993: p. 6). On the one hand, deploying female officers to crime areas that largely affected women may have felt like a natural fit, especially for survivors. On the other hand, given that the police at this time largely dismissed DV as 'social work' and not 'real crime', assigning such cases to female officers may also suggest forces were utilising the presence of female officers to offload work they

did not want to do, by exploiting gender stereotypes (Jackson, 2012). However, as interest in the policing of DV grew, the Metropolitan Police established Domestic Violence Units (DVUs) in stations across the capital. Subsequently, units also opened in West Yorkshire, Manchester and Birmingham (Hester and Radford, 1996). Hague and Malos (1993) found that there were pockets of good police practice in some areas, but this was by no means consistent nationally.

Some feminists, such as Radford and Stanko (1994) remained sceptical about the 'belated recognition' of DV being considered a serious crime. They argue that the sudden shift in focus towards DV was at least partially motivated by the potential it offered in terms of policing crimes and communities in which the force were more interested. Indeed, British policing at this time took its lead from North American police departments who utilised violent crimes against women to manage inner city riots and civil unrest (Patel, 1999). Mama (1989) stated that the location of the first DVUs, which were concentrated around the centres of the Brixton and Tottenham uprisings of 1981 and 1985 respectively, evidenced the police motivation to find alternative means to control these communities.

It is probably fair to say that the police decision to shift attention towards DV was not motivated by them becoming convinced of their own complicity in gendered injustice. But it is important to acknowledge that as the force sought to adapt during its own crisis in legitimacy in the 90s, local feminist activism was working tirelessly to highlight DV as a serious crime whilst also making local police forces accountable (Patel, 1999). The impetus for change was therefore the product of multiple interests that may have overlapped, intersected or

contradicted one another. Whilst local feminist activism will have given such groups a foothold on local policy decision making, the sudden responsiveness of the police may have been motivated by their own interests in gaining control of communities that had challenged their authority.

The year following the 1985 uprisings in Brixton and Tottenham, the Metropolitan Police Internal Working Party Report gave its first endorsement of multi-agency partnership on DV. The report was never officially made available to the public, but leaked copies of the report indicated that the two principal recommendations were to adopt a pro-arrest policy; and to create multi-agency partnerships with both statutory and community based organisations (cited in Patel, 2003). Encouraged by these policy changes at the local level, the Home Office issued a public Circular entitled 'Domestic Violence', providing guidance to Chief Officers nationally (HOC, 1990). The Circular gave a number of instructions to all police departments, including: to liaise with other agencies; to consider establishing DVUs; to devise a policy on DV; to improve the recording of incidents; to direct officers to avoid reconciliations; to ensure officers are aware of their power of arrest and to respond to every incident with some form of positive action; to consider charging the offender; and to investigate the reasons why the victim may have withdrawn her statement (HOC, 60/1990: pp. 9-10).

While the Circular gave direction to officers on a number of practice points, arguably the most important was the recommendation for 'positive action'. The wording here might not be interpreted as a recommendation for mandatory arrest, but 'positive action' has over time come to be associated with pro-arrest strategies. Both the leaked Internal Working Party

Report and the Home Office Circular indicate a growing interest in arrest and charging as the desired method of responding to DV.

However, the Home Office Circular only asked Chief Officers to 'consider' such recommendations. Over time directives became more emboldened, with officers being permitted to arrest offenders even if the victim did not want this. Maria Wallis (then the Association of Chief Police Officers or ACPO spokesperson on DV) called for police departments to review their policies and stated 'Officers will be disciplined if they can't justify why they haven't arrested offenders in domestic violence cases' (Jenkins, 1999: p. 10)

While Wallis' recommendations were a significant step towards pro-arrest, 'positive action' would not be formally endorsed by ACPO until 2004. The biggest impact on police practice on the ground appears to have been related to the introduction of the Key Performance Indicator (KPI) in 2005, which set arrest targets at 80% for DV incidents. Hoyle concurs, describing the influence of the KPI in Thames Valley Police: 'The arrest rate increased from 32% in the year 2003-4 to 58% in the following year [...] for cases involving domestic violence between intimate partners, the arrest rate has increased to approximately 84% in cases where a criminal offence has been alleged' (Hoyle, 2008: p. 325). A later 2008 review of SDVCs found that in 11 of the 23 courts under examination, the police were making an arrest in an average of 80% of DV cases reported (Home Office, 2008b).

Police responses to DV have certainly shifted since the issue was first raised in the 1970s. However, the process of reforming the police response from one of indifference to one

based in a woman's right to police protection from male violence was, and continues to be slow (Hall and Whyte, 2003). The slowness of change amongst the police is by no means restricted to violence against women committed in the home, but has also been generally true of crimes committed in the domestic or private sphere, such as sexual violence or child abuse. As discussed in the introduction to this thesis, crimes such as these have not traditionally been considered the domain of the criminal justice system, being seen as 'private' issues, and therefore not in the public interest to pursue (Pahl, 1985). The delineation of social life into the spheres of the family, employment, and the state has functioned to create rigid divisions between the private and public sphere, with problems occurring in private being shielded from public view. Those consigned to the private sphere (mostly women and children) are therefore vulnerable to abuse, which is then reinforced by their invisibility to the outside world (Radford and Stanko, 1994). This analysis of the private/public dichotomy provides further context for the reasons behind the slow pace of change in policing, as change can only be brought about through the transformation of the very foundations upon which such institutions were built.

For feminists fighting for a better criminal justice response to survivors of DV, police inaction was a symptom of their patriarchal priorities, which was facilitated by the institutional discretion given to officers (Radford and Stanko, 1994; Shepard and Pence, 1999; McMahon and Pence, 2003). The advent of 'positive action' or pro-arrest policies was therefore seen as a remedy that would go some way towards reconfiguring police priorities, refocusing them on the private sphere. Compelling officers to make arrests in cases of DV would (in theory) ensure that survivors were provided with a

police service upon which they could rely. It was hoped that such institutional acknowledgment of the seriousness of DV as a crime would also filter down and influence individual officer attitudes (Shepard and Pence, 1999).

However, as discussed above, it took some time before pro-arrest policies were being executed in large numbers on the ground, and there is no evidence to suggest that KPI's have shifted police attitudes towards survivors of DV generally. However, some legislative changes in the early-1990s can be said to have significantly shifted women's position before the law. In 1991 the marital rape exception was abolished (Radford and Stanko, 1994). The very existence of such an exemption was vociferously campaigned against by feminist groups who utilised it as proof of the justice system's protection of marriage as a patriarchal institution (Radford and Stanko, 1994). Furthermore, around this time there were positive developments for women who had killed abusive perpetrators. From 1992 onwards, as a result of the efforts of groups such as Southall Black Sisters, it was increasingly accepted that women who killed their abusive partners would be permitted to use the defence of provocation as grounds for reducing charges from murder to manslaughter (Ashworth, 1988; Simester and Sullivan, 2000; Smith and Hogan, 2000). These legislative changes could be considered significant victories for feminist activists and organisations.

3.2 Prosecution Policy

As with research into the prosecutorial response discussed in the literature review, while policy-makers focused on police responses to DV from a relatively early stage, attention to the role of the courts has been slower in coming. The increase in the number of perpetrators being arrested may have led to an upsurge in cases being processed by the courts and prosecutorial practice eventually gaining more notice. It was not until 1993, however, that the Crown Prosecution Service (CPS) issued its first public statement on how it would deal with crimes of DV. The statement recognised that the nature of DV necessitated additional considerations to be made in the prosecution process. These considerations mainly focused on the procedural response to victim withdrawal, and consisted of a set of procedures to be followed if a survivor disengaged from the process. Crucially, the guidance asked prosecutors to consider whether it was in the public interest to prosecute, even where the victim did not wish to continue. The statement highlighted the potential use of Section 23 of the Criminal Justice Act 1988, which gives provision for a victim's statement to be presented in court if the CPS could prove beyond reasonable doubt that the victim was unable to give evidence due to fear (CPS, 1993). The policy of pursuing prosecution based on evidence other than the survivor's statement was also being championed by parts of the women's sector, with Nicola Harwin, CEO of the Women Aid Federation of England, stating:

The state needs to take on greater responsibility for the gathering of evidence, and take responsibility away from the domestic violence survivor. In other countries where more evidence is collected (recording of 999 calls, photographs of injuries and damage to property, for example), prosecution is often carried forward without her evidence, and this has led to an increase in convictions, and reduced homicide rates (cited in Ellison, 2002).

While there were calls from the CPS and feminist organisations to increase 'victimless prosecutions' at this stage, a combination of ambiguity in the law and institutional ambivalence meant that application to use 'res gestae' evidence was rare. Research conducted in 1995 found that victim withdrawal was tantamount to discontinuance, even where other evidence was available:

In 29 of 36 cases where the complainant withdrew and the case was discontinued, there was other evidence, a confession or the statement of an independent witness that could have been used to continue the prosecution (Burton, 2000, p. 183).

Correspondingly, in 1998 Her Majesty's Crown Prosecution Inspectorate (HMCPSI) looked into the response of the CPS to DV and found that while there were high discontinuance rates for DV offences, Section 23 was rarely used to remedy this (CPS, 1998).

As well as providing guidance on proceeding with prosecutions without a victim, the 1993 CPS statement also recommended that prosecutors cautiously consider whether to compel a victim to give evidence. It stated the prosecutor ought to consider the safety implications for the victim but concluded that 'the Crown Prosecutor should take all these considerations into account before deciding to abandon a prosecution' (CPS, 1993: p. 2). In 2001, the CPS revised its

earlier statement on DV, this time using more emphatic language. On the issue of charge reduction it stated:

The charges in domestic violence cases should reflect the seriousness and persistence of the defendant's behaviour, the provable intent of the defendant and the severity of the injury suffered by the victim. They must give the court the power to impose a suitable sentence and must help us to present the case clearly and simply (CPS, 2001).

Further, the statement provided more clarity on over-reliance on victim statements:

We will not automatically assume that calling the victim is the only way to prove a case. We will actively consider what other evidence may be available, either to support the victim's evidence or as an alternative to the victim's evidence (CPS, 2001: p. 1).

Radical feminist perspectives that championed either compelling survivors to take the stand, or strategies that relied on evidence other than the victim's were discussed in the last chapter (Hanna, 1996; Shepard and Pence, 1999; Allen, Larsen and Walden, 2011). It could be said that such discourse was impacting on prosecutorial policy by this point – illustrated by the statement from Nicola Harwin, from Women's Aid, and the following contribution from Sandra Horely (CEO of the national DV charity Refuge) to the House of Commons Select Committee on Domestic Violence:

Hard as it is, there may be times when compelling a woman to give evidence against her abuser will be necessary. It may be the only way that prosecution will be brought. I say this on two counts: first, it provides an example to abusers that they will not get away with beating their partners up; and I have also known women who are relieved not to have to bring a prosecution themselves. It removes the onus of a prosecution from the victim. If we see domestic violence as a crime and treat it as a crime, not a civil matter, then the violence will decrease (Home Affairs Select Committee on Domestic Violence, 1993: p. 126 para. 2).

National acknowledgment in the form of government Circulars and institutional guidance from the CPS indicates that efforts to encourage the courts to take DV more seriously were beginning to work. However, acknowledgment at the policy level was having limited bearing in practice with Dobash and Dobash commenting that:

For the women who have been physically abused in the home by the men with whom they live, the past two decades have seen both radical change and no change at all (1992: p. 1).

In terms of CPS practice, victim withdrawal at this time was synonymous with case discontinuance, and the assumption of withdrawal apparently led many prosecutors to pre-emptively advocate for the lessening of charges (as discussed in the literature review). As such, whilst this period saw an initial recognition of the argument for treating DV differently, there was little in the way of effective direction to ensure this became the universal practice. Increasingly however, multi-agency partnerships were being viewed as the go-to solution for policy implementation issues. The House of Commons Home Affairs Committee Inquiry into Domestic Violence (1993) and the published Government Reply (1993) reported the founding of Inter-Departmental Ministerial and Officials Groups on Domestic Violence which in turn, lead to the issuing

in 1995 of another Circular – 'Inter-Agency Co-Ordination to Tackle Domestic Violence' (Home Office, 1995). The increasing emphasis on inter-agency partnership as the solution to policy implementation laid the foundations for more recent initiatives such as DV advocates and specialist courts, both founded on the principles of multi-agency practice.

3.3 Recent Legal and Policy Changes in Domestic Violence

By the late 1990s, those arguing for legal parity before the law had made significant gains in terms of legislative and policy changes. However, while mainstream feminist organisations championed a criminal justice strategy on DV, some feminists and criminologists were critical of the level of investment in criminal justice remedies. Criticism notwithstanding, the Labour administration from the late 1990s onwards saw significant innovation and investment in new criminal justice initiatives on DV, with the introduction of Independent Domestic Violence Advocates (IDVAs) and Specialist Domestic Violence Courts (SDVCs). Before these initiatives were launched nationally, some localities such as in Leeds and Hammersmith, had established innovative criminal justice partnerships, which aimed to solidify the growing trend of multi-agency working on DV.

In 2005, the CPS issued a further revision on their DV policy. Whilst a great deal of it had not changed since the 2001 revision, rapid developments in legislation and national policy required clarifying amendments to their approach:

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

Here we begin to see some of the language around DV becoming more assertive from the CPS, whilst also acknowledging that 'effective' work on DV often meant collaborating with organisations outside the criminal justice system.

A significant legislative step in transforming the court process to be more assistive to survivors' experience came with the introduction of special measures in the Youth Justice and Criminal Evidence Act 1999 (YJCEA). This legislation gave provision for 'special measures' for victims and witnesses who were considered vulnerable or intimidated. This legislation would later become a critical component of SDVCs and meant that advocates were able to offer survivors more substantial support in court and therefore assuage some of the most common fears survivors had for giving evidence.

Initially the legislation referred to witnesses under the age of 18, those with a physical or mental disability, victims of sexual assault and those who had witnessed crimes involving a blade or firearm. However, in 2005 the CPS policy clarified that 'intimidation' could extend to cases of DV if the court ruled that the quality of the victim's evidence would be compromised by fear of the defendant. The most important features of the Act specified pre-trial visits, separate entrances and waiting areas, screens obscuring the defendant's view of the victim, giving evidence via a video-interview or access to an alternative location to give evidence via video-link. The acknowledgment of survivors of DV as 'Vulnerable or

Intimidated Witnesses' (VIW) was a significant shift in institutional consciousness about the dynamics of DV. Previously, prosecutors had displayed ambivalence towards the reasons for survivors' reluctance to engage in proceedings (Cretney and Davis, 1997a). This meant that the response largely amounted to reducing charges, allowing case discontinuance and minimising the amount of time and resources spent on such cases, as discussed in the last chapter. This legislation actively acknowledged survivors as vulnerable witnesses who may have been threatened out of giving evidence. Aside from this theoretical shift, the provision of practical measures to help mitigate survivors' fears suggested a concerted effort to adjust the criminal justice process with the survivor experience in mind.

While this could be considered a significant success for feminist organisations that had been campaigning for special consideration to be given to the needs of survivors, research suggests that again practice has not kept up with policy. In 2006, Burton *et al.* undertook a review of how VIWs were identified. The study found that DV victims were rarely deemed vulnerable and instead more attention was paid to managing expectations that the survivor would withdraw, rather than address any support needs throughout the process. This led the authors to conclude that survivors of DV ought to be given VIW status automatically, thereby limiting court discretion (Burton *et al.*, 2006).

There is a persistent theme of gains made at the governmental and institutional level not being matched in practice and on the ground. The consistent failure of police and courts to implement new DV policy by themselves appears to have given

rise to arguments in favour of partnerships and multi-agency initiatives, such as through SDVCs and IDVA services.

3.3.1 Specialist Domestic Violence Courts

The first SDVC in England and Wales was established in Leeds in 1999. Around the same time as local partnerships were founding the first SDVCs, the possibility of court specialisation was being tentatively explored by the government. In 2001, Sir Robin Auld conducted a review of criminal courts, in which he investigated SDVCs in the UK as well as in the USA (where the concept had originated). While he made no specific calls for SDVCs to be introduced in the UK, he did note:

Like other 'restorative' approaches that I saw in North America, its success appears to be, not so much in devising alternative procedures, but in gathering together the resources of a number of concerned agencies and focusing minds on the issue (Auld, 2001).

Sir Auld did commend the efforts being made towards multi-agency working, but left the question of national court specialisation open.

Growing interest in SDVCs continued with *Justice For All*, the government's White Paper for criminal justice reform in its statement said 'we will consider the scope for introducing a greater degree of specialisation in the court system' (HMSO, 2002). This paper initiated the first significant move to put victims at the centre of the criminal justice process. Three months later the framework paper *Narrowing the Justice Gap* was published, based on the premise that the 'justice gap' was related to attrition rates, with only a fifth of crimes being

reported to police (Home Office, 2002). One aspect of the paper focuses on encouraging better practice with regards to victims, and multi-agency co-ordination at a local level. It is this particular focus on victims and multi-agency working, which saw moves towards court specialism.

Then in 2003, the government's consultation paper *Safety and Justice* acknowledged that DV required special attention, highlighting SDVCs as having the potential to achieve this:

At present, courts deal with domestic violence and its consequences in a range of settings, both civil and criminal. The government believes that domestic violence requires focused attention, and has made a manifesto commitment to consider whether specialist domestic violence courts would offer more effective protection for victims (Home Office, 2003).

Following this, the Domestic Violence, Crime and Victims Act was introduced in 2004. The aim of the Act was described by the Criminal Justice System thus:

The Domestic Violence, Crime and Victims Act 2004 recognised that the continuum of the Criminal Justice System often failed victims whose cases were brought to court. This resulted in extraordinarily high attrition rates amongst domestic violence cases. The domestic violence Crime and Victims Act 2004, seeks to redress this by introducing a series of new measures which improve the effectiveness of protection offered to victims and Police Powers to arrest perpetrators. The measures will be rolled out over the coming year. The Police and the CPS are also taking a more proactive approach to prosecution, even where the victim does not want to press charges (Home Office, 2005: p. 27).

In conjunction with the Act, the government published the National Domestic Violence Delivery Plan in 2005. Although the criminal justice system was not its sole focus, it was the subject of a large portion of the report's recommendations.

Those objectives concerning the justice system included: increasing the reporting of DV; increasing sanctions or detections for offences of DV; and lastly increasing the number of offenders being brought to justice (Home Office, 2005: pp. 25-26). To that end, the Delivery Plan announced the introduction of two initiatives: SDVCs and IDVAs. Feminists and DV service providers responded in a number of different ways to the Act and its accompanying Delivery Plan:

Women's Aid welcomes the aim of the Domestic Violence Crime and Victims Act 2004 to strengthen legal protections for victims of domestic violence. It includes important developments that will strengthen power of the police and the courts to respond more effectively to domestic violence, and it gives a clear message that domestic violence is a crime and will not be tolerated (Women's Aid, 2004).

Although Women's Aid identified that taking the power of prosecution out of women's hands was a potential disadvantage, they also identified it as advantageous as it 'relieves the woman herself of the burden of taking action.'

Conversely, Aisha Gill and Baljit Banga from Newham Asian Women's Project were critical of the Act's emphasis on criminal justice remedies at the detriment of specialist services for women of colour. Their experience in Newham was that black and minority ethnic (BME) women face significantly more barriers to support than white women, and that a lack of resources often makes the road to accessing support far more strenuous. Gill and Banga suggest that criminal justice remedies and initiatives for high-risk survivors (such as IDVAs) were being invested in at the expense of specialist community based services and refuges, which were increasingly being 'shut out' through decommissioning (Gill and Banga, 2008). The Act's investment in criminal justice

initiatives was for some reflective of New Labour's 'tough on crime, tough on the causes of crime' platform, promoted after its election in 1997 (Sudbury, 2016). Some criminologists have been critical of Labours extension of the neo-liberal 'law and order' project, which has gone hand in hand with the destruction of the welfare state (Young, 1999).

3.3.2 Domestic Violence Courts Internationally

The implementation of courts that deal with specific kinds of offending was introduced with those crimes that were not being effectively dealt with by traditional adversarial approaches. One feature that is common with specialist courts is that the types of offences they frequently deal with often feature additional welfare considerations for offenders and/or victims. For example, judicial specialism in the Global North has typically resulted in three types of dedicated court; drug courts; community courts (usually dealing with anti-social behaviour and sex work); and DV courts (Plotnikoff and Woolfson, 2005; Donoghue, 2014).

All of these courts represent a significant shift in judicial practice by moving away from simply processing cases according to law to holistically improving outcomes for victims, communities and/or defendants (Plotnikoff and Woolfson, 2005). However, while specialist courts in all their forms aim to take a 'problem-solving' approach, DV courts are distinct in their aims and rationalisation. Whereas drug and prostitution laws, for example, may have been ineffective through *over*-enforcement, DV has historically been *under*-enforced by judiciary (Plotnikoff and Woolfson, 2005). This is reflected in the de-emphasis of adversarial methods in drug

and community courts with treatment programmes and support services being encouraged in its place. Conversely, the principal objectives in most DV courts are victim safety and perpetrator accountability.

The origins of DV court specialisation are in the United States, with the first court opening its doors in Cook County, Illinois in the early 1980s (Eley, 2005). Keilitz (2000) estimates that by 2000, more than 300 judicial systems across the States had specialized structures, processes, and practices to handle DV cases. Over time the idea has been adopted internationally in a variety of ways.

In the US, designs range from criminal only courts, civil only courts, combined civil and criminal courts and 'problem-solving' courts. 'Combined' courts, were born out of the frustration survivors experienced in having their cases heard in multiple different courts that did not communicate with each other regarding orders, sanctions, or safety measures (Cook *et al.*, 2004). Problem-solving courts may be criminal, civil or combined but are unique in their philosophy. Such courts aim to move beyond traditional sanction and punishment approaches to dispensing justice through a model of 'therapeutic jurisprudence' (Donoghue, 2014).

While the reasons for specialist DV courts may have been to deal more effectively with a previously under-enforced crime, the political context in which they have been introduced has given rise to criticism. In the 1980s, when the United States introduced the first specialised court systems, the penal policy typifying this period is generally presented as determined to increase the size and impact of the penal state at the same time as shrinking the welfare state (Garland, 2001). Ronald Regan's

first term as president marks the shift towards a neoliberal ideology of governance, which is associated with great focus on free-market policymaking, pro-corporatism, privatisation, and most significantly, the transfer of public services to private enterprise (Bumiller, 2008).

In her commentary on 'carceral' feminism, Elizabeth Sweet, argues that the movement towards mass incarceration and immigrant detention has its roots in neoliberal economic structures. She posits, for example, that the growth and privatisation of many prisons in the United States has happened in conjunction with policies that tend to increasingly criminalise people of colour, and has made millions of dollars for private interests. Sweet maintains that private prisons are increasingly the driving force of the American economy, being one of the biggest employers nationally as well as exploiting prison labour through extremely low pay (Sweet, 2016). While by no means on the same scale, the UK has also witnessed an increase in privately run prisons and detention centres over this period (BBC, 2013; Girma *et al.*, 2015).

The increase in incarceration in the States has been linked to particular effects of such neo-liberal policies, which some argue has increased social stratification and a generalised sense of insecurity, leading to more regulation of the least powerful and most marginalised such as the working class and people of colour. Criminologist David Garland posits that this dramatic upturn is a multifaceted response to both a changing political climate and an evolving logic of penal reform. He argues that such a climate brought about a 'culture of control' which was grounded in conceptions of the essential 'otherness' of the criminal and highly dependent on mechanisms of social segregation (Garland, 2001).

The expansion of penal management, occurring alongside the shrinking of welfare provision, appears to have had a significant impact, with those who might have otherwise been supported by other state or voluntary institutions instead appearing in court. Referred to as the 'punitive turn' by criminologists, some argue that the USA and UK moved away from a welfare approach to poverty and towards penal management around this time (Bottoms, 1995; Garland, 2001; Sokoloff and Pratt, 2005; Wacquant, 2009).

Feminists arguing for criminal justice reform in the 1980s therefore found themselves taking part in a very different political discourse compared to the beginning of the movement a decade earlier. The changing political context has led to somewhat paradoxical gains and challenges for the feminist movement against DV. On the one hand, the criminalisation of sexual assault and DV has been one of the biggest victories for feminist activists and criminologists. After centuries of deliberate disregard for the private abuses of women, police and courts were beginning to be held accountable by feminist activists who were simultaneously founding rape crisis centres and refuges (Richie, 2012). Pioneering feminist criminologists also provided the empirical evidence that successfully influenced major policy and legal changes with regards to violence against women (Chesney-Lind, 2006; Schecter, 1982). However, this was being achieved through an uneasy alliance with an increasingly energised right-wing agenda that was seeking to introduce penal management to social problems as an alternative to welfare. In essence, the wider interests of social control of the political right complemented those elements of the feminist movement seeking management of DV through harsher penalties.

For some feminists, neo-liberal economics exaggerate power imbalances, and therefore further entrench rather than address those power imbalances between men and women (Sokoloff and Dupont, 2005; Bumiller, 2008; Davis, 2011; Richie, 2012). Further, there are those within the feminist movement who identify the roots of violence against women to be inextricably linked with the violence of the state. For Angela Davis, the brutality and violence institutionalised by American police forces, the prison industrial complex and imperial warfare overseas are both the foundation for, and an aggravating factor in violence against women in interpersonal settings (Davis, 2011). Wendy Brown (1995) agrees, stating that calls for wholesale criminal-legal solutions cast the law in particular and the state more generally as neutral arbiters of injury rather than as themselves invested with the power to injure. For Brown, this hegemonic victim-perpetrator discourse is productive in that whilst the state portrays itself as against violence, it holds the monopoly on legitimate, legalized violence.

For similar reasons, the 'gender mainstreaming' of DV has been the source of significant disquiet amongst feminists over the last 30 years. Some celebrate the victory of forcing women's rights onto the political agenda: where previously feminists were fighting for recognition, now the arguments regarding a woman's right to safety are taken for granted (Shepard and Pence, 1999; McMahon and Pence, 2003; Lewis, 2004; Stark, 2007; Hanna, 2009). On the other hand, others point to the sacrifices that have been made in allying with the state to achieve such goals, particularly where progressive feminists may have unwittingly supported reactionary policies

that further entrench inequality (Sokoloff and Dupont, 2005; Richie, 2012; Press, 2013; Incite!, 2014; Sudbury, 2016).

Patel (1999; 2003) warns that the adoption of US style criminal justice partnerships in the UK may lead to the co-option of feminist values. She cites the research of Pearson *et al.* (1992) on community partnerships with police on local crime, which found that 'structural subordination' was a common feature of partnerships with vast power differences. In practice, this meant that agencies might enthusiastically support a multi-agency initiative, set and dominate agendas and then withdraw from, or override it, regardless of the problematic implications for other agencies, or service users (Pearson *et al.*, 1992). Patel concludes that the power dynamics between the women's sector and the police would be far from equal, and is critical of the conciliations that feminist organisations were already making to maintain partnerships with state agencies. For Patel, unless the police were prepared to open their policy and procedures to public scrutiny, power would remain with them and the cost for feminist organisations would be too high (Patel, 1999; Patel, 2003). Similarly, criminologist Adam Crawford maintains that local monitoring groups offer one of the few avenues through which police operations can be opened up to public scrutiny, although he argues that independence from the police is key to this (Crawford, 1999).

There is a growing concern that neo-liberal marketisation has reinforced the development of penal management of social issues over welfare. However, some criminologists have challenged the notion that voluntary sector partners have uncritically accepted the demands of the state. Writing on penal voluntary organisations, Philippa Tomczak found that

while statutory funding did influence the activities of voluntary partners, some within the sector made the active decision to disinvest from statutory funding to ensure their independence as a critical partner to the state. Tomczak concludes that voluntary sector partners working in penal management have responded to political changes with a variety of approaches that still maintain their position as stakeholders and partners to statutory institutions (Tomczak, 2014).

While there is an on-going discussion over the efficacy and provenance of criminal justice initiatives in the States, they were nonetheless exported internationally and have influenced UK policy on DV enormously. To understand how intersectional, feminist policies could be implemented in the UK context, it is important to establish what the current terrain is with criminal justice initiatives nationwide.

3.3.3 Bringing Domestic Violence Court's to the UK

The announcement of a national rollout of SDVCs in the 2005 Delivery Plan was largely influenced by the introduction of pilot sites, which were then the subject of a number of evaluations. The first SDVC opened its doors in Leeds in 1999, followed by Cardiff in 2001, then West London and Wolverhampton in 2002 with later pilots being introduced in Derby, Caerphilly and Croydon in 2004. Whereas early feminist research into the criminal justice system focused on the inadequacy of the police and courts, achievements made in policy and practice provided new terrain for empirical investigation. Focus therefore shifted towards the evaluation of these new strategies, which had been devised to reform the

justice system. In 2004, feminist academics Dee Cook, Mandy Burton, Amanda Robinson, and Christine Vallely were commissioned by a number of government agencies to evaluate five of these new SDVC sites (Leeds, Cardiff, Wolverhampton, West London and Derby) with a potential national roll out in mind.

The evaluation identified a number of SDVC designs within the sample, with some clustering DV cases to be heard on one particular day each week, and others instigating a fast-tracking system, which identified and prioritised DV cases. This 2004 evaluation was used as the basis of the national rollout of SDVCs. Before assessing this research in greater detail, however, it would be helpful to review the individual evaluations that had taken place beforehand.

Wolverhampton SDVC, established in 2002, underwent an evaluation of its effectiveness in 2003. Cook, who led the evaluation, found that the Wolverhampton SDVC was clustering DV cases to be heard together and that survivors received high quality, trained support throughout the process. In particular Cook identified that the aim of the initiative was to improve outcomes through more effective multi-agency working and that practitioners in Wolverhampton were seeking to learn from best practice established in the Leeds Inter-Agency Project (Cook, 2003). In terms of positive outcomes, the evaluation reported that there had been an increase in reports of DV and repeat offences had decreased by 15%. However, there remained areas that had not been so successful:

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

Cook reported that there remained a high level of retraction statements (44%); on-going issues with charge reduction; only 13% of defendants pleading guilty and very low numbers of survivors attending court, with only six attending during the period under evaluation (Cook, 2003).

Conversely, Caerphilly experienced an increase in the number of cases progressing through court, with attrition rates falling from 32% to 25%. Furthermore, it saw an increase in those pleading guilty from 25% to 32% and crucially saw a decrease in victim retraction from 27% to 8% (Vallely *et al.*, 2005). It was concluded that the role of SDVC coordinator was crucial in acting as a single point of contact for police and the IDVA. The evaluation saw the role of the IDVA as most important:

The advocate facilitated support for victims, enabled supportive retractions, informed decision-making (such as bail conditions) and availability of police information to the court. In liaising between the victim, police and CPS, the advocate was able to provide better, earlier information so that prosecutors were better able to make discontinuance decisions and build stronger cases (Vallely, Robinson and Burton, 2005: p. 4).

However, it was also noted that practitioners interviewed felt that the IDVA role should be more independent, rather than being an embedded part of the court apparatus, as this would increase the confidence of survivors going through the process.

Like Caerphilly, Croydon SDVC also saw a dramatic increase in the number of cases being processed. Here, attrition reduced from 36% to 20% and the number of defendants found guilty at trial increased from 0% to 19%. Interestingly, unlike other SDVC models at this time, Croydon saw a significant increase in the number of successful victimless prosecutions. The evaluation found that this was largely due to extensive training of criminal justice staff; the increase in evidence gathering was also found to have increased the number of guilty pleas. As Vallely *et al.* explain: 'proceedings continued [victimless] in nearly a third of cases and in almost all those cases, the perpetrator entered a late guilty plea, or was found guilty' (2005: p.18). The provision of an advocate was crucial in providing support regardless of the survivor's decision, and this component also ensured that safer decisions could be made around bail application and the most current information was generally provided to the court (Vallely *et al.*, 2005). The joint evaluation of Caerphilly and Croydon provided early insight into the different models for SDVCs, with both viewing victim advocacy as being central.

In 2004, Cook *et al.* were called upon to lead a large-scale evaluation of five pilot SDVC sites nationally. The report was the culmination of several months' research, using quantitative data and interviews with SDVC staff. The report put forward criteria for assessing the effectiveness of SDVCs. These included: evidence gathering; guilty pleas; bail decisions; sentencing; special measures; and witness summons. As discussed earlier, the level of evidence gathered by police and the courts was seen as an indication of the criminal justice system's commitment to assume responsibility for conviction as an institution. Cook *et al.*'s report suggests that even where specialist court systems were being established, justice

operatives were still failing to increase evidence gathering. Further, despite the fact that 78% of survivors were reported to have suffered injuries from the incident, additional exhibits proving this (such as photos, medical statements, or forensic evidence) was found in only 30%, 12% and 11% of cases respectively (Cook *et al.*, 2004). Although (as discussed in the section on prosecution policy) there had been a number of CPS policy directives suggesting that prosecutors should use supporting evidence additional to the survivor's statement, in practice this was rarely done, even in a context with a DV specialism.

However, where the specialist systems appeared to be lacking in evidence gathering, they were making gains in guilty pleas. In their sample across all SDVC sites, half of all defendants initially pleaded not guilty to all or some of the charges. By the trial, the number of not-guilty pleas halved. This may be because over time the focus of the court and its specialism led defence solicitors and defendants to reflect on their position and reconsider their options. The report went on to suggest that although guilty pleas indicated that the models were encouraging more perpetrators to accept responsibility for their abuse, the subsequent sentencing may have undermined these gains.

Cook *et al.* (2004) found that sentencing was often as lenient as non-specialist courts, with nine out of the sixty-nine convicted defendants receiving a custodial sentence, and most cases being disposed of by way of fines and monetary penalties (these two facts are often related, as guilty pleas are generally expected to curry leniency with judges and magistrates, with Cook *et al.* agreeing that this can help lessen delays). Although the report made the suggestion that more provision should be

made for perpetrator programmes, noting the low level of custodial sentences suggests that this in itself was being used as an indication of good or bad sentencing. While lenient sentencing appeared to suggest that magistrates might not be holding perpetrators fully accountable, there were notable advances in the area of charge reduction, with this occurring infrequently (less than 15%) across all the SDVC sites (Cook *et al.*, 2004). However, the study also found there was variation in outcomes based on ethnicity. Compared with defendants of colour, white defendants were more likely to have their charges reduced, and were more likely to be given a conditional discharge. This finding may give credence to those arguing that short-sighted criminal justice measures on DV have been pursued at the expense of other forms of inequality (Sokoloff and Dupont, 2005).

While Cook *et al.*'s evaluation found those indicators relating to perpetrator accountability were somewhat mixed, victim satisfaction seemed to be high with most feeling that the support they had received as part of the SDVC process had increased their confidence and willingness to participate in the justice system. This may indicate that a generally smoother and more supportive system through each stage is more important to survivors than, for instance, the eventual sentence. To some extent, this might be supported by evidence that the SDVC was making bail decisions that were better tailored to the survivor's circumstances. However, any additional attention to detail given in bail hearings did not appear to be followed through in practice, with courts generally failing to follow up breaches of bail.

Although survivors generally spoke highly of the support they had received, withdrawal rates remained as high as 50%. It is hard to know what the reason for this is, especially since one

of the earlier evaluations did see improvements in this area. However, it does seem that increased support and information alone may not be enough to encourage a survivor to give evidence, and her reasons for not wanting to do so may just be more complicated than having someone there to support her or having the opportunity to give evidence behind screens. Victim withdrawal, despite enormous efforts, remains persistently high, and may require a more nuanced understanding of the reasons behind it (Robinson and Cook, 2006).

With regards to survivor engagement in the court process, the evaluation also examines the use of witness summons. The evaluation found that there was infrequent use of witness summons across the all sites, with prosecutors being reluctant to employ them. The evaluation cited earlier research, which suggested that the use of witness summons was not associated with increased attendance at court; and where victims were physically compelled, they rarely took the stand or gave effective evidence (HMCPSI and HMIC, 2004). Despite this, the authors recommend that witness summons ought to be considered; citing comments made by respondents who stated that some survivors felt a summons took the responsibility for prosecution away from them. The authors were very keen to stress that witness summons should only be considered where a full risk assessment has been made, and felt that in the context of good multi-agency practice, they could be used constructively and safely. However, the evaluation only mentions a caveat to the use of witness summons with regards to risk, implying that where the risk is considered low enough, survivors should be compelled to give evidence.

The evaluation does not make reference to any other legitimate circumstances in which survivors should be supported in their decision not to attend court. This reveals a latent 'radical feminist' approach, prioritising the greater good of conviction over survivor preference. This is significant because the findings and recommendations made by this evaluation were the basis for a national rollout of SDVCs across the country, meaning the report's priorities and approaches have had a national impact. The lack of focus on survivor autonomy in the early days of the programme therefore provides justification for re-examination according to the premises of an intersectional theory centring survivor autonomy.

The general conclusions of Cook *et al.*'s report were that great improvements had been made, especially in the context of the historical response to DV by the criminal justice system. Nonetheless, the authors gave a number of recommendations for a national rollout of the SDVC programme: that the police and courts focus on improved evidence gathering and risk assessment; that dedicated, DV trained prosecutors be introduced in all SDVCs; that all SDVCs ensure they have the necessary facilities and infrastructure (separate waiting areas, screens); and that advocates are made available to support all survivors through the process. The National Delivery Plan then harnessed these recommendations and initiated the national rollout the following year in 2005.

By 2008, with 23 SDVC systems established, the CPS initiated a further review of their workings. This review measured outcomes against the 2005-08 Public Service Agreements (PSAs): to bring more perpetrators to justice; to improve support and satisfaction; and to increase public confidence in

the CJS (2008: p.4). Significantly, the CPS review was also able to compare SDVC sites with non-specialist courts, linking them by area. The review found that the average conviction rate in the SDVC sites was slightly higher than ordinary magistrates' courts at 66% and 64% respectively. However, there was wide variation from site to site, with one SDVC reaching as high as an 80% conviction rate (Home Office, 2008: p. 16).

Where the data indicated wide variation in protection outcomes, the review's qualitative methods were able to provide potential explanations for the successes experienced by some of the sites. The review concluded that those sites that were experiencing the highest conviction rates also had strong multi-agency partnerships; effective systems for identifying and clustering cases; IDVAs available that focused on supporting survivors through the process; well trained staff that were SDVC dedicated; and the availability of perpetrator programmes (Home Office, 2008: p. 6).

3.3.4 Independent Domestic Violence Advocates

Domestic violence advocacy is far from a new concept. In the early movement against DV it was common for survivors – often meeting in a refuge – to support each other in meetings with housing officers or the police, offering their personal experience and skills as a form of mutual aid (Schechter, 1982). Such work was also undertaken by feminist activists and volunteers, and was an embedded part of refuge organisation and outreach in communities.

As awareness grew of the multifaceted institutional barriers survivors face when attempting to end abuse, grassroots

advocacy groups began to make more demands of the state to protect women. Over time, focus shifted from consciousness raising groups and collective activism to systems advocacy. Increasingly, advocacy groups began challenging neglectful and hostile institutions.

When the UK government formally committed to introducing DV advocacy nationally in 2005, this was done in conjunction with the second-tier charity Coordinated Action Against Domestic Abuse or CAADA (the organisation has since been renamed Safe Lives). Together, CAADA and the Home Office launched the IDVA service-model, with funding, to attempt to standardise services across the UK. Alongside this, CAADA developed an accreditation scheme whereby organisations (who would be asked to pay a fee) could adopt CAADA's service delivery model and become CAADA-certified. As CAADA's main funder, the Home Office also formally endorsed the scheme.

Before the national rollout of advocacy services was introduced in 2005, the Home Office funded a Violence Against Women Initiative as part of its Crime Reduction Programme (CRP) in 2000. The initiative marked the first significant funding for advocacy projects from the government with the express desire that they help to lower attrition rates and 'narrow the justice gap' by increasing the number of cases getting to court (Hester and Westmarland, 2005: p. 56).

The Home Office subsequently commissioned Hester and Westmarland to conduct an evaluation into 27 of these projects. One project in Bradford provided intense advocacy work focused on legal issues and housing. The evaluation found that accompanying survivors to court was crucial and

was linked to guilty pleas at trial with half occurring when the survivor was accompanied compared to one fifth where she was not (Hester and Westmarland, 2005L p. 56). In Northampton a 'one-stop-shop' was introduced to provide holistic support to survivors through multi-agency working between the police, advocacy workers and the CPS. The findings here were also encouraging, with the conviction rate nearly twice as high compared to a comparison group of cases heard at the same Magistrates court (Hester and Westmarland, 2005: p. 56). Although the evaluation was not able to pinpoint how exactly certain kinds of support impacted outcomes, these early, encouraging findings influenced the government's decision to increase advocacy nationally.

Some time after the national rollout, Liz Kelly and Maddy Coy (2011) conducted an evaluation of four IDVA services in London. The services were in a range of settings: in a police station; hospital AandE department; a community based DV project; and a women-only violence against women (VAW) organisation. The IDVA services based in statutory organisations were found to have a number of advantages and drawbacks. The IDVAs based in the police station and the hospitals were both found to have high quality multi-agency practices and easy access to statutory support for survivors. Both increased the level of referrals from their host agencies dramatically. In particular, the police based IDVAs felt their standing with officers improved and they were able to get speedy access to safety measures due to the location. However, the location in the police station, it was felt, may deter some survivors from the service. This was highlighted by the fact survivors had to go through reception to speak to an IDVA, with staff there often unaware of the service. Approaching the station for support also lacked privacy, as the survivor would

have to state her problem in full view of others in the waiting room. The fact that these services were amongst the lowest for self-referrals in the study may be indicative of the problems associated with services embedded within statutory institutions. Although most surveyed service users felt that these services were independent, by definition such service users will not have been deterred enough to prevent them from using the service, whereas others who are not contactable may have been (Coy and Kelly, 2011).

On the other hand, community based services lacked some of the swiftness with which the statutory based IDVAs could access practitioners. However, the community-based services had a much higher number of self-referrals (the hospital refused to take them) and enjoyed seamless access to other community services (such as drug and alcohol support or culturally sensitive services) either from within their own team or through their links with the wider community. This is significant, because a major concern around national IDVA policy has been its focus on high-risk only survivors, often funding such services at the expense of early intervention support. Kelly and Coy argue that it is counterproductive if the increase in high-risk provision at the cost of a reduction in provision for early intervention ultimately leads to an increase in domestic homicides among those who cannot access services (Coy and Kelly, 2011). Indeed, research has shown that in domestic homicides at least two thirds of cases had only a few incidents beforehand and limited contact with agencies (Dobash *et al.*, 2007; Regan *et al.*, 2007). Kelly and Coy found that community based IDVA services were more likely to have access to alternative support for lower-risk survivors (either within their own team or through their links to the community) and this was a clear advantage for such services.

Although there appear to be significant differences between IDVA services, in 2005 when the IDVA programme was rolled out nationally the Home Office defined advocacy by seven principles: independence from statutory services; professionalism achieved through intensive training; focus on crisis intervention and safety options; supporting those assessed as high risk; working in partnership with other voluntary and statutory services; and working to measurable outcomes to reduce withdrawal from the criminal justice process (Home Office, 2005: p. 10).

However, the ways in which these principles have been interpreted has given rise to a great deal of variation in service provision. One of the most significant differences between services nationally is adherence (or not) to a gendered definition of DV. Indeed, the above principles coupled alongside the Home Office definition of DV have tended to encourage the gender-neutral provision of DV services.

Service provision for DV has shifted significantly from grassroots feminist activism to gender-neutral policy and practice. Understanding exactly how this shift has occurred is crucial to understanding the terrain of DV advocacy today. Although there is no evidence that women are as likely as men to be violent in intimate settings (discussed in the literature review), this is fast becoming a dominant theory in public discourse. It has been theorised by some that the gains made by feminist activism have led to a backlash in which men's rights groups, often embroiled in child custody suits, have become increasingly vocal about women's violence as a means to strengthen their cases (Rosen, Dragiewicz, and Gibbs, 2009). In Minnesota in 2000 fathers' rights groups attempted to use

the Equal Protection claim to argue that funding emergency services that target abused women was discriminatory against men in the Booth v. Hvass lawsuit (Dragiewicz, 2011). In the UK men's rights groups such as Fathers for Justice have similarly promoted the image of men victimized by supposedly unfair policies, dressing up as 'super heroes' and staging stunts to draw attention from the media (Gill and Radford). It is in this context that the Home Office has tacitly endorsed the claim that men are as likely to be victims of DV and women.

Local DV services have also often been pressured to 'tone down' feminist language in their key messaging and mission statements, as it is often seen as a barrier to gaining local and national funding (Macy *et al.*, 2010; Arnold, 2011; Nichols, 2011). Therefore, increasingly litigious men's rights groups have influenced the state, which attempts find ways to insulate itself from legal challenges, by increasingly insisting on gender-neutral service provision, while the mandate for DV services to challenge such demands diminishes.

The legitimisation in policy that DV is a gender-neutral phenomenon has had a seismic impact on DV support from both statutory institutions and advocacy services. In particular, the increase in the number of women arrested for DV through mandatory arrest policies has been linked to increasingly gender-neutral policing (as discussed in the literature review). The increasing arrests of survivors of DV demonstrates for some that gender-neutrality in reality constitutes gendered injustice through 'equality with a vengeance,' which re-victimises survivors because the law fails to recognise the role of gender in DV (Chesney-Lind and Pollock, 1995; Mosher, 1995; Ferraro, 2001; Osthoff, 2001; Lyon, 2002; Moe, 2007; Zweig and Burt, 2007).

Advocacy services based on the principle of self-determination and grounded in feminist values have a positive impact on outcomes for women (Weisz, 1999; Zweig and Burt, 2007; Goodman and Epstein, 2008). For example, Weisz conducted interviews with 11 survivors alongside 3 focus groups with advocacy support staff. She found that women working with advocates practicing feminist advocacy were more likely to take further legal action if the abuse continued. Further, Moe (2007) interviewed 19 survivors accessing refuge support on the ways they sought help. She found that women who received an empathetic response based on empowerment and those who felt that they had control over the response were the least likely to return to their perpetrators. Conversely, those who were housed in a generic shelter that did not practice feminist values felt that safe accommodation alone was not enough to support them to live a life free from abuse (Moe, 2007). There is also evidence to suggest that gender-neutral service provision can foster victim-blaming advocacy and denied agency. Abrahams and Bruns (1998) compared interagency collaboration based on feminist ideals to gender-neutral interagency working and found the gender-neutral group took part in victim-blaming practices, focused on individual rather than patriarchal/structural sources of violence, and did not work to support women in making their own choices. While gender-neutral service provision may not necessarily be patriarchal, there is certainly evidence to suggest that neglecting to offer a service that is actively empowering can have more negative outcomes for women (Abrahams and Bruns, 1998; Goodman and Epstein, 2008; Weisz, 1999; Zweig and Burt, 2006, 2007).

Despite the evidence, policy and practice is moving away from provision based in systematic and interpersonal power relations, presenting services with new challenges. However, a re-examination of the current terrain, through an intersectional, feminist framework can provide fresh insight into the multifaceted relationships of power between the state, the women's sector and survivors themselves. Consensus in the movement was initially built around the unifying concept of DV being a symptom of relationships between men and women, which would be found in every part of society. For those within the movement seeking change through institutional reform, positioning gender through arguments about 'women's citizenship' and 'equal right to protection' became a vehicle to make demands on the state to intervene.

While this gender essentialism was seen by some to overshadow ethnicity- and class-specific conceptualisations of institutional failure, even this scaled down conception of DV does not appear to have lasted. This provides justification for re-examining DV and services provision, coming back to theories that centre systematic power as an explanatory apparatus, while broadening the axis from gender alone to ethnicity, class, disability, religion, migration status and any other form of marginalisation. As public discourse is increasingly influenced by arguments unrelated to empirical evidence, and traditional gender essentialism is failing to prevent this, intersectional research has crucial explanatory power that can also take account of the conceptual limitations of the past.

3.4 Chapter Summary

This chapter has demonstrated how the feminist movement has influenced the criminal justice system in its response to DV. Starting with the police response, this chapter documents how the move towards a pro-arrest strategy was established. Following this, the proposed prosecutorial strategies of victimless prosecution and mandated testimony were discussed and the accompanying CPS guidance around this. Despite increasing acknowledgment at the policy level, change in practice was slow to come and the succeeding sections discuss the multi-agency approaches of domestic violence courts and domestic violence advocacy. The two chapters have established the literature and policy of DV and the criminal justice system. The next chapter will demonstrate my own research methods and how it is situated within this.

Chapter 4

Methodology

This chapter will present the methodological framework for the analysis of the policy programmes under examination. It has four main sections. Firstly, I will state the rationale behind my chosen methodology, followed by a description of how my approach is embedded in a feminist methodology. I will then outline my approach to reflexivity and address the ethical considerations of the thesis. In the third section of the chapter, I will provide a rationale for intersectional research and its theoretical and methodological limitations. Further, I will provide explanation for why and how I enlisted intersectionality for the analysis of my data. The final section will state my research design, of semi-structured interviews and courtroom observations, describing access, data transcription and analysis.

4.1 Research Questions

This thesis seeks to examine the relationship between the criminal justice system and feminist organisations when working together on cases of DV. As this research is grounded in feminist theory, it was crucial to ensure that the research questions were developed through the lens of feminist methodology, to ensure the interests of female survivors remained central throughout the investigation. Hesse-Biber and Piatelli suggest that feminist researchers ought to centre their research questions on ‘social justice, social change and social policy for women and other marginalised groups’ (2012, p.178). The research questions for this thesis are as follows:

1. How have women's organisations and the criminal justice system worked in partnership on domestic violence?
2. How has partnership between women's organisations and the criminal justice system shaped their respective and collective responses to domestic violence?
3. How does partnership between women's organisations and the criminal justice system impact on survivors from different social locations?

In developing these research questions, I reflected on what I already knew, and what I did not yet know. Having worked as an IDVA (a role initially developed to support survivors through the criminal justice system), I already had experience and understandings of some of the benefits and difficulties of collaborative practice. I wanted to examine this further, with particular attention towards the power dynamics between the agencies and survivors of DV. However, my research questions were not stabilised, and they did change during the research process. In particular, adopting an intersectional perspective encouraged me to reflect back on my earlier research questions, which initially appeared to position survivors as one homogenous group. Instead, it felt important to differentiate between survivors by examining how the initiatives being researched might differently impact on those from a diversity of localities. Ackerly and True acknowledge that altering research questions is a natural and legitimate part of the research process, and researchers should feel encouraged to reflect on whether their research questions are still appropriate (2010, p.76).

4.2 Selecting a Methodology

The original proposal of my thesis was to use quasi-experimental methods to evaluate the outcomes of SDVCs nationally against their generic court counterparts. However, such a research design proved impossible to pursue during the research period for this thesis. While STADV collects data on the two SDVCs they manage, they do not have access to CPS cases outside of Hammersmith and Westminster courts. Attempts were made to gain access to a sample of SDVC and generic magistrates courts by harnessing STADV's contacts in the CPS. While there was some support for the endeavour, there were serious delays in gaining confirmation of access to the data and due to the time sensitive nature of PhD funding, the original proposal was terminated. The alternative proposal was devised to reflect the data that *was* available through the two SDVC's and the Impact Project.

Devising a new thesis involved reflecting on what data might be available to me, particularly through STADV and its partners. Eventually, it was reading the MA dissertation *The Domestic Violence Anti-Politics Machine: agency, resistance, and victimhood in the domestic violence sector* by Kelly Minio-Paluello (2012) that inspired a new direction for this thesis. The author is a former IDVA and fellow political activist whose research focused on debates around 'victim' and 'agency', arguing that today's DV services often act as an 'anti-politics machine that de-politicizes violence against women'.

By Spring 2017, I was finally in a position to develop new research questions; focusing on the relationship between the women's sector and the criminal justice system and its impact on survivors' lives. Although the initial intention was to retain

an evaluative approach using the data available, further reading on evaluation in the world of DV, especially with respect to criminal justice initiatives, gave caution regarding the best route forward.

The research upon which so many criminal justice initiatives in the Global North is based is Sherman and Berk's (1983) evaluation of mandatory arrest policies in Minneapolis, which was discussed in the literature review and has been the source of a great deal of criticism since then. Where this study found that mandatory arrest had a positive impact on repeat violence, Sherman's subsequent Milwaukee study made explicit distinction between perpetrators. He then found that repeat violence *increased* when the persons arrested were unemployed, unmarried, high school dropouts or African-American (Sherman 1992; 1999). The seriously conflicting results have led some to taking umbrage with evaluations of this nature. Dobash and Dobash (2000) have been critical of method driven research which has utilised little available theory on DV. They suggest that Sherman's original study failed to incorporate the swathes of existing literature and empirical evidence. If he had, it may well have developed the research questions and design to properly reflect the reality of people's lives, they suggest. Dobash and Dobash criticised such instrumental positivism, which they argued utilises approved methods and randomized design with little attention to the research question itself. However, given that Sherman's subsequent Milwaukee study provided crucial nuance in how mandatory arrest effects different populations differently, randomized design is clearly crucial to understanding what works and for whom in DV policy. However, Dobash and Dobash recommend that all future evaluation be grounded in theory to avoid any future discrepancies in results (2000).

The initial failure to take meaningful account of different social locations in Sherman's first study, alongside Dobash and Dobash's critique of theory-less evaluation, inspired me to enlist a new approach to policy research in DV. In particular, it was felt that research based on intersectional feminism, with its keen attention to multiple social locations, would expand on the recommendations made by Dobash and Dobash and provide important theoretical foundation for any future evaluations, hopefully avoiding any future pitfalls such as those found in Sherman's earlier study.

In the UK some research has already been conducted on SDVCs, two of which are under research by this thesis. The national rollout of SDVCs has followed the evaluation of several pilot sites. The first began in Leeds in 1999, and was followed by Cardiff in 2001, then Wolverhampton and West London (now Hammersmith) in 2002 and later pilots in Derby, Caerphilly and Croydon in 2004 (Cook *et al.*, 2004), which were discussed in the policy chapter. The evaluation of these pilots highlighted a range of issues and benefits associated with an SDVC and in 2004 an evaluation was commissioned to bring together the findings from five pilot sites (Leeds, Cardiff, Wolverhampton, West London and Derby) to inform the nation-wide rollout of SDVCs. As with most evaluations initiated in the US, these evaluations were generalised, looking at overall outcomes but not at differential outcomes on populations. At this point, rather than provide a further generalised evaluation of outcomes, a detailed policy analysis informed by intersectionality can provide the necessary theoretical grounding to influence future empirical evaluations, whilst ensuring that discrete categories are not missed. The decision to adapt the thesis from an evaluative

approach that did not acknowledge difference to an intersectional approach that did, was also influenced by the evaluations that had already taken place.

4.3 Feminist Methodology

Although I have enlisted intersectionality as a framework for analysis, the research design was grounded in feminist methodology. Feminist academics occupy a range of differing ontological and epistemological approaches, but feminist methodology does hold some unifying characteristics (Harding, 1987). Those involved in feminist research are generally characterised by a focus on gender and gendered injustice; a rejection of the researcher/researched dichotomy; actively working to elevate the voices of women and other marginalised groups; and emphasis on the importance of reflexivity (Skinner, Hester et al. 2005). I will now discuss these four elements of feminist methodology, and how they relate to my research.

4.3.1 Focus on Gendered Injustice

A focus on women and gendered injustice is generally considered to be the most important tenet of feminist methodology. Gelsthorpe (1990) and Oakley (2000) contend that in order to be feminist, the research undertaken must be relevant to women and in some way focused on the unequal position of women. This thesis is grounded in the feminist theoretical position that DV is a gendered phenomenon, which in turn, is symptomatic of the unequal power relations between men and women. Grounding this research in feminist

methodology has been crucial in acknowledging DV as a form of gendered injustice. Although, it should be noted that gender has not been privileged above other social locations such as class or ethnicity. Gender is, however, the common thread, which connects the subjects of this research, namely, survivors of DV.

4.3.2 Rejection of the Researcher/Researched Dichotomy

Traditionally, research has categorised participants as the 'more powerful researcher' and 'less powerful researched' (Chandler, 1990; Everitt *et al.*, 1992; Hall and Hall, 1996). The third characteristic of feminist research therefore is the rejection of this traditional 'researcher' and 'researched' power dynamics. However, there remain a number of potential pitfalls in the research relationship, including disagreement, misrepresentation, inconsistencies and the amount of active participation (Skinner *et al.*, 2005, p. 11). While concern for these pitfalls are often associated with the vulnerability of respondents compared to the researcher, in some circumstances, the researcher may be in a less powerful position compared to those being directly researched. As a PhD candidate I mostly engaged with and interviewed highly experienced service providers and criminal justice operatives. My relationship to STADV as both the subject of my research as well as a financial contributor to it, situates me as an 'insider researcher'. As part of this arrangement, I have worked from the STADV office two days a week for the majority of the research process. Previous to this thesis, I also had a working relationship with some members of the staff at STADV, from my time as an IDSVA at Refuge. I therefore developed a working relationship with those employed by the organisation,

meaning I was close to being 'one of the team'. This has posed a number of challenges in the research process.

In particular, my relationship to the CEO of one of the institutions that has funded this research might have given cause for concern in terms of bias. Indeed, this project has sought to examine collaboration with the criminal justice system and the women's sector, a key example of which being the recent introduction of IDVAs, of which I was one. Further, STADV's interests in partially funding this research have been to gain evidence in favour of their criminal justice initiatives. There was certainly a great deal of potential for conflict of interest. However, in reality, prioritising my position as an independent researcher above all else has in fact shifted my viewpoint during the research process.

In the early stages of the research, my opinions around criminal justice collaboration had mainly been formed through my work as an advocate. Though I was by no means uncritical of the practice, developing my understanding through the confines of professional practice somewhat limited my ability to place such initiatives in a wider context. For example, as an IDVA I understood that the wrongful arrests of survivors were a fairly common occurrence and an unavoidable pitfall of police involvement. However, through reviewing the literature it became clear that the increase in survivor arrests was an unintended consequence of mandatory/pro arrest policies that had been championed by some feminist organisations. Further, a combination of the literature and the data I collected indicated that the scale of survivor arrests and prosecutions was larger than I had previously assumed. This resulted in me adopting a more critical standpoint on the efficacy of feminist collaboration with the criminal justice system.

As I developed a more critical and nuanced standpoint on the benefits and difficulties in criminal justice collaboration as a strategy, an internal conflict arose about my position as researcher and my obligations to STADV. In particular, I was anxious about how adopting a more critical standpoint might be received by the CEO of STADV, particularly as someone who had provided me with career opportunities and whose organisation was supporting this research financially. I was concerned that I may be reneging on the agreement to provide evidence of positive practice. Murray (1997) acknowledges this to be a key concern for 'insider researchers', as there may be tensions between the researchers obligations to stakeholders and their responsibility to be independent researchers.

It should be noted at this point, that my first impressions of the initiatives under examination were largely enthusiastic. From an advocate's point of view, the SDVCs and Impact appeared to run with a great deal of efficiency and knowledge on DV that was entirely missing from the courts and police stations I had worked in previously. Certainly, the data also indicated substantial improvements have been made through STADV's work with the justice system. Although the literature and data have shifted my position, I have not rejected feminist endeavours to reform the criminal justice system. However, I have attempted to highlight the ways in which current policies may be harmful to some survivors. Additionally, grounded in the literature on survivor autonomy I have made policy recommendations to address the areas where improvements have been found necessary. The result has been a more developed analysis of the policy problem accompanied by targeted ideas for improvement. This has only come about

through a willingness to have my personal and organisational values and assumptions challenged.

Carving out an identity as an independent researcher has been a challenging part of the research process but one that was crucial in ensuring that my research is both credible and ethical. However, one of the biggest concerns for 'insider' researchers according to Costley, Elliott and Gibb (2010) is the tension that may arise when criticism of the initiative is made. They suggest that while the closeness of the dynamic could give rise to conflict, they also posit that 'insider' researchers are often better placed to negotiate change strategies. Based on their recommendations, I have always attempted to present my findings by grounding them in the evidence, whilst also being willing to see things from the perspectives of others in the organisation. Taking a more diplomatic stance such as this has meant that I have generally been in a position to 'own' my research, without alienating colleagues and stakeholders.

In terms of the data collection process, it is important in feminist research to recognise that the values, beliefs and appearance of the researcher will affect the data produced. In this sense, all respondents were stakeholders in the initiatives, and almost all were highly supportive of them. All respondents were made aware of my position as a former IDSVA and a researcher with STADV, and so there was a general air of assumed consensus between respondents and myself.

Although it is difficult to know for certain, it felt as though the participants may have been more candid with me than had I presented as a more traditional academic with no connection to the women's sector. Either way, the willingness with which those interviewed offered both positive and negative examples

of the collaboration provided rich data with which I could develop a nuanced analysis.

However, at times the rapport, which I had developed with those at STADV, also posed problems. While it was not particularly difficult to gain access and agreement to take part in the study from respondents, our informal relationship meant that there were sometimes delays in arranging interviews. With some members of the team, interviews were arranged and then cancelled at the last minute. Often this was because their workload was too high, or something important had arisen that urgently required their attention. While I was very happy to be flexible around this, I reflected that it may have been more difficult for respondents to change arrangements had I not been an embedded researcher that was working from their office two days a week. The same issue also posed problems when gaining access to criminal justice operatives. As I had built up a strong rapport with those working at STADV from working in their offices two days a week, they were my 'gatekeepers' in accessing the police officers, prosecutors, magistrates and probation workers that they regularly worked with. I made a number of plans to go to the police station or court to be formally introduced by STADV employees. However, the nature of their work meant that such arrangements had to be cancelled on a number of occasions before the introductions and subsequently the interviews could finally take place. While being part of the STADV office meant that rearranging plans with respondents was not particularly difficult, this meant that there might have been more delays in the fieldwork process compared to more 'independent' researchers. Although this dynamic did pose some challenges in this respect, overall it was beneficial to me

and a patient approach meant I did eventually have access to a rich and diverse data source.

Lastly, as highlighted by this section there has been much writing in feminist research which warns against the researchers disposition being distinct, elitist and from an 'ivory tower' (Barker, 2011). Interestingly, my experience of the dynamics in interviews was almost the opposite. Heather D'Cruz (2000) challenges the assumed relationship between the 'researcher' and the 'informant', as her experience as an 'insider researcher' also ran contrary to this expectation. D'Cruz provided reflections on this dynamic based on her research of a social work department, where she was both employed as a social worker and as a PhD researcher. As a woman of colour, and a migrant in an all white department, D'Cruz experienced a certain degree of suspicion and hostility from her colleagues/respondents who continually 'othered' her, and questioned her authority. This led her to conclude that the research dynamic is not a one-way top down process, but shifts depending on the researcher and those being researched –with 'knowledge' being achieved through constant negotiation of this (D'Cruz, 2000). My own experience of being mixed race, working class and appearing to be very young, seemed to distinguish me compared with the vast majority of those I interviewed, who were mostly white and middle class, many of whom occupying senior positions in their organisations. Around half of those I interviewed were also middle aged. Far from being viewed as distinct and removed, in many instances my interviewees adopted a tone of an elder, passing on their reflections to a younger member of the community.

While I may have been able to develop a rapport with respondents based on an assumed common goal, it is important to note that the ethics of 'doing rapport' can blur the boundaries between a temporary 'faked friendship' and actual consensus, agreement or friendship. Duncombe and Jessop (2012) contend that *'all interviewing relationships...are situated somewhere along a spectrum between the extremes of more genuine empathy and relationships with an element of "faking"'* (p. 119). However no one I interviewed was particularly vulnerable as they were all professionals either in the women's sector or the criminal justice system. All took time at the beginning of the interview to thoroughly read through the consent form which made clear that my research would be looking at the difficulties with the initiatives under examination as well the benefits, and I was satisfied that all understood this.

4.3.3 Survivor Voice

A further theme associated with feminist research is its focus on elevating the voices of those usually unheard. Skinner et al. suggest that there are three imperative issues around this commonly held characteristic – *'(i) how to effectively provide spaces where these voices can be articulated and listened to; (ii) encouraging marginalised groups to become involved in research; and (iii) the role that experience should play in research'* (2005, p12). While I did make attempts to cover all three of Skinner et al.'s, suggestions, this was not always possible. In particular, I was mindful of the potential for speaking for others, particularly survivors of DV. While attempts were made to include the voices of survivors' directly, problems with access meant that this was not possible.

Given that all respondents were professionals, a limitation in this research may be in the lack of a direct voice from survivors. Initially, my intention had been to interview survivors who had been supported through the Impact Project and the SDVCs. I spoke with managers at both organisations, and was informed that gaining clearance to interview survivors while they were still being supported with safety planning would be a laborious process that would need to go through the service contractors at the Local Authority. As my thesis topic had changed in the second year, I did not have a great deal of time to launch a lengthy access process. As an alternative, I suggested that I produce a survey, to be completed by service users at ADVANCE while they were at court. Although this would have only accounted for those service users who had a trial that they were also attending, it seemed like the most convenient way to reach service users, especially since trial days often involve a lot of delays. Managers at ADVANCE decided not to provide access to service users in this way as it was felt the necessary investigations and paperwork that would be required was too significant. As a third alternative, I suggested that the survey could be done by the IDVAs at the closure of a case, as additional questions alongside the exit questionnaire that is usually conducted. Managers at ADVANCE also declined this proposal as it was felt that service users were already asked a great deal of questions on the exit questionnaire, and any further questions might be too cumbersome for both the service user and the IDVA. I had reflected on whether I could interview survivors who had gone through the criminal justice system, but outside of either Impact or the SDVCs. I may have found locating and gaining access to survivors outside these projects less difficult, and they would have given a perspective

on their experience of the criminal justice system. However, I felt that because Impact and the SDVCs were such unusual criminal justice initiatives, interviewing survivors who had not been supported by them might only glean data on more generic criminal justice responses.

Ideally, I would have liked to have some first hand accounts from survivors. Indeed, a central principle of feminist research is based on 'the epistemological belief that women can possess and share valuable knowledge and thus research can start from the perspective of women's lives' (Hesse-Biber, Leavy and Yaiser, 2004, p. 3). Therefore, having the opportunity to involve survivors directly in the process would have been invaluable.

The problem of researchers speaking on behalf of others has been the source of disquiet for many years. Alcoff (1991) provides some suggestion for avoiding the worst pitfalls of misrepresentation, recommending that we must constantly interrogate our reasons for speaking on behalf of other people. Further, that we must constantly be aware of our own social location in relation to those we are researching. Although there may be a number of ways in which I might have things in common with some of the survivors discussed through this research (I am a working class person of colour with personal experience of DV), I have also recognised that as a PhD candidate I am also in a privileged position to have any kind of platform. This has meant that while I have been able to utilise my personal and professional experience to try and centre the position of survivors, I have also been careful not to overstate my analysis. Wherever I have reflected in detail on a survivor's position, I have always ensured that this is fully grounded in the literature and available evidence. Although speaking

directly for others ought to be avoided, there is also significant value in feminist research that aims to centre itself on women's experience, even where a direct voice may be missing.

Intersectional feminist research has a number of examples of well-respected research that centres women where their voice has not directly been included. Kimberle Crenshaw's (1991) analysis of the invisibility of black women in the field of DV (discussed later in the chapter) was not the result of interviews with black survivors. Similar to my own research, Crenshaw drew on the principles of intersectionality by examining the testimonies of criminal justice operatives and DV service providers. Additionally, a further example of intersectional research that was conducted without direct contribution from the subject group under analysis, is Parken and Young's (2010) study on unpaid carers. The authors recruited representatives from a wide range of marginalised groups, to analyse a number of different policies for their impact on unpaid carers from diverse backgrounds. Referring to this as a 'multi-stand' approach, a team was compiled from representatives from community organisations and charities, intended to represent a different 'strand' (such as through representatives from charities working on gender equality or disability rights as well as others). The authors enlisted standpoint theory, a theoretical perspective, which argues that knowledge, stems from social position. In this instance, the authors centred the "tacit knowledge" of those who have experienced or who can 'stand in the shoes' of those who may experience inequalities" (p.85). Therefore, a combination of recruited representatives from diverse communities, alongside reflexive practice was aimed at centring the research on the

likely experience of unpaid carers from different communities, and how best policy could improve their circumstances. Standpoint theory might be considered a predecessor to intersectionality, and Patricia Hill Collins, one of intersectionality's most prominent scholars, champions the approach. Standpoint theory pays particular attention to power relations, and one of its central principles, Collins contends, is that groups who share common place in hierarchical power relations often share a common understanding and experience of such power relations (Collins, 1997). Therefore, experiencing the same direction of vision (from the bottom upwards) often leads to those in similar situations interpreting examples of power differentials similarly. In this sense, Parken and Young utilised the voices of representatives from different communities to aid in interpreting how other members of that community might experience certain policies.

Similarly, although I was not in position to interview survivors and service users directly, I have attempted to centre them as the group most vulnerable in the wider power relations that I have researched. Further, I have attempted to harness my own experience and knowledge as a working class, woman of colour with personal and professional experience of DV to approximate the position of the survivors' that were discussed by respondents. Standpoint theory also notes that there ought to be recognition of the authority that comes from the experience of having studied, reflected and paid attention to the position of others, and that this is strengthened when the researcher is from a similar social location as those being researched (Costley et al. 2010, p.30). However, although both standpoint and intersectional theorists contend that being members of similarly placed groups can ensure similarity of

interpretation, a key criticism of such approaches is that marginalised people do not always interpret the world in the same way (Walby, 2001). Therefore, wherever I have enlisted the support of my own tacit experience and knowledge, I have also problematised my understanding by ‘imagining’ multiple standpoints (Stoetzler and Yuval-Davis, 2002) and grounding my interpretations of survivor’s positionality with the support of the literature.

4.3.4 Reflexivity

Although I have brought a reflexive approach to each of the tenets of feminists methodology above, it is important to define reflexivity and engage with my own personal positionality.

The concept of reflexivity has been the focus of significant discussion in feminist methodology (Oakley, 1981; Ramazanoglu and Holland, 1992; Skinner *et al.*, 2005). Reflexivity involves actively acknowledging the complexity of the research process, by discussing what went ‘wrong’, how the position of the researcher affects the research produced and the emotional work involved (Letherby, 2003; Martin, 2005; McMillan, 2007). I have sought to be reflexive throughout, examining my own biases and positionality during the research process here and throughout this chapter. It is important to recognise that research does not take place in a vacuum. Indeed, one of the most important contributions of feminist methodology has been to bring this to the fore, by openly acknowledging such unavoidable difficulties in the research process.

There are a number of ways in which my position as researcher requires examination. I have myriad experience with DV: personal, political and professional. As a child, DV was a common occurrence in my community, both in my own home and in most homes of those I grew up around. Indeed, perhaps the single most effecting event in my childhood was when, aged 9, my best friend's mother was murdered by her father in the block of flats directly opposite mine. I have little doubt that the impact this event had on me as a child, has been the impetus for my commitment to ending violence against women. This thesis was dedicated in the memory of Mandy Graham.

Before embarking on this thesis, I had worked for several years as an Independent Domestic and Sexual Violence Advocate (IDSVA) for the charity Refuge. The current CEO of STADV was previous operations manager at Refuge, and indirectly managed me while I was there. It was through this association that the original PhD proposal was devised, and this thesis has been jointly funded by the Economic and Social Research Council and STADV.

Lastly, it is important to also acknowledge my position as a political activist. Towards the beginning of this thesis, I was also involved in establishing Sisters Uncut, a national, feminist direct action group that takes action against cuts to DV services. There are, therefore, a number of ways in which my objectivity as a researcher may be undermined in the research process. However, feminist methodology highlights that objectivity in research is impossible, and instead emphasises the importance of engaging with and expressing ones own positionality, as I have done here (Skinner *et al.*, 2005). Indeed, it is important to acknowledge that it is my positionality, as

someone with experience and connections in the women's sector that has been instrumental in me negotiating access and acquiring funding to embark on this research project. In this sense, the 'ideal' of objectivity is impractical, as any attempt to adhere to such a standard would have stopped the study in its tracks, before it had even began.

4.4 Ethical Considerations

Imbedded within the methodology of this thesis is attention towards the ethical implications of the research carried out. As has been discussed above, ethical research is a mainstay of feminist methodologies, and reflection over the ethics of this thesis was paramount throughout. I drew on the work of Ackerly and True (2010:12) who suggest that attentiveness to power, the relationship between researcher and participants and self-reflection are all important in ensuring ethical practice. While some of these themes have been discussed in the feminist methodology tenet sections of this chapter, there remain a number of ethical concerns that require attention.

4.4.1 Informed Consent

The research followed the expected standards of informed consent. Respondents were provided with a detailed consent form (appendix 3), which informed participants that they had the right to withdraw at any time. Further, issues of confidentiality were explained in the consent form and were reiterated verbally. The form introduced myself as the researcher and detailed the research, explaining the purpose of the study and what would happen to the data after the

interview. Before proceeding with the interview, I also provided opportunity for respondents to ask any clarifying questions. Respondents were then asked to read the consent form in full, confirm their understanding of it by signing and dating it. Each participant was also given a copy of the consent form for his or her own records.

4.4.2 Data Storage

In accordance with the Data Protection Act (1998) and The University of Essex guidelines, interviews and audio data will be held for ten years before being destroyed. All data has been fully anonymised and securely stored on my laptop, which is password protected.

4.4.3 Anonymity

While none of the participants specifically requested that they be anonymised in the study, all were informed that their names would not be included. I removed names, personal details and identifying information as far as possible. David (2016 p.19) suggests, however, that it is possible to identify participants even if they have not been explicitly named. Indeed, the organisations under examination have been named, and given that the initiatives involved are relatively small, identification is not a remote possibility. However, as none of the respondents expressed concern over anonymity and none would be considered particularly vulnerable, it could be argued that the efforts made to anonymise have been proportional to the concerns of the respondents.

Although the active participants in this study were all voluntary sector and criminal justice personal, I did have access to service users details through open court, disclosures in interviews and access to records. It has been especially crucial to ensure that no identifying information on either survivors or perpetrators of DV is included in this thesis.

Women who have experienced DV have fear of being re-victimised and being identified in research could place them at further risk if their anonymity is violated (Aronson Fontes, 2004). It was therefore imperative for me to ensure that identifying information such as names and geographic location (one officer informed me of the housing estate that a survivor lived on) was not included in transcripts or held as data anywhere. Since this information was totally irrelevant for my research, I felt it was best disposed of at the beginning. However, it should be noted that even without a name and location, it may still be possible to recognise individuals based on other identifying information, especially if the sample size is small or concerns a particular geographical location (Ford and Reutter, 1990). For example, as I collected data through the court observations, I noticed that the prosecutors and defence lawyers discussed a lot of revealing information about the survivors and perpetrators and others involved in the case. While I took the approach of writing down everything I had heard while I was at court, it was necessary to edit the data to ensure that no revealing information would later be included in this thesis. This was crucial because this research concerned a particular geographical area in West London and even slight cues or descriptions could reveal the identities to those who know them (Aronson Fontes, 2004). For this reason, I ensured that the observation case studies included in this research had

all identifying information removed so that the cases could be identified as one of many similar cases.

4.5 Intersectionality

Kimberle Williams Crenshaw (1991) coined the term 'intersectionality'. However, the tenets of intersectionality have their roots in Black activist, feminist, Latina, post-colonial, queer and Indigenous communities within and beyond the United States (Collins, 1990; Bunjun, 2010; Van Herk, Smith and Andrew, 2011; Hankivsky, 2012a). As intersectionality has become increasingly attractive in the field of research, it has been variously discussed as a theory, a methodology, paradigm, lens or framework. Through such discourse, many definitions have been proposed. But for our purposes, intersectionality can be defined thus:

Intersectionality promotes an understanding of human beings as shaped by the interaction of different social locations (e.g., 'race'/ethnicity, Indigeneity, gender, class, sexuality, geography, age, disability/ability, migration status, religion). These interactions occur within a context of connected systems and structures of power (e.g., laws, policies, state governments and other political and economic unions, religious institutions, media). Through such processes, interdependent forms of privilege and oppression shaped by [class], colonialism, imperialism, racism, homophobia, ableism and patriarchy are created (Hankivsky, 2012a).

Moving away from methods that view such identities as either separate or additive, intersectional researchers seek to understand such identities as overlapping, dynamic and fluid. Rather than adding each category on top of one another, intersectionality posits that entirely different realities can be formed at the intersection that may bear little or no relation to its constituent categories. Further, such relationships and power dynamics may be time and space dependent, and

people can experience both privilege and oppression simultaneously, dependent on the context. To understand how this works in practice, Crenshaw's argument for an intersectional framework on DV will assist.

In *Mapping the Margins*, Crenshaw (1991) highlights the invisibility of black survivors of DV, by demonstrating the flaws in gender-equality and anti-racist projects. As part of her research, Crenshaw attempted to review the Los Angeles Police Department's statistics for the rate of DV in certain precincts to provide a picture of arrest rates according to ethnicity. Crenshaw was denied access to the figures on the grounds that making such information public might permit opponents to dismiss DV as a 'minority crime'. Crenshaw was informed that feminist activists were concerned that it would lead to a cessation in funding for services. Crenshaw was also informed that representatives from minority communities opposed releasing such figures, on the grounds that they may be used to reinforce stereotypes about black men being unusually violent.

Crenshaw criticises both the white feminist and black, male anti-racist projects for their 'strategic silence' on violence towards black women. She posits that such practice serves the political priorities of black men and white women by actively hiding intelligence that could be used to help black women (Crenshaw, 1991). While Crenshaw's earlier work on the multiple oppressions experienced by black women has been a crucial foundation upon which to consider intersectionality, it should be understood that it is by no means limited to the categories Crenshaw discusses. Expanding on the definition, it is important to stress that advocates of intersectionality argue that lives cannot be explained by categories of identity, such as

ethnicity or gender, by themselves. Rather, it is through understanding how these structures make certain identities the consequence of *and* vehicle of vulnerability, that the social world can be revealed. Therefore, intersectional researchers must endeavour to examine the institutional structures and power interactions in any given situation, rather than taking individual identities for granted. While intersectionality offers a new lens from which to explore multiple social locations, there are a number of limitations that need to be explored.

4.5.1 Limitations of Intersectionality

While intersectionality provides a framework with which to approach analysis, it is also important to note that there is not a standardised way with which to approach intersectional theory. What constitutes intersectionality, and the correct way to 'do' intersectionality, remains contentious within critical social theory and feminist politics.

Leslie McCall (2005) identified three distinct approaches to intersectionality; intra-categorical, anti-categorical and inter-categorical. Intra-categorical research focuses on particular social groups at neglected points of intersection to reveal the lived experiences of those within such groups. Walby et al. (2012) argue that this approach is similar to Crenshaw's in that it gives a voice to groups that may have previously been unexamined, but tends to displace focus on the systems that are causing the inequality. The anti-categorical approach is 'based on a methodology that deconstructs analytical categories. Such an approach avoids the stabilization of categories as this can result in essentialism and reification of the inequalities that the researcher is trying to transform.

Anti-categorical researchers therefore value fluidity and avoid concrete categories. Such an approach can make the practical work of analysis difficult to achieve, as the researcher may not be able to gain enough purchase on a phenomenon to say something meaningful about it. Lastly, McCall identifies inter-categorical research as 'provisionally adopting existing analytical categories to document relationships of inequality among social groups and changing configurations of inequality among multiple and conflicting dimensions'. McCall recommends the inter-categorical approach for its ability to develop an understanding of inequality within (and not just between) groups, whilst engaging with the larger structures that produce inequalities (McCall, 2005).

Having discussed different approaches to intersectionality, it is important to situate my own approach amongst these typologies. Being the author that coined the term intersectionality, it would be fair to say that Crenshaw's work has greatly influenced my own approach to intersectionality. Her particular focus on DV and black women provided a framework within which to critique the anti-violence movement and its responses to a diversity of survivors. However, given the complex power structures under examination by my research, it was important to go further in identifying and analysing macro institutions such as the police and the Home Office and their relationship to community organisations and survivors. For the same reason, the inter-categorical approach reviewed by McCall was also considered inappropriate.

McCall's anti-categorical approach, which heralds fluidity to avoid essentialising, is important to consider. Although the total collapsing of categories will have made it almost

impossible to engage in meaningful analysis and discussion, it is also important not to treat groups as homogenous within themselves. Whilst still engaging with distinct categories, I have attempted to deal with this by acknowledging difference *within* categories. For example, it is possible for survivors from the same marginalised group to respond to their abuse in contradictory ways and not behave in a uniform manner. It is important, therefore, not to identify a homogenous response but instead to link them as different responses within and influenced by the same power structure.

Lastly, McCall's inter-categorical approach seems to be the most consistent with my own approach. My analysis has developed discussion on the relationship between different categories of survivor as well as their relationship to larger community-based services. Further, it has also been crucial to develop an ontology of inequality by analysing some of the largest power structures and institutions, and how they influence and shape smaller organisations as well as survivors at the individual level (Walby, Armstrong and Strid, 2012).

Within these differing approaches lies the question: to what extent can intersections be presented as mutually constituting one another, or actively named as somewhat separate categories? Hancock posits that it is only through the focus on the new category that has been formed at the intersection, that analysis has been truly intersectional. However, this raises the problem of invisibility, as attention towards wider categories can be lost through this approach. On the other hand, naming each category also runs the risk of applying an additive framework instead of an intersectional one.

Similar to Crenshaw's work on DV, I have found it useful to be able to name the particularity of each kind of inequality in order to develop an analysis of how they relate to and form new groups. In this sense I have employed McCall's inter-categorical and intra-categorical approaches, as McCall suggests that it is not necessary for categories to be mutually constitutive for the relationship between multiple inequalities to be counted as 'intersectional' (McCall, 2005).

Aside from how intersectionality is applied, perhaps the most potent critiques of intersectionality is its lack of a clear methodological framework. Indeed, the multiple ways in which the approach has been described as a theory, a methodology, paradigm, lens and framework has only made intersectionality more ambiguous. Therefore, while intersectionality may pose an exciting new space for knowledge production (Weber and Fore, 2007), the lack of a clear methodological framework poses a significant problem.

Cuádras and Uttal (1999) observe, "*translating the theoretical call for studying the interlocking systems of oppression and intersectionality...into methodological practice is not easy*" (p. 158). Indeed being truly sensitive to the "matrix of domination" (Collins, 1990) may be an obstacle to in-depth analysis due to the illimitable number of social locations. On the other hand, failure to reflect on the multiplicity of social locations has tended to invisibilise some groups (Yuval-Davis 2006; Evans 2015). In terms of my own research, the decision to apply an intersectional lens was only taken during the data analysis process. This means that the multiple social locations examined by the study materialised through the data themselves, rather than being defined at the outset.

Nonetheless, intersectional methodology remains an under-explored field, with limited development of research designs and methods that can effectively capture all of the tenets of intersectionality (Hancock 2007: p 74). With that in mind, more recently, significant efforts have been made to develop concrete tools for intersectional research. One example of which is Intersectionality Based Policy Analysis (IBPA), which has been utilised to guide the analysis of the data collected in this thesis.

4.5.2 Intersectionality Based Policy Analysis

The intersectional approach to social policy is to explicitly focus on relationships and the interactions between processes that create difference. Hankivsky, Grace, Hunting, and Ferlatte developed a framework that was then presented in *An Intersectionality-Based Policy Analysis Framework*, a report edited by Hankivsky (2012). Hankivsky et al. developed the framework with specific attention to health policies, but state that the model can be applied to other areas of social policy. Referred to as Intersectionality Based Policy Analysis (IBPA), the framework consists of 12 questions that researchers are encouraged to consider. These questions are divided into six 'descriptive' questions followed by a further six 'transformative' questions as well as a number of accompanying sub-questions aimed at elucidating the core 12 questions. Based on the first set of descriptive questions, researchers are expected to produce critical background information about the policy problem. Their purpose is to reveal the assumptions that the existing policy is based on, who is targeted by the policy and the inequalities and

privileges that may be created by such a policy response. One examples of descriptive question are:

How are groups differentially affected by this representation of the problem?

Alongside the accompanying sub-question:

Who is considered the most advantaged and who is the least advantaged within this representation? (Hankivsky, et al 2012: 39).

Based on the second set of transformative questions, intersectional researchers are encouraged to identify alternative policy responses and solutions that reduce inequality and promote social justice. One example of a transformative question is: “Where and how can interventions be made to improve the problem?” This is followed by the accompany sub-question: “How will proposed policy responses reduce inequities?” (Hankivsky, et al 2012: 40).

The full set of descriptive and transformative questions can be found under appendix 1. To ensure that the descriptive and transformative questions are fully informed by intersectionality, Hankivsky et al posit that these questions must be grounded in eight fundamental principles:

1. Intersecting categories
2. Multilevel analysis
3. Power
4. Reflexivity
5. Time and space
6. Diverse knowledges
7. Social justice
8. Equity

The full definitions of these principles can also be found under appendix 2. Each of these principles has grounded the data analysis stage of this research. Ultimately, intersectional policy research works on the assumption that any given policy problem will not be experienced by all populations in the same way and neither will any given intervention. Given this, the goal is to identify and address the ways in which specific acts and policies address (or fail to address) the inequalities experienced by various social groups, taking into account that social identities such as ethnicity, class, gender, ability and migration status interact to form unique meanings and complex experiences within and between groups in society (Hankivsky *et al.*, 2011; Palència, Malmusi and Borrell, 2014). Research evidencing the differential effects of policy across multiple axes of diversity is in its infancy. However, studies employing intersectionality based analysis have gained some traction (Bose 2012; Collins 1990; Crenshaw 1991, 1989; Hancock, 2007a; Hancock, 2007b; Iyer et al. 2008; Lombardo and Verloo 2009; Manuel 2006; Reid et al. 2007; Schulz and Mullings 2006; Varcoe et al. 2007).

4.6 Research Design

As it was only at the analysis stage that intersectionality was applied to the data, it is important to first establish how the data was collected. This section will detail the data collection stage of the research including how interviews and observation were conducted, and how the data yielded was managed and transcribed. Following this, a final section will present how the data was analysed, themed, and how IBPA was applied.

4.6.1 Interviews

A combination of in-depth interviews and court observations were undertaken to analyse the initiatives under research. I had considered using focus groups but decided against this method because stakeholders might have conflicted with one another regarding the problems faced by the initiatives, which may have caused conflict. Such a method would also have undermined confidentiality as workers and stakeholders would have been able to identify each other in a focus group (Grinyer 2002).

In-depth interviews were conducted with current and former employees of Hammersmith SDVC, Westminster SDVC and The Impact Project in Hammersmith Police Station. A further two interviews were conducted with IDVA's that were not part of these initiatives, to provide some contextual comparison of difference. 17 interviews were conducted with 16 respondents in total ranging from 45 minutes to an hour and 30 minutes. Respondents and their pseudonyms are as follows:

SDVC Coordinator Hammersmith/ Impact Case Analyst	Jane
SDVC coordinator for Westminster	Lucy
Impact Project Manager	Rebecca
Current Impact Project IDVA	Ava
Former Impact Project IDVA	Olivia
Hammersmith dedicated prosecutor	Liam
Hammersmith Police Officer DI	DC Jacob
Hammersmith Police Officer DS	DS Emily
Former Chief Superintendent Hammersmith	Alexander
IDVA ADVANCE	Leah
ADVANCE manager	Meena
Lambeth IDVA	Jamilah
Co-Founder STADV	Audrey
Hammersmith SDVC Magistrate	Allison
Lambeth IDVA	Interview not used
Co-Founder of ADVANCE	Interview not used

Table 3.1

Due to the researcher's position as a PhD researcher at STADV, and the established contacts that she had made as an IDVA prior, gaining access was not particularly difficult. Requests were made in writing via email and in person when opportunities arose. The consent form also acted as an introduction to the research and was sent to all prospective interviewees to consider. Contact with the two IDVAs' who were not part of the initiatives under research was achieved through the ADVANCE. One IDVA supported me by putting me in touch with colleagues from her previous role in Lambeth. Two IDVA's from Lambeth agreed to be interviewed. I took the decision to interview employees from other organisations to provide some contextual data with which to situate the SDVCs and the Impact Project.

The interviews were semi-structured and based around a number of topics. Topics covered in interviews were: the respondent's background in DV, history of the organisation they worked for, respondent's reflections on the initiatives under examination, reflections on particular policies and experience of multi-agency working. The questions were amended according to the role in question. Examples of the interview questions can be found in appendix 4-9.

Before the start of each interview respondents were informed of the outline of the research, the researcher's professional background and overview of the purpose of the interview. All participants provided their signed consent (subject to the usual confidentiality clauses) for the interview to be recorded for subsequently transcribed for the purpose of analysis. A copy of the consent form that was given to all respondents can be found under appendix 2.

Throughout the interview schedule, I utilised elements of grounded theory to guide the process. Grounded theory can be loosely described as an approach which involves the meticulous studying of data as it emerges so that a theory is constructed from the data itself (Glaser 1978; 1992). My own utilisation of grounded theory was not in its purest form as I had developed a number of interview questions emerging from the literature. However, after each interview was transcribed and/or listened to, new interview questions and areas of focus were formed as the data emerged. While I may not have applied grounded theory in its fullest sense, as Charmaz (2007 p.90) attests, by learning from the initial set of responses, by carefully listening to what all the respondents say, by picking up on unstated meanings and deconstructing common sense understandings and by shaping emerging research questions

and points of departure in order to illuminate theoretical paradigms, I am 'doing' grounded theory.

4.6.2 Observations

A total of four observations were made of Hammersmith and Westminster SDVCs on DV court days. I employed a non-participant approach and while my presence in the courtroom could not exactly be described as 'covert', my presence there as a researcher did not appear to elicit significant acknowledgment. Some stakeholders in the courtroom were aware of my presence there as a researcher and some were not actively informed. As all Magistrates' courts are open to the public, the presence of an unknown person taking notes is not an unusual one as journalists, family members and caseworkers and so forth are also regular attendees in the public gallery.

I did not make any formal plan before observing the courts as I wanted to collect information as and when it developed in real time. Pole and Lampard (2002) encourage flexibility, as it is the unpredictability of social life that observers ought to be capturing. Although some minimal planning was done beforehand as the observation days were agreed with the court coordinators beforehand.

During the court session itself, I sat next to the court coordinators while the court was in session and then followed them around the court as they went about their necessary tasks. I asked the coordinators to explain their activities as they went along, the particulars of cases that were being heard as well as interactions that were being had between them and

other stakeholders. Examples of notes made were the particulars of each case, how they were presented in court, the outcome for that day as well as 'backroom' intelligence or conversations that were had between stakeholders that was not presented in open court (one example being a survivor's wish for a restraining order, which would be discussed between the coordinator and prosecutor before the court was in session and then be presented as the courts direction rather than at the survivors request).

In terms of my focus while in the courtroom, I drew on Wolcott's (1981) suggestions for focus during observation. In particular, I enlisted the option of 'observing and recording everything'. While the court was in session I attempted to take down as much information, verbatim, from everyone speaking in the court. The court day was closely timetabled which provided a helpful outline and structure to my field notes. I indicated the start of each case with the defendants name followed by the details of the case. Each case had its own page in my notebook, and cases were subsequently numbered to clarify the order in which they were heard. After each case (time permitting), I would make notes with additional information such as tone, appearance or emphasis of those speaking in court. However, as it is not possible for any researcher to literally take down everything that occurs, some intuition was taken when selecting what was most important. Wilcott refers to 'the broad look around' which is intended to glean contextual material for further analysis later.

After each court day I observed, I read over my notes in the STADV office within an hour of the last hearing. I spent this time going over my notes and adding any missing data from memory as well as immediate reflections and analysis. As

suggested by Wolfinger (2002), taking time to complete field notes directly after observation can precipitate the recalling of a chain of details that would otherwise be forgotten.

4.6.3 Transcription

All interviews were recorded digitally and uploaded on to my laptop securely. I listened to all of the recordings soon after each interview to ensure clarity. This also helped me to reflect on new questions and areas of focus to develop for the next interview. Drawing on the work of DeVault (1990) I also made notes of silences, hesitancy and emphasis as these are as important as the words were spoken (p. 109).

Throughout the transcription process I enlisted Anderson and Jack's (1991) checklist before conducting the interviews which describes the importance reflecting on your own agenda, asking follow up questions where there is a lack of clarity and being attentive to the feelings and responses of the interviewee. As I worked at STADV two days a week, it was relatively easy to get in contact with respondents with clarifying questions.

I found transcription to be challenging and time consuming but an invaluable way of rooting my mind fully in the data. However, as time elapsed I found that transcribing all interviews myself might not be the best use of my time and an online transcription company transcribed a number of the interviews. What I lost in having not transcribed some of the interviews myself, I tried to make up for by taking more time to listen through the recordings of those interviews while reading over the transcript looking for any discrepancies.

4.6.4 Applying IBPA

Once all the data had been collected, the interview transcripts and observation field notes were uploaded to Nvivo10 for coding and analysis. It would have been possible to employ conversation analysis or discourse analysis, particularly when analysing the court observations. This could have been utilised to describe the structure of conversational interaction or understand the hidden meanings behind interactions between agencies. However, the aim of this research has been to understand how the stakeholders' activities relate to survivors. That said, attention has been paid towards power dynamics between agencies and interactions in court have been used to analyse this. However, the observations and interviews were essentially analysed through thematic analysis. This was also due to the fact the areas of interest were grounded in the literature beforehand.

While there is *no accepted, standardised approach to carrying out a thematic analysis...carried out properly, thematic analysis is quite an exacting process requiring a considerable investment of time and effort by the researchers* (Howitt and Cramer, 2008, pp. 334 and 336). Thematic analysis tends to focus on what is said, rather than how it is said, allowing for themes to emerge from the data. This has been important for intersectionality based analysis as it lends itself to identifying both policy interventions as well as how they play out in terms of social locations and power.

Braun and Clarke (2006) have provided a systematic process of thematic analysis consisting of six steps:

1. Familiarising yourself with your data
2. Generating initial codes
3. Searching for themes
4. Reviewing themes
5. Defining and naming themes
6. Producing the report (Braun and Clarke, 2006).

The decision to utilise computer aided qualitative data analysis software (CAQDAS) for thematic analysis of the data was based on time and efficiency. CAQDAS is designed to support the process of coding and analysis so that a more intuitive and streamlined approach can be taken with the physical effort reduced considerably (Lee and Fielding, 1991). Further, it ensures that data can be stored safely, coded, retrieved and interrogated with considerably more speed and efficiency compared with more traditional methods or through the use of a word processor (Tesch, 1990; Fielding and Lee, 1998; Lewins and Silver, 2005).

However, it is important to note that even with the efficiencies that CAQDAS brings, the responsibility for cognitive data analysis remains with the researcher (Tesch, 1991). Computer software such as Nvivo can assist the researcher in sorting data into meaningful categories, it is the researcher who interprets these categories (Weitzman and Miles, 1995). It has been argued that removing a large part of the clerical and administrative burden involved in traditional coding methods may enhance creativity and productivity in research (Tesch, 1991). However CAQDAS has also been criticised for exasperating the fragmentation of data (Weaver and Atkinson, 1995). To avoid this, I played through the original recordings while analysing the transcribed interview to ensure that

meanings and intentions were not lost. Ultimately, the responsibility to analyse data in a complete way lies with the researcher and CAQDAS provides a more efficient way of achieving this, when done well.

Nvivo10 was chosen primarily because The University of Essex, the host institution for this thesis, had acquired a licence for students to use free of charge. I attended a three-day NVivo training course in the second year of this research to ensure a high-level of proficiency with the software.

From the beginning, the thematic analysis broadly followed Braun and Clarke's stages, although this was by no means a linear process. This will be discussed in more detail below. The process of analysis was very structured. Beginning first with a reading in full of each interview transcript and then reading transcripts alongside the playing of the original recording. Minimal note taking was done at this stage to ensure the researcher was familiarised with the interview flow and feeling in real time. The next stage involved starting from the beginning of the transcript along with the recording, and undertaking the coding process working line-by-line through the body of the text. The text was stored in Nvivo, which provided to opportunity to create 'nodes' for each emergent theme. In the first instance, these initial codes acted as *'shorthand devices to label, separate, compile and organize data'* (Charmaz, 1983, p. 186). Braun and Clarke (2006) suggest that either a data led or a theory approach can be employed at this stage of analysis. I was largely influenced by theory in the coding process as themes were identified through the literature. Some researchers prefer to take a data led approach working within grounded theory to ensure that no prior influences or preconceptions will affect trajectory (Glaser

1992). Others prefer the use of relevant knowledge (Hutchinson et al. 2010; Strauss and Corbin 1998). While the latter approach was essential in establishing the semi-structured interview agenda, some aspects of grounded theory were employed as the emerging data shaped and refined the subsequent interview questions.

Grounded theory was not enlisted in its fullest sense due to on-going access and time constraints. While initial access was freely given, the busy schedules of the respondents meant the researcher could not assume that all would be available for on-going interviews. Further, an IBPA was being enlisted for this research, meaning that analysis grounded in theory was useful. This was largely because themes focusing on social locations and any evidence of power interactions required active probing from the data.

Initially the data was sought into loose themes, largely based on the literature (such as 'power' or 'autonomy'). While it was crucial for existent literature on DV and the range of social locations to guide the coding of themes, I was also flexible enough to be led by the data in this respect. For example, little in the literature review had focused on migration status or disability and DV initially, but this became an important theme that emerged from the data itself.

Once a small number of loose overarching themes had been identified through an interview transcript, I began to refine the coding by applying IBPA questions and identifying areas of the data that would provide answers to the descriptive questions. The initial codes were reviewed to search for new codes with particular attention being given to those that might answer IBPA questions. While the codes themselves were not defined

by the IBPA questions, they were enlisted as a guide for supporting refinement of the overarching themes. Once a broad range of themes covering a number of areas was formed (with cursory attention paid to potential IBPA questions they may be relevant to), a review of the themes so far was undertaken. At this point it was important to consider whether there was enough evidence to employ an IBPA framework with the data. Some of the themes began to emerge as key themes with extensive instances being coded from numerous data sources. Other groups become sub-themes, relevant to the overarching themes that were established earlier. Nvivo provides the function of creating 'nodes' that can be delineated between overarching themes, sub-themes within them and key themes that can be highlighted as such. As these different levels of themes emerged, it was crucial to add a description and any on-going analysis. Nvivo provides the 'linked memo' function so that I was able to record notes, descriptions, ideas and analysis connected with the theme in question.

Quickly it became apparent that dealing with this volume of data had the potential to become overwhelming. Therefore it was important to keep track of threads by sticking to a strict daily process of coding, note-taking, naming and revising of codes and connected themes. This process was undertaken a number of times to ensure that potential themes and evidence in the data were not lost through limited probing. Over time the overarching themes, sub-themes and key themes began to take shape, each being linked to and grounded by relevant IBPA questions. This began to form the foundation of the data analysis chapters. Table 1. Provides a scaled down illustration of how the literature, IBPA and the data were coded and analysed.

<u>Modified IBPA Questions</u>	<u>Mandatory Arrest Policy</u>
What is the policy 'problem' being addressed?	Attrition rates with very small numbers of call outs resulting in arrest, and fewer still staying with the criminal justice process to conviction (supported by literature and data).
What effects are produced by this approach to the 'problem'?	Some positive effects, increase in numbers of perpetrators arrested, charged and convicted overall. Unintended effects include increase in number of women arrested for DV (supported by literature and data).
How are groups differently affected by this approach to the 'problem'?	Evidence in data to suggest that some women are most vulnerable to wrongful arrest, such as migrant women with British perpetrators

Table 3.2

4.7 Conclusion

In this chapter, I have outlined the development of my research from start to finish. I have demonstrated the reflections and decisions I have made through each stage of the research process, influenced by feminist methodology, reflexivity and intersectionality. I have described and justified my decision to apply intersectionality based policy analysis to examine the relationship between the women's organisations, the criminal justice system and survivors. The next three chapters will demonstrate how I have applied this research design in practice, and will detail my critical analysis of my research questions.

Chapter 5

Safety and Risk

The most potent argument for the utilisation of the criminal justice system in cases of DV is its unmatched power to offer immediate safety during dangerous incidents. Currently, there is no other helping agency that is open 24 hours a day, which also has the power to physically detain and remove perpetrators from situations which, left to their own devices, may cause serious injury or even death. However, the literature review and policy context chapters of this thesis have also illustrated that the justice system's response to DV has historically been to avoid deploying the kinds of sanctions that might decrease risk to survivors (Faragher, 1985; Edwards, 1986b; Wright, 1995).

At this point it is also important to define what is meant by safety in the context of DV. For our purposes, safety in the context of DV will be defined as freedom from physical, sexual, emotional or psychological abuse with limited or no prospect of future harm (Home Office, 2005; Stark, 2007). However, how survivors of abuse are to reach this goal remains a constant challenge, for once abuse has already begun there is a tendency for it to escalate in frequency and severity over time (Dobash and Dobash, 1992; Campbell, 2002). Survivors may seek both immediate and longer-term safety through a range of informal and formal sources of support (Lempert, 1996; Campbell *et al.*, 1998; Peled *et al.*, 2000). However, there is no definitive strategy that appears to be universally successful at preventing perpetrators from repeating abusive behaviour (Goodkind, Sullivan and Bybee, 2004). Despite a range a safety measures employed by survivor and/or professionals,

perpetrators frequently continue their abuse despite arrest (Maxwell, Garner and Fagan, 2001), participation in perpetrator programmes (Gondolf, 1999) and separation (Mahoney, 1991; Fleury, Sullivan and Bybee, 2000). Although contact with a domestic violence service and relocation to a refuge are associated with more positive outcomes (Goodkind, Sullivan and Bybee, 2004) they are certainly no guarantee of safety.

Nonetheless, for some within the feminist movement, the *potential* for the justice system to offer safety if executed well was enough to explore proposals for reform. The Duluth Model, discussed in previous chapters, was the most sophisticated and pioneering programme. The model promoted collaboration between DV services and the justice system alongside the reworking of systems to ensure that safety of survivors was central. Duluth's initiatives have been the biggest influence on STADV's programmes in West London. The SDVCs and more recently, the Impact Project have been developed for the local, UK context but retain a great deal of philosophy and procedural recommendations found in the Minnesota based programme. This chapter reveals a complex picture of the potential for a heightened and specialised service to increase safety for some survivors, whilst also leaving others more vulnerable to state oppression.

5.1 The Impact Project

Arguably, the most unique element of the Impact Project is not directly related to immediate safety measures. The introduction of a former CPS prosecutor as project manager as well as a case analyst is geared towards the longer-term goal of

holding perpetrators to account through increasing the number of charges and their severity, and therefore the number of convictions. The project does however include a co-located DV advocate on the premises, which while not unique to Impact, provides on site advocacy and safety options for survivors. It is this element of the project and its relationship to the criminal justice system that will be analysed in this section.

The co-location of the IDVA in the police station for three days a week was identified by many respondents as being the most important facet of the advocacy part of the project.

Because I think when you have someone in there permanently or as much as funding can be permanent it helps improve the long-term attitudes and behaviours from the police. You have someone do a one off training, its not good enough, you need someone in there every day, to develop that good working relationship and to challenge in the right moments with the police and the courts. **Ava Impact IDVA**

Such a dynamic was identified by Coy and Kelly (2011) whose evaluation of IDVA services found that those IDVAs situated within the police station were able to forge strong relationships with officers and influence the response to DV over time, thus improving police practice overall. In particular, they found that such a dynamic meant that IDVAs could conduct more comprehensive risk assessments, as well as the opportunity to work with and influence police officers response to that risk, with quick access to remedies. Evidence of this was found at Impact, with one respondent reporting:

I could contact and offer support when the suspect was in custody. I had a lot of liaison with the other IDVAs say for instance, the housing IDVA for example, I can think of one case where the suspect was going to get NFA'd and released from the police station. But she had a very new born baby I think a couple of months old. And police were concerned about him going back there but she had nowhere to go. So we were able to kind of set it up, that I did a referral to the housing IDVA. And then when police dropped him home from custody and picked him up at the same time, and then took her to the housing IDVA and she got housed. **Olivia Former Impact IDVA**

This case above suggests that there is real potential in speedy and coordinated risk management to be gained from on-site IDVAs within the police station. Here we see that despite the fact the case was given No Further Action (NFA), both the police and the IDVA remain concerned that releasing the perpetrator will increase the risk to the survivor. This in itself indicates a willingness on the part of the officer to conceive of risk outside the lens of the criminal justice process. The fact that the officer takes such an active part in the survivors safety plan after the closure of the criminal justice case may be evidence of the 'added value' of such a close working partnership between the IDVA and the officer.

The ease with which the on-site IDVA can liaise with the officers does not appear to be limited to her role, as she reports positive implications for the safety planning efforts of the wider IDVA team at ADVANCE.

So sometimes we kind of had an arrangement in place where it was all of the other IDVAs responsibility to liaise with officers directly in their cases, but if they were having particular difficulties, they could just come to me and I would just speak to the officers. So things like asking for a tecSOS phone, like I would just go in and be like 'do you have any tecSOS phones in stock, I'm really concerned about this person'. Whereas beforehand, when I didn't know any of them, I'd have to send them an email with all the risk factors... I think I kind of just became, not part of their team, because I think when you work with the police they definitely don't see anyone who's not a police officer as part of their team. But like a little bit of an add on that they were much more amenable to work with **Olivia**
Former Impact IDVA

A tecSOS phone refers is a mobile device which can connect the user to the police with immediate effect at the touch of a button, with 24 hour availability. Calls from tecSOS phones will be considered high priority by emergency call centres, as the device numbers are tagged on records. Further, the callers location can also be located on activation and the user need not speak to the call handler to initiate an emergency response (TecSOS, 2013). Such a device may offer invaluable security and confidence to a survivor at risk of further abuse from a perpetrator. The example provided by Olivia illustrates that her position within the police station not only supports her in safety planning her own cases, but also creates a single point of contact for the other IDVAs in the team. The original system relied on the additional labour of locating the officer in charge, tracking down contact details, communicating the risks, awaiting a response and presumably following up where this is delayed. Such a laborious and lengthy process may place the survivor at risk for an unnecessarily extended period of time. The benefit of having an IDVA onsite is that such extraneous labour is minimised, as a single point of contact is able to

negotiate safety measures more efficiently by doing this face to face with the officers in question.

In the Olivia's own case of the new mother facing imminent risk, her presence in the station appears to have significantly accelerated the safety planning process. Indeed, once the officer and the IDVA have assessed the risk as high, together they are able to coordinate a sophisticated and elaborate safety plan, to ensure the risk to the survivor is minimised, even if the perpetrator must be released. The position of the IDVA within the station ensures that she is able to identify with the survivor her preferred option of seeking safe housing through the Local Authority. The IDVAs connections with the local housing IDVA also means that she can coordinate support for the survivor when she presents herself at housing that same day.

In terms of managing risk, the IDVA being available to coordinate this plan with the officer seems most vital. Here we see that the officer accompanies the survivor to the housing office, ensuring safe passage, whilst also arranging for the perpetrator to be released from custody once she has safely reached her destination. It is hard to imagine how such an intricate and time sensitive safety plan would have been able to be exercised with such precision had the IDVA not been based in the police station. If the IDVA had been based in a community team, offsite, it would certainly make it more difficult to coordinate the response in a way that was quite so sensitive to the time constraints of the perpetrators imminent release.

Such a well-coordinated safety plan seems to have been additionally responsive to the fact this survivor was made

more vulnerable by having recently given birth, as well as the fact she is unable to flee without state support. The question 'what are the important intersecting social locations' provided by the IBPA framework requires consideration here.

Pregnancy and recent birth have both variably been associated as additional risk factors for DV, although evidence surrounding this has not been consistent. Some have found that pregnant women may be up to 30% more at risk of DV, with some studies finding abuse occurs for the first time or escalates during pregnancy (McWilliams and McKiernan, 1993; Lewis and Drife *et al.*, 2001, 2005). While recognising that pregnant women may be at higher risk of DV, a recent multisite study has suggested that women are not necessarily at greater risk of physical abuse when they are pregnant than they were before (Saltzman *et al.*, 2003). At least one study has reported that DV may decrease during pregnancy, with some women using back-to-back pregnancies as a form of protection (Hilberman and Munson, 1978). Although evidence surrounding pregnancy and risk of DV is somewhat inconsistent, there is more conclusive evidence to suggest that the time immediately after childbirth is most high risk (Gielen *et al.*, 1994; Mezey and Bewley, 1997). Further, the risk may remain high for up to a year after birth (Mezey and Bewley, 1997; Widding Hedin, 2000; Martin *et al.*, 2001).

Although there are risks associated with pregnancy and the period after birth, it is not clear whether pregnancy itself is a trigger, or instead women's power to respond to abuse is weakened (WHO, 2011). Notwithstanding a lack of clear causal link between pregnancy and DV, it has been theorised that this may be a time of unique vulnerability to victimisation because of changes in women's physical, social, emotional, and economic needs during pregnancy (Noel and Yam, 1992).

Indeed, it is the association between pregnancy and female dependency that has also linked to conception abusive behaviours by perpetrators, as evidence suggests that in some circumstances pregnancy itself is used as a form of coercion through birth control sabotage or rape (Hathaway *et al.*, 2005). The connection between unwanted pregnancies and DV may be unsurprising, given the increased potential perpetrators may have to isolate and control survivors during this period.

In this sense, pregnancy might not be considered a wholly separate category for marginalised women (like ethnicity or poverty for example), but an exacerbating factor of those gendered vulnerabilities already existent for women generally. Understanding the social location of the survivor from the case study above from an intersectional perspective, we understand that women in general are at increased risk of DV due to their unequal position compared with men, and that pregnancy or recent birth may be an aggravator of such gendered power relations. Given that risk appears to be highest soon after birth, the circumstances apparent in the above case study will have been of particular concern to those agencies involved.

In this case study, it is not clear how the perpetrator came to be arrested, or why the decision was taken to NFA it. However, if this survivor is facing heightened risk due to having recently given birth, this may be exacerbated by the perpetrators recent arrest. Given the danger involved in this situation, releasing the perpetrator back to the property may lead to retaliatory violence. Identifying and managing the risks in this situation is therefore crucial. The response of the police here is vital, as even though the case does not appear to have met the requirements to detain the perpetrator any longer or charge him with a crime, a risk assessment has been conducted, which identifies this survivor as being at risk, regardless of the

criminal justice process. What is significant about the response following this is that the police in particular appear to play a significant on-going role in managing the risk, even after it has been decided the case must be closed.

Understanding the intersecting locations at play here, it is also important to understand this survivors position as having been made homeless by her abuse, and its relationship to her vulnerability as a woman generally and as a woman who has recently given birth. It has already been mentioned above that pregnancy may be an aggravating factor of gendered vulnerability to DV. This may be related to the root cause of DV as (discussed in the introduction to this thesis) which has been described as being based in the unequal political, social and economic positions between men and women in society. In particular, Marxist feminism has identified the historical divisions in labour between men and women, with women being more likely to be in low paid and or precarious employment, and more likely to be paid significantly less for doing similar work to their male counterparts (James, 2012; Dalla Costa, 2008). Employed women from every social class may face employment discrimination on the basis of their pregnancy, which often further entrenches the pay and status differences already existent between men and women (Davis *et al.*, 2005). However, women in low paid or precarious employment may not even have access to the most basic of maternity employment rights, and are often forced out of work altogether (James, 2012; Dalla Costa, 2008).

Pregnant women in such circumstances may be forced to leave work, (and the potential for economic independence) to rely on their partner. In this sense, capitalism reinforces and cements male dominance in the home, as pregnant women and

those with young children find their opportunities for economic self-sufficiency weakened compared with men (James, 2012). When we look back at the survivor described in the above case study, it may be that her limited economic resources in being able to flee her home, which is no longer safe, is intertwined with her vulnerability as a new mother. DV is a key reason for displacement amongst women, and poor women are most likely to be made homeless when they experience violence in the home. The scale of homelessness as a result of DV is difficult to quantify but in 2008/9, 6,820 households in England and Wales were accepted as homeless on the grounds of DV (AVA, 2011).

However, since this number only covers those that approached a local authority for support *and* were accepted, the figure is likely to be considerably higher. St Mungo's (2014) for example, found that nearly 50% of their female clients had experienced domestic abuse, and a third of women stated that their experiences of domestic abuse contributed to their homelessness. Understanding this survivor's intersecting vulnerabilities as a) a woman b) a new mother c) someone with limited economic resources to flee to safety and d) who is also facing a dramatic increase in the risk to her due to the immanent release of her perpetrator following arrest – we begin to see just how necessary such a coordinated response will have been.

By ensuring a synchronised response between the criminal justice IDVA, the housing IDVA and the police, the risk indicators were identified and managed by each stakeholder's skills, expertise and resources. Given the risk to this survivor, such a heightened response should have the effect of equalising the inequalities this survivor might have had when

trying to respond to the abuse, compared with a survivor with none of these additional vulnerabilities. For example, a single and reasonably employed survivor whose perpetrator had been arrested, might face fewer barriers in securing and paying for alternative and safe accommodation before their perpetrator's release, without necessarily requiring practical support from agencies. The survivor in the above case study was given high level, coordinated support which essentially equalises the position between her and the hypothetical, less vulnerable survivor, as the response from the police and the IDVA ensures she is able to flee safely, is protected from the perpetrator and is able to secure safe housing with the Local Authority.

5.2 Immigration and The Impact Project

There is evidence to suggest that the heightened and coordinated response that is offered through Impact may ensure a more equitable response for some marginalised survivors in certain circumstances, such as poor survivors who are pregnant or who have recently given birth. However, survivors from other marginalised groups may find the route of risk reduction via the criminal justice system more complex, with conflicting systems and institutions offering a reduction in risk in one sense but further marginalisation and subjugation in another. In particular, migrant survivors who are in the UK illegally may find themselves at the intersection of interpersonal and institutional oppression, from both their partner and the risks posed to them by the state if they are forced to use the police to respond to their abuse:

A young guy who's come in from Nepal. Neighbours called the police, came round and found her [the survivor] unconscious on the floor and found him strangling her. That- he was arrested straight out. She disappeared. She had a referral months and months ago about being- taking it back to court.

But only through going back through their [Impact] records to be able to find a phone number and actually start getting in contact with her, and then once we got in contact with her we used the IDVA to start the ball rolling about getting her to come to the police because she didn't really want to come to the police.

She didn't really know- because she worries it will affect her immigration status. But without the IDVA, we'd have never had that initial conversation to find out that's why she was worried about going to see police, in case we stuck an immigration notice on her.

She'd never have brought it into the police report. It's only when we went back through calling the IDVAs back history, just found our referral with that and I think they had a long conversation then and that's as far as they went with that. They still had that phone number and the contact, and she obviously remembered the IDVA, so that worked quite well. **DC Jacob**

The survivor discussed above is clearly reactive to the possibility of having criminal justice operatives involved in her life. Despite the fact she has experienced a very serious assault that has been witnessed by neighbours and the police, the officers do not seem to have had any opportunity to speak with her before she absents herself completely. The police officer identifies that this is clearly a deliberate attempt to evade the police, due to her fears about being reported to immigration services. This is not an uncommon response from asylum-seeking women, 'over-stayers' and refugee women, who often

fear contact with state authorities and avoid all contact with the criminal justice system (Patel 2003).

In this situation, it would appear that the heightened and coordinated response of the police and the IDVA actually works more in favour of the police and their interests, rather than the survivor and hers. Ultimately, the police are seeking a successful conviction for the assault on this survivor, and knowing her whereabouts and maintaining some contact with her will be important in achieving this. However, the additional risks to this survivor of engaging with the criminal justice process were illustrated by the comments made by this officer when he was asked whether or not a referral was made to immigration services.

...we'd have to refer that to the Border Agency, but we'd also refer that in the context of how we've come across them. So you'd say, "As a result of this report, which is- we think there might be a-" we'd have to do like a NACRO check and things like that on the suspect, and similarly if we think the victims are here illegally.

But part of that as well is that if they're on welfare, if they're here illegally, they might not be- you're starting to consider, are they in the best of housing? Have they got employment? And things like that. But then again we'd use IDVAs because there are charities set up for people who are illegally but are already here. But the IDVA has got details of all those.

But, yes, so again that's something I use them to access the whole plethora of support on this. There are thousands out there now that I can't possibly keep track of because they come and go and change and merge and diverge. A lot of the IDVAs, they keep track of all that. **DC Jacob**

From what the police officer states, this survivor's wariness of involvement with the police was legitimate and proportional. Despite the fact the police arrive at the scene and witness the

assault, the survivor very quickly ‘disappears’. In one sense, it could be argued that this survivor is fleeing oppression from the police, just as much if not more, than she is from the perpetrator. Although we do not know for certain how this case would have been dealt with by the Home Office post referral, we do know that this is in the context of increasingly aggressive policies towards all migrants, and even more so for those here ‘illegally’. Indeed, since 2012 it has been the explicit aim of government immigration policy to create a ‘hostile environment’ for undocumented migrants. This has included the use of high profile enforcement campaigns such as controversial vans exclaiming ‘Go Home or Face Arrest’ driven through ethnically diverse areas; successive legislation which removes access to basic services and increases criminalisation of those without status; and an increase in dawn raids by Border Force (Joint Council for the Welfare of Immigrants, 2017). An example of this surfaced during an interview with an IDVA who does not work as part of the STADV partnership:

I had someone the other day who mentioned that a client’s immigration status, for example, had prevented her from reporting [the abuse]. Then the police officer... arrested her for being an over-stayer.

That was really intense but it was interesting because she’d identified that this meant she was at more risk, because this was the reason that she hadn’t reported the domestic violence previously. Again this was a counter-allegation, so the police had got involved because he had made allegations, called the police to the house, knowing that she has insecure immigration status. **Jamilah IDVA**

As discussed in the literature review, migrant women face additional vulnerabilities to abuse, often due to migration rules that demand that a spouse acts as a sponsor (Raj and Silverman, 2002; Joshi, 2003). Those in the country ‘illegally’ may be more vulnerable still as if they are forced to rely on

their perpetrators for maintenance whilst hoping they will not betray them to the authorities. Research by Macleod and Shin (1990) in Canada found that an irregular status would often be used to further abuse migrant women, whose perpetrators would threaten to inform on them or withdraw their sponsorship as a means of solidifying their control.

Mason and Pulvirenti (2013) conducted 18 interviews with representatives from government and community services that support refugee communities in Australia. They found that *“refugee communities find themselves juggling different forms of vulnerability emerging from the intersection of gendered power relations and refugee status: the need to protect women from, and build resilience towards, domestic violence committed by (mainly) male family members; and the need to protect the community at large from public condemnation and stereotyping which [...] is a damaging obstacle to building resilience during resettlement”* (Mason and Pulvirenti, 2013, p. 407). In the case examples above, the added threat of arrest and deportation adds yet another dimension to the multiple and intersecting vulnerabilities experienced by migrant survivors of DV. The ways in which intimate partner and state oppression intersect is illustrated by the example provided by Jamiliah. The perpetrator in this case seems all too aware of the power he has over this survivor, as he presumably contacts to the police in order to punish her. In this sense, the state reinforces and colludes with the perpetrator’s abuse, by prioritising the survivor’s migration status above her allegation of abuse. The difficulties arising from survivors arrested as the result of counter-allegations from perpetrators will be discussed further in the next chapter.

Coming back to the example provided by DC Jacob, the officer seems to suggest that this survivor may get support to stay in the UK and improve her living conditions through the support of the IDVA. However, the example provided by Jamilah indicates that arrest is all too real a possibility for survivors of DV who do not have secure status in the UK. If this survivor is in the UK illegally, as DC Jacob suggests she is, then her options if she wishes to regularise her status are severely limited. This survivor may apply for asylum to stay in the UK on the grounds that it is unsafe to return to her country of origin due to persecution. Even if she has sufficient grounds to apply for asylum (and she may well not), the process is notoriously complex and arduous, in many instances taking months and even years to be granted a final decision. At the end of the application, it is more likely that those claiming asylum will be denied than accepted, with 64% of applications being rejected in 2015 (Silverman, 2017).

Even if this survivor has a legitimate claim to remain in the UK, it appears that her presence in the country up until this point is likely to have been unlawful. In which case, there is a significant danger that the Home Office will seek to detain, and subsequently deport this survivor once the officer's referral has been processed. The likelihood of detention in such circumstances is far from remote, as the UK has one of the largest detention estates in Europe, within which 28,900 migrants were detained in 2016 (Silverman, 2017). Although men make up the majority of those in detention, the particular experience and vulnerabilities of women in detention has gained much academic and media attention and has come under increasing scrutiny. Women for Refugee Women conducted research into migrant women in detention in 2015. They found that half of the women they spoke to report that

they had been on suicide watch in Yarl's Wood detention centre, and 40% said they had self-harmed. This was compared to their previous report, which found that one in five of the women they spoke to said she had tried to kill herself in detention. Further, the report found that there had been reports of sexual assaults within Yarl's Wood. In June 2014 the management of Yarl's Wood stated that 31 allegations of sexual contact had been investigated and 10 members of staff had been dismissed as a result. 9 women in the sample reported that members of staff had been sexually inappropriate with them, either verbally or physically (Girma *et al.*, 2015).

Some feminists who are critical of the treatment of women in prison and immigration detention centres have argued for a widening of the definition of violence against women, to include institutional as well as interpersonal violence.

[We must] redefine violence to include the brutality of isolation; deprivation of family ties; psychological, verbal, and physical harassment; and racial abuse associated with imprisonment (Sudbury, 2016).

If we understand violence against women using this broader framework, which includes state and institutional violence, this raises questions about the position of feminist DV services, situated between the state and survivors. The IBPA framework provides a suitable approach for unravelling such a complex relationship between state institutions, organisations, communities and survivors. One of the major concerns of intersectionality is to focus attention on a variety of multi-level interacting social locations, forces, factors and power structures that shape and influence human life (Hankivsky, 2012a). Looking at power with the widest possible lens,

intersectionality is concerned with understanding the effects between and across various levels in society, including macro (global and national-level institutions and policies), meso or intermediate (provincial and regional-level institutions and policies) and micro levels (community-level, grassroots institutions and policies as well as the individual or 'self').

In the above example, the police appear to be exercising power at the macro level. In the first instance, they are operating authority to ensure they are able to bring criminal charges for prosecution of the perpetrator. Wider than this, however, they as a national, state authority, have a particular relationship with other similarly authorised institutions, such as those dealing with undocumented migrants residing in the UK. Therefore, whilst their ultimate role is to investigate crimes within their own jurisdiction, they are also obliged to ensure that they support other state control institutions to do the same. In some instances, such as the example provided by Jamilah, the remit and interests of the Home Office and the police may be one and the same, as the police take on the responsibility for maintaining immigration laws and policing migrants. Both the Metropolitan Police Service and the Home Office should be seen as macro level institutions, with the highest levels of power and authority afforded to them, for the purpose of ensuring legislation is abided by and breaches punished.

Below these state institutions, the IDVA discussed in the case study is in theory part of a grassroots, community-based organisation. However, this example provides insight into how such organisations shift in their power base, sometimes leaning closer to macro institutions and their interests, rather than survivors and theirs. While the IDVA may work in the

confines of the police station, her employer is a local charity and therefore she cannot be described as having the same power or authority as the officers she works alongside. However, the Impact Project's position within the station and as a formal partner in the Community Safety Unit (CSU) does situate the organisation as one with a connection to state institutions, which affords a certain amount of negotiating power and privileges above that of survivors as individuals. Indeed, the very aim of such partnerships is intended to bridge the gap between state institutions and survivors, ensuring better access to support. Further, as a community-based organisation the Impact Project is likely to have access to a great deal of information that the police would not ordinarily be able to access.

A number of respondents reported that it was usual for survivors to divulge a great deal more information to an IDVA, than they would to the police:

We don't have to agree with the level of risk, but if Advance has got more information that they've obtained from speaking to the victim, I'd be keen to hear what that is. **DS Emily**

There'll be more times probably when I'm wrong and IDVAs are right because, I mean, they are the ones speaking to them day in day out. **DC Jacob**

In the example provided by DC Jacob, the IDVA has the survivor's personal information on file, which was gained from previous contact with the service. As the officer states, she seems to have remembered the IDVA, and presumably places some trust in her based on that. This places the IDVA in a unique negotiating position, as the IDVAs location in the station provides easy access for the officer to regain contact

with the survivor, and her position as a trusted advocate supports this. It is not clear whether the IDVA understood the consequences of supporting the police to regain contact with this survivor, nor why the survivor might have agreed to it. Nonetheless, there is an issue around the vulnerability of the survivor, who may be in great need of support, especially if she was living with the perpetrator whom she fled from. Indeed, as the officer states, the IDVA has access to a number of support options for migrant women in such circumstances. Given that it was a criminal justice IDVA, based in the police station, it may have been understood from the survivor that on-going support was contingent on her support of the prosecution, whether this was the case or not. Although we cannot know for certain, it remains curious that a survivor, who fled her perpetrator and the police so dramatically after a serious assault, would have such a change of heart. Particularly given the fact this survivor's fears were realised, and the police did inform the Home Office of her whereabouts.

There is a growing expectation and a duty for organisations outside of immigration control to be involved in immigration enforcement. In 2008, the paper 'Enforcing the Deal' (Home Office, 2008a) announced the establishment of links between the now defunct UK Border Agency with a number of unusual partners. A number of agencies have since become involved in immigration enforcement including Driver and Vehicle Licensing Agency (DVLA), the Fraud Prevention Service (CIFAS), NHS Trusts, businesses, HM Revenue and Customs, the Department for Work and Pensions, local governments, the financial sector, universities and colleges and so on (Aliverti, 2015). Further, the voluntary sector has come under intense public scrutiny for colluding with immigration enforcement, with homeless charity St Mungo's acknowledging that it had

accompanied Home Office teams on enforcement patrols of street homeless migrants (Taylor, 2018).

It is this very dynamic that is so potentially problematic with multi-agency endeavours, argues Pragna Patel (1999). She posits that feminist organisations that are uncritical of the political consequences of their involvement run the risk of unintentionally siding with the state against the interests of survivors. In this instance this may be due to an overemphasis on the common ground between the police and DV service objectives – namely to successfully prosecute perpetrators of DV. A lack of critical attention towards the ways in which the police may pose unavoidable risks to some survivors has the unintended effect of the DV service colluding with the state on immigration enforcement against their service user. This seems to be based on the assumption that the police who have agreed to the partnership will only represent a benevolent and supportive force in the lives of survivors of DV. However strong this partnership may be, it is difficult to see how it can overcome the pervasiveness of the hostile environment on migration, without actively engaging with the fact that migrant survivors may be more harmed by a criminal justice response than supported by it. The above case study may lend further evidence to Patel's arguments, as there is a significant danger that this IDVA has supported the police and (albeit indirectly), the Home Office in their interests over those of this survivor.

In the case of the homeless new mother, the close partnership between the police and IDVA enhances the survivor's opportunities to live free from violence or oppression. In the case of an undocumented migrant, it appears to do the opposite. The intersecting vulnerabilities of this survivor seem palpable. The serious assault from her perpetrator illustrates a gendered, interpersonal form of oppression. But further, her

designation as ‘illegal’ means that in this instance the apparatus that has been put in place to support her, actually works against her. In the case of the postnatal survivor, the authority of the police ensures that she is protected from the perpetrator through extending, and managing his detention to ensure her safety. The knowledge and connections of the IDVA can then support her to get safe housing as quickly as possible. The migrant survivor on the other hand, is only made more vulnerable by this partnership, in this instance. The authority of the police places her in danger of being reported to the Home Office, and the position of IDVA service as a trusted community-based service that perhaps offered her support in the past, bridges the gap between her and the police with problematic consequences.

5.3 The SDVC, Risk and Disability

The time immediately after an incident of violence is likely to be the most crucial in terms of risk reduction for a survivor. In most cases, Impact staff and the police, as well as any other required agencies manage early safety planning. As discussed in the last sections, for some survivors, the response of both the police and the IDVA in the early stages of a case can have a dramatic impact on the risk posed to a survivor. The location of Impact being within the police station means that the IDVA will frequently have conducted a risk assessment and supported the survivor to put a safety plan in place by the time the case reaches court.

However, in some instances the incident may be serious enough to accelerate the process, such as when a perpetrator has been charged soon after arrest. In many instances, this

would result in the perpetrator being held in custody to appear before the Magistrate the following day. In such circumstances, the risk posed from the original incident may still be 'live', and the court is likely to play a more active role in lowering the risk to the survivor. Although the make up of these services are intended to provide safety support from the incident, the court would inevitably play a role in maintaining and managing safety measures later in the criminal justice process. Further, risk is dynamic and can escalate at any point in cases of DV. There are therefore a number of ways in which the courts management of risk to survivors may be as important as the work done by the police and Impact.

I observed a number of SDVC court sessions, one example of which took place in court the day after a violent incident had occurred:

Case Study Hammersmith SDVC

A defendant has been brought to court after a night in custody following an arrest for common assault. He was accused of punching his partner in the face and pushing her down the stairs. His defence solicitor makes an application for unconditional bail. The prosecutor informs the bench that the witness has a mild learning disability and challenges bail on these grounds. Further the police have provided the prosecutor with an antecedents report and call out history, which shows several police call outs to the address and a previous case of common assault that was discontinued at trial. The IDVA passes information, via the coordinator, informing that while the defendant was on bail for that offence, he breached bail on a number of occasions, but that went unreported. This information had come from a phone call with the survivor that morning. The Magistrate asks the prosecutor if a risk assessment has been completed. The prosecutor looks through his bundle and confirms that the police completed a CAADA DASH [now Safe Lives] risk assessment at the scene, and the resulting score, which was 'high'.

The Magistrates' retire briefly and return to give their decision that the defendant will be remanded in custody pending trial. Once the decision has been made to remand the perpetrator in custody, the prosecutor makes an application for special measures, so that the survivor can give evidence behind a screen at the trial.

Examining this case through an intersectional framework, it is important to locate this survivor as a woman with a learning disability. As discussed in the literature review, research has shown that women with physical or learning disabilities are at increased risk of being abused, with 50% of disabled women experiencing abuse in their lifetime (Magowan, 2003; Mulroney, 2003). As well as being more likely to experience violence generally, women with disabilities are more likely to

experience abuse that could be considered severe, and to experience abuse for longer time periods compared to able-bodied women (Smith, 2008; Baladerian, 2009; Baldry *et al.*, 2013). Women with learning difficulties in particular are at increased risk of sexual abuse and assault (Barger *et al.*, 2009).

In understanding why people with disabilities or impairments may be at increased risk of abuse, it is important to come back to the origins of such oppression, discussed in the introduction of this thesis. Marxist theory has placed the origins modern day disability oppression as based in its relationship to capital, and the categorising of those with impairments as less profitable (Slorach, 2015). This, in turn, can be linked with the social model of disability, which identifies the norms created by society as failing to acknowledge and address the needs of impaired people, which in itself is what 'disables' them (Union of Physically Impaired Against Segregation (UPIAS), 1976; Corker and Thomas, 2002; Swain *et al.*, 2004).

Given such a framework, it is important to understand how the SDVC avoids ableist practices and ensures that those with disabilities are fully engaged in the criminal justice process. I observed that the courtroom was a complex but pro-active multi-agency setting, in which each agency was expected to have come to court prepared and with the relevant information to hand. Each agency has specific access to particular kinds of intelligence, from antecedents to the expressed concerns of the survivors, as well as additional vulnerabilities that may place them at increased risk of further violence. In the case above, if any information had been presented alone they may have been concerning but lacking in weight.

The SDVC had laid out procedural expectations for all to follow, meaning that the responsibility to investigate, enquire and gather information about risk lies with the professionals in the courtroom. The role of the court coordinator acts as assurance of accountability, as where there is a failure to maintain these procedures, the relevant agencies will be challenged in the out-of-court steering committee. This level of forensic attention to detail and risk was identified as a theme in all the observed cases in the courts including first appearances, trials and at sentencing.

In terms of supporting the survivor around her learning disability, the IDVA was the most crucial aspect of the SDVC arrangement. The IDVA had spent a good deal of time with the survivor, explaining the process and what might happen. Most importantly, the IDVA has been able to gather vital information from the survivor alongside her personal assessment of the risk and how she feels the court can support her. After the court session, the IDVA reported back to the survivor and informed me that she was very relieved to hear that the perpetrator would be remanded in custody, as this would provide her with time to plan out her next steps.

The IDVA played a crucial role in bridging the gap between the complexity of the court and the survivor's learning needs. In the SDVC model, the survivor was able to communicate her safety concerns, and her IDVA being more familiar with the court process, was able to navigate it in a way that ensured her safety. The IDVA was seen making phone calls before and after the court session, ensuring that she was updated on all proceedings as soon as possible, and had the opportunity to feed in relevant information right up until the moment the court session opened. The survivor need not take any obvious

part in proceedings, as she is not mentioned in open court and does not need to attend. Yet she remains central to proceedings covertly. Such a programme provides more safety options to survivors, especially those who might not otherwise be able to successfully navigate such an institution to focus on her interests.

The importance of providing such a service is highlighted by research, cited in the literature review, which revealed the consequences of poor court practice towards survivors with learning difficulties. Douglas and Harpur's (2016) research examined the response of Australian courts towards survivors of DV found with learning disabilities. They found that women with learning disabilities experienced significant barriers to justice. In particular women with a learning disability were at additional risk of social and physical isolation by their perpetrators, but that court operatives often exacerbated this risk. The courts were found to contribute to the women's isolation, by failing to fully involve them in the court process either through poor practice or ableist assumptions. Women interviewed in the study frequently felt disorientated and confused by the process, and their rights were frequently denied. In particular, women with learning difficulties found it difficult to articulate the dynamics of their abuse and therefore cross-orders, (whereby protective orders are placed on both parties) were common in the sample. Women were also frequently confused about what the court could offer in terms of protection, how to obtain a restraining order and what the utility of this would be in their lives.

The authors drew on the concept of supported decision-making, which is an approach recommended by the United Nations Convention on the Rights of Persons with Disabilities

(CRPD). They found that efforts to implement such practice was rare, and made a number of recommendations to bring court practice in line with the CRPD. Such recommendations included making supported decision making available to all as well as provision for more intensive support to ensure legal capacity. Although the DV advocacy model may not have been intended for the support of disabled people per se, the advocacy philosophy is clearly amenable to the needs for those with learning disabilities. Indeed, the choice of the term 'advocate' has been crucial as it is associated with rights and empowerment-based support. DV advocacy aims to ensure service users can make informed choices for themselves, and supported to actualise them without being compelled into a particular direction (Robinson, 2009; Coy and Kelly, 2011).

Aside from DV support, the term advocate has also been associated with the support of vulnerable adults generally, particularly regarding groups who have traditionally been prevented from exercising their rights. Advocacy support has been made available for those with physical and learning disabilities, mental health patients and elderly service users amongst others. Although the needs of these groups are likely to be very different, the common thread between them is that they are generally marginalised groups whose power to make decisions about their lives has been systematically compromised. Given the commonalities between support for people from different marginalised communities, it is perhaps unsurprising that support intended generally for DV survivors may also be amendable to supporting survivors with learning difficulties. In the example above, the IDVA has explained the court process to the survivor, has provided the survivor with options and then navigated the court on her behalf in line with her expressed wishes. Being someone who is likely to have had

her power to make decisions about her life undermined as both a survivor and a woman with learning disabilities, the court advocacy model provides opportunities for self-determination, at least through the criminal justice process.

Aside from the IDVA's practice on this day, the wider SDVC process seems to lend itself to the needs of those with learning disabilities more than other kinds of courts, without having made this the wider imperative. All of the stakeholders are specially trained in the dynamics of DV, and therefore the vulnerabilities existent for survivors in such a relationship. Further, the case is less likely to be taken at face value, and professionals are less likely to take an actively inquisitive attitude, focusing on the vulnerability of the survivor. In this case, the forensic collection of intelligence from a number of sources serves the purpose of not only illustrating this survivors vulnerability as someone with a learning disability, but also one who appears to have experienced abuse for a considerable amount of time (which is in itself associated with disability). Although not openly discussed as being related to the survivor's disability, the antecedents report from the police is a crucial piece of evidence, which contextualises her vulnerability. Similarly, the survivor is able to pass on vital information through her IDVA, regarding the perpetrators behaviour the last time he was on bail for assaulting her. This again contextualises her vulnerability to on-going abuse and provides a projection of the potential fall out if the perpetrator is released on bail. Joined-up, multi-agency practice with survivors of DV with learning disabilities was a key recommendation made by a two year research project into the needs of such women (McCarthy, 2017), and which the SDVC appears to be putting into practice.

Aside from the immediate safety concerns for the survivor, remand also serves an additional purpose:

Hammersmith SDVC Case Study Continued:

After the court session was closed, I spoke to the IDVA. The IDVA explained that the survivor was very relieved to hear that the perpetrator would be remanded in custody, as this would give her breathing space and time to put a plan in place. The IDVA explained that the survivor was likely to need a lot of additional support such as getting benefits in her name, support from adult social services and potentially support with her housing options.

In terms of the court hearing, the IDVA informed the researcher that the survivor felt more comfortable knowing that she would be giving evidence behind a screen. She also informed the researcher that the survivor will be given the opportunity to attend a 'pre-trial visit' so that she can meet the SDVC prosecutor and familiarise herself with the surrounding of the court and go through the process of the trial beforehand.

The decision to remand the perpetrator in custody seems to be based on the evidence presented to the court, which indicated an on-going risk of victimisation. But as well as providing immediate safety to the survivor through the detention of the perpetrator, this appears to have also had the effect of providing the survivor with an extended period of safety with which she can make a plan. This is likely to be additionally important for a survivor with learning difficulties, as she may need more time to fully understand all of her options. Further, more time may be required to ensure that she is adequately supported with any decision she makes (such as with form filling for benefits or accompanied visits to housing for example). Indeed, research has shown that women with disabilities who leave violence are likely to have complex

needs such as personal assistance with tasks, locating suitable and accessible accommodation as well as specialised emotional support, as discussed in the literature review (Nosek, Howland and Hughes, 2001; Humphreys and Thiara, 2002). Crucially, women living with an intellectual disability are at increased risk of living in poverty, which in itself increases vulnerability to DV (Ortoleva and Lewis, 2012; WWDA (Women With Disabilities Australia), 2013). This can be a mutually reinforcing dynamic, in which disabled people are more likely to be in poverty, whilst the conditions of living in poverty exacerbate or increase the risk of becoming disabled (Elwan, 1992). Additionally, such a dynamic can increase the likelihood of abuse, whilst the presence of abuse can also further entrench poverty and disability, as disabled people are forced to rely on those who may at once support as well as exacerbate their isolation and marginalisation (Hague, Thiara and Mullender, 2011). The intersections of marginalisation that disabled people experience as well as disability, (such as gender, class or ethnicity-based oppression) create a complex web of oppression that are not separate from each other, creating a cycle that can be enormously difficult to break.

In an intimate partner setting therefore, there is a greater propensity of complex partner-carer dynamics, whereby a woman with a learning disability may be simultaneously being abused as well as cared for by her perpetrator. Further, it is common for perpetrators to use a survivor's impairment to gain further control over her life, by isolating her from the outside world and positioning themselves as the only person who provides support (Thiara, Hague and Mullender, 2011). Given this complex dynamic, how someone with a disability is

supported to end abuse while still having their needs met is crucial.

In the case study above, we see that the SDVC model provides opportunities for survivors to exercise self-determination through the court and advocacy model. It is also significant that the SDVC combines state powers, information sharing and intensive support for survivors, which has the potential to disrupt such a cycle of abuse and dependency. By providing a period of relative safety through detaining the perpetrator and using this time to offer concentrated advocacy support around benefits and housing, the model helps to ensure the survivor can live independently and safely but without falling into poverty and neglect.

Aside from the benefits associated with remanding the perpetrator in custody, a number of other arrangements were also made that were supportive to the survivor's position. The granting of special measures and the disclosure from the IDVA that the survivor will be supported with a pre-trial visit was also illustrative of the additional support offered to this survivor through the length of the court process. In this sense it is not only the immediate risk that has been dealt with by this hearing, but also any on-going additional needs the survivor may have to stay with the court process. The introduction of special measures and pre-trial visits for survivors of DV was discussed in the policy chapter. In 1999 the Youth Justice and Criminal Evidence Act 1999 (YJCEA) was introduced, giving provision for 'special measures' for victims and witness who were considered vulnerable or intimidated. This included provision for survivors to give evidence behind screens or via video link, pre-trial visits and separate entrances and waiting areas.

Prior to this legislation, DV survivors did not qualify as 'vulnerable adults'. Although, this survivor will have qualified for special measures on the grounds of her learning disability, it is likely that her case being heard in an SDVC will have increased the chances of her vulnerabilities coming to notice and being addressed in this way. The above list of 'special measures' is now a mainstay of the SDVCs, and will generally be offered to *all* survivors that are required to give evidence. If this survivor had had her case heard in a non-specialist court, there might have been less scrutiny into the circumstances surrounding her assault and her additional vulnerabilities, especially since her learning disability is described as 'mild'.

There is evidence that the use of screens for vulnerable people is beneficial, with Hamlyn et al. (2004) finding that vast proportions of witnesses who were awarded special measures found them helpful. Further, one third of those surveyed said that special measures enabled them to give evidence that they would not otherwise have been able to give (Hamlyn *et al.*, 2004).

Such measures are likely to be additionally supportive of survivors with learning disabilities. Research has found that survivors engaging with the criminal justice system that also have learning difficulties frequently find the process daunting and disorientating and also encounter impatience and ability bigotry amongst criminal justice operatives (Ptacek, 1999; Douglas and Harpur, 2016). Contrary to the ableism that many survivors with learning difficulties face in court, the SDVC actively finds ways to both protect this survivor as well as provide additional support to make the process more accessible for her. The survivor will be giving evidence in the

same room as the perpetrator of her abuse, in a courtroom that may feel alienating and intimidating. Screens may reduce the amount of stress and trauma for the survivor when she re-tells the incident, whilst also making it easier to focus on the task in hand without unnecessary distraction. Further, the pre-trial visit will be conducted with the IDVA, who will walk the survivor around the court explaining what will happen on the day of the trial. This 'practice run' is intended to minimise the potential for confusion on the day of the trial, provide time and space for the survivor to familiarise herself with the surroundings and have any unanswered questions or anxieties addressed. Although this is likely to be supportive of all survivors of DV, the additional care and attention is also likely to make the court process more accessible for those with disabilities.

The above case study illustrates how an enhanced and specialised court service which is intended to increase support and safety for one marginalised group (survivors of DV) may also benefit survivors at the intersection of other forms of oppression, such as disability. With this case we have seen that the increased attention to detail revealed the myriad ways in which this survivor was vulnerable, which in turn was addressed through the detention of the perpetrator. Further, the advocacy role which is put in place to enhance the empowerment and decision making of survivors of DV, similarly supports a survivor around her learning difficulties, and offers a route to supported decision making, as recommended by United Nations Convention on the Rights of Persons with Disabilities.

5.4 Chapter Summary

This chapter has provided a complex picture of women's sector collaboration with the justice system. At once it has the potential to both equalise inequalities as well as collude with state oppression against survivors. Whereas IDVA presence in the police station provides opportunities for sophisticated, joined-up working to decrease the risk to some survivors, for others the same the initiative results in a co-option of interests that is more aligned with the state. This seems to largely depend on the particular ways in which a survivor is marginalised. Poverty, pregnancy and disability may all pose additional risks to survivors that are attempting to end violence in their lives. Whilst systems of social class, gender and ableism are powerful vehicles of marginalisation, none of them designate illegality for those oppressed by them. For survivors on the 'wrong' side of the law, the close relationship between DV services and the justice system may only serve to increase their vulnerability. This raises further questions about the potential for such a union to criminalise rather than protect survivors, and is the theme of the next chapter.

Chapter 6

Survivor Self Determination and the Criminalisation of Victimhood

As the last chapter illustrated, there may be a number of ways in which the criminal justice system, when utilised well, can offer safety to survivors of DV. However, one aspect of criminal justice intervention that continues to be debated is around who retains ultimate control over proceedings, the survivor or the state. It is argued that mandatory arrest and prosecution policies ensure that the justice system is not able to obfuscate its responsibilities by removing 'non-cooperation' of survivors as a reason for failing to act. However, the implications of giving the state power to proceed over victims self-determination is that survivors may find themselves in conflict with state authorities. Advocates of the approach argue that the state can demonstrate to survivors and perpetrators it is serious about tackling DV. Conversely, such an approach is in conflict with those that believe that survivors ought to be able to exercise agency. It is argued that the very essence of victimisation is to strip survivors of control, and the criminal justice system ought not be given more power to further deny women self-determination. Further, those advocating this position argue that there is a danger that prosecutors may abuse their powers by ignoring survivors own assessment of the risk implications of proceeding (Schechter, 1982).

The following sections illustrate the complex issues and emotional ambiguities that surround decision making aimed at survivor safety. Further, disclosures from practitioners in concert with literature on the subject illustrate an unintended process of criminalisation of survivors through their contact with the criminal justice system. Through the following

sections, I will examine evidence of increased arrests of survivors by police, as well as the use of witness summons, which gives a power of arrest to compel survivors to attend court.

6.1 Mandatory Arrest and Counter Allegations

In the early days of STADV's criminal justice initiatives, a mandatory arrest policy was considered vital to ensuring the programme's success. Interviews with the founder of STADV suggest that those involved characterised this move as a huge success of inter-agency, collaborative work and improved DV policy in the criminal justice system:

The deal was the police would arrest them, and take them away. So she got her breathing space if they were taken away. He might be released the next morning if they couldn't hold him, but they'd be a bit of a breathing space. He possibly would be kept in custody, which would be even better, longer breathing space; time for her to recover and think about her options. So the police understood arrest as not necessarily the technical grounds for arrest, but something they were doing for the victim. **Audrey Co-Founder STADV**

There is a great deal of potential, as Audrey indicates, in utilising the power of the police to create a safe space and time in which the survivor can be supported. Being able to utilise state powers to detain, and therefore create a hiatus in a volatile and dangerous situation, is clearly an invaluable device for survivors, and one that was championed by the Duluth Model as discussed in the literature review (Shepard and Pence, 1999). The efficacy of such an approach was discussed in the example of the postpartum survivor discussed in Chapter 5, which supports Audrey's theory of arrest as part of a wider safety plan. However, as was also discussed in the

literature, there remains controversy around the use of mandatory arrest powers.

One unintended consequence of mandatory arrest policies has been a dramatic increase in the number of women being arrested (Buzawa and Buzawa, 1990; Federal Bureau of Investigation, 2004; Hester, 2009). All STADV and ADVANCE employees identified 'counter allegations', (whereby both the survivor and perpetrator report an incident of abuse to the police as victims) as something they had come across in their practice. Those that reported 'counter-allegations' as a significant phenomenon identified it as a great source of distrust and discontent with the police, where survivors were concerned. Leah, an IDVA with ADVANCE and former police officer provided her reflections:

Some clients actually have mistrust in the police. I have got quite a few clients...where they have reported incidents before and they have actually ended up being arrested themselves. I have had quite a few cases like that where they have been arrested. One case in particular, a client called the police and reported and he had scratches on his neck. They were blatantly defence marks. She got arrested. From that point on she refused to call the police. She even said to me, "even if I need them in an emergency I will not phone them". **Leah**
ADVANCE IDVA

Clearly this phenomenon that was first identified by Buzawa Buzawa in 1990 (as discussed in the literature review) is far from overcome, as advocates are still identifying this as a significant problem when working with survivors. Although the intention of STADV's initiatives was to utilise the justice system to protect survivors, the end result is that some survivors have less confidence in that system.

Taking an intersectional approach, it is also important to ask how survivors might be differently affected by any increase in the arrests of women. There is evidence to suggest that some women are more vulnerable to criminal justice sanctions than others. Migrant women and those that do not speak English as a first language, for example, may be vulnerable to perpetrator manipulation of services, as indicated by the example provided by Jamilah in the previous chapter. The same IDVA went on to describe a number of other instances of migrant survivors being arrested:

I have two clients, they're both Eastern European and they both had this experience where their British husband spoke to the police when the police arrived, and then they were arrested – the victim was arrested.

I had a case...the police... charged her for common assault. She'd been in a 10-year abusive marriage with her husband, which was very high risk. He had thrown her out of a moving car; he was constantly very violent towards her. She had young children.

The incident; he basically came for her, her daughter was present, he pushed the door out of the way and she had got really angry that he had hurt their kid. She threw a shoe at him, and it hit him on the back of the head. They both called the police, but when the police arrived he went out first and spoke to them.

With this case she basically didn't lie about it; she admitted to throwing a shoe at his head, but it was in self-defence, but she was charged with common assault and it went to court, believe it or not. She also had bail conditions.

Another, similar case I have which is a Lithuanian woman who is in her fifties. She didn't lie about the fact that in the course of this incident she broke something that belonged to him that was very small and insignificant, and she got criminal damage charges smacked on her. Again, she ended up going to court. **Jamilah IDVA Lambeth**

These cases illustrate the additional vulnerability that migrant survivors may face when coming into contact with the police, especially if their perpetrators are British. Susan Miller (2005), discussed in the literature chapter, found that perpetrators are often able to manipulate the criminal justice system in their favour. With migrant survivors specifically, it has been found that perpetrators may deny access to education, resources and English language skills to maintain total control over their lives (George and Rahangdale, 1999). Additionally, research suggests that migrant women are at increased risk of domestic violence in the first instance, as insecure immigration status can be used to control women, as well as acting as a barrier to seeking and receiving help (Raj and Silverman, 2002). A British perpetrator, knowing the language, the procedures and the structure of justice system would have monumental ability in being able to manipulate the system against their migrant partner whose understanding of such things may be limited.

Understanding this intersectionally, there are a number of levels that need to be explored in understanding why this may be happening. First of all, mandatory arrest has had the unintended consequence of an increase in arrests of survivor of violence, and has disproportionately impacted women (Buzawa and Buzawa, 1996; Mills, 1998; Johnson and Bunge, 2001). Secondly, although mandatory arrest policies may be part of the reason why more women are being arrested for DV, how DV is (or is not) gendered by the police is another component that needs to be considered. In the literature review, the gendered reality of DV has been discussed, as well as the types of violence women use in relationships. The examples provided above reflect evidence presented in the literature review, which indicates women's use of violence is more likely to be resistance to their perpetrators abuse, than

as part of a pattern of ‘intimate terrorism’ (Stark and Flitcraft, 1988; Johnson and Ferraro, 2000; Hamberger and Guse, 2001; Dasgupta, 2002; Kimmel, 2002). While the theory that women are just as likely to abuse as men is not bolstered by evidence, the discourse around female violence has been gaining considerable traction for some years (Meloy and Miller, 2011). The same IDVA provided her reflections on one officer’s attitude to the question of female perpetrators:

I’ve got a male client and the perpetrator is a woman, and he’s a straight man in a relationship with a woman; she’s harassed him a lot – he told me that the police officer in the case told him that he wanted her to get charged for this to prove that there are male victims too. When the case didn’t go to charge, because the CPS said there wasn’t enough evidence, he said to the victim, ‘Taking my police officer’s hat off, this is because you’re a man’.

Jamilah IDVA Lambeth

The police officer discussed in the above quote appears to be motivated politically in his desire to see women charged, an example of the ‘vengeful equity’ attitude discussed by Chesney-Lind and Pollock (1995) and referenced in the policy chapter. This woman may well have been guilty of the charge against her, but what is interesting is that the officer expresses his personal preference that she ought to be charged regardless of the lack of evidence against her. According to him, this woman ought to be charged and (presumably convicted) as ‘proof’ of female abuse, to satisfy his personal suspicions that female abusers elude justice.

The chapter on policy highlighted the theory that the shift in attitudes towards women supposedly having a similar propensity towards abuse as men as being related to increasingly vocal men’s rights activism (Rosen, Dragiewicz and Gibbs, 2009). Public discourse notwithstanding, if there is

no evidence that there are swathes of unrecognised female abusers, gender-neutral policing in this context may be considered problematic in terms of gender equality. If men and women are not equally vulnerable to experiencing DV, and women are being arrested and convicted in the mistaken belief that they are perpetrators of abuse, it could be argued that women are facing a new form of gendered injustice.

Although the two migrant women discussed by the IDVA, Jamilah were both Eastern European, an important dimension to consider is the additional vulnerabilities of women of colour generally, especially as they make up the majority of migrants in the UK (Coleman, 2013). As discussed in the literature review, women of colour that come into contact with the criminal justice system face significantly more punitive responses compared with white women, from the likelihood of arrest up to conviction and sentencing (Allard, 2002; Chesney-Lind, 1997; Greenfield and Snell, 1999; Miller, 2001; Uhrig, 2016). It was also argued in the chapter on literature that the police have the power to determine who is a victim, and it is likely that this is done discriminatively (Adelman, Erez. and Shalhoub-Kevorkian, 2003).

The unintended consequence of mandatory arrest policies on the one hand and 'vengeful equity' policing on the other may be swinging the pendulum further in favour of perpetrators. As well as this, it appears that perpetrators are increasingly able to exploit migrant women's vulnerability before the criminal justice system, manipulating services to punish rather than support them. Such policies may therefore be exacerbating and creating new intersections of vulnerabilities for certain survivors of domestic abuse. As women are increasingly arrested for DV, it may be that migrant women are positioned

at the intersection between non-gendered policing and the barriers to justice already associated with their immigration status.

6.1.1 SDVC Response

Given the complicated nature of how mandatory arrest policies are playing out, it is important to understand how the initiatives included in this thesis are responding to these problems.

When asked how their initiative deals with counter-allegations all stated that this was not something they would become involved in, and that it was solely the job of the police to investigate and decide whom the perpetrator was:

I don't think that's really something I get too involved in, because, if a counter-allegation has been made, which happens so many times, its not for me to investigate the counter-allegation... that's the police's job. **Ava Impact IDVA**

Not really. Not necessarily. That's probably more a question for the police. What I absolutely hate is when they arrest both parties. That drives me nuts. **Rebecca Impact Manager**

Because I've been in the court for years there will be times when I think 'oh not sure about this'. But that's not my decision to make, that's just a personal thing sitting there. But the process goes through the process and that's it. It's the police who determine who the perpetrator is and the victim. **Lucy SDVC Coordinator**

Crucially, none of the respondents working in the women's sector, identified counter-allegations as an area for active institutional or individual advocacy. This was despite the fact that at least one, IDVA, (Leah whose quote states this above)

identified that counter allegations are often made as a means by which the perpetrator might further abuse a survivor.

It is curious that counter-allegations are so clearly defined as being the sole prerogative of the police to investigate, despite Impact Project's role being to review DV cases and actively address any failures to investigate with individual officers (this is discussed more in Chapter 7). Conversely, there appears to be no authority on which women's sector practitioners could intervene in cases where allegations have been made against a suspected survivor of abuse. The coordinator of Hammersmith SDVC reflects on one case whereby a survivor was convicted of DV:

the history... [it] was all him being the suspect against her, and she said that there was a history of abuse.

And the colleague that had come to observe the court said, "This is not DV, this should not be in the DV court." And it really made me think, oh God. And I said, "Well, it is DV because the relationship between the two dictate, is what the ministerial definition is."

And yes, whilst I agree that this is not kind of our power and control DV, would you not want the specialist court to be there to identify that? And in fact that is what they did, their specialism, the understanding of the dynamics - completely identified that the person in the dock is not the person that needs to be necessarily punished.

But the reality is, that person committed an offence under the law against their partner. They dealt with the matter by, I think, a way of conditional discharge, which was reflective of, in my opinion, reflective of the recognition where the dynamics really fell.

But she had said that because it went to trial for such a long time, she had moved out because of the bail conditions, for such a long time they hadn't had contact. In that time, she had found herself accommodation, she had, got support, she had got benefits, she was independent, and I am not for a minute suggesting that she was done any favours, but then she, she still had a conviction, but at the same time, like that process had freed her from who really was her perpetrator. **Jane SDVC Coordinator Hammersmith**

There appears to be an argument in favour of survivors of DV coming before the SDVC rather than other courts, because the added specialism can provide access to support and sentences influenced by an understanding of the dynamics of DV.

However, although Jane's comments appear to be influenced by pragmatism, laden within her analysis is a leaning towards radical feminist solutions to DV. As discussed in the literature chapter of this thesis, radical feminists such as Cheryl Hanna have argued that the incarceration of survivors of DV may be a necessary measure in ensuring their safety. Speaking more

specifically about mandated testimony through the arrests of survivors, Hanna states:

Although removing a woman's right to choose whether to prosecute may undermine her autonomy, such an infringement on her liberty is necessary to protect women overall (Hanna, 1996).

Although Hanna was by no means referring to *convicting* survivors, there are logical connections between her argument and that of the SDVC coordinator who highlights that criminal justice sanctions on women can ensure they end violent relationships. Although Jane caveats that the situation is far from ideal, she nonetheless connects the withdrawal of the survivor's liberty as being the catalyst for her independence from her perpetrator. Laden within this and other radical feminist approaches is the idea that legal enforcement and the withdrawal of liberty for survivors may be a necessary step taken by the state 'for their own good'.

There is also evidence that argument in favour of deploying criminal justice sanctions on women as a route to increased support is becoming more popular. Influential prison researcher Pat Carlen (2002) refers to the phenomenon of a 'carceral clawback' in which women's prisons are presented as "something other than punishment: for psychological readjustment, training in parenting, drugs rehabilitation, general education or whatever else the 'programmers' of the day may deem to have been lacking in a prisoner's life". Carlen critiques that the only research conducted into the utility of the carceral approach to support for social problems is based on *dubious self-report questionnaire-evidence from prisoners* (p. 120). But most persuasively, Carlen reminds readers that the main function of prison is the delivery of pain, not as medicine for it.

Nonetheless, arguments in favour of prisons as “temporary refuges” (Carlen, 2002) for abused women is increasingly put forward for some in the prison sector. In November 2016, the BBC reported that Suzy Dymond-White, governor of HMP Eastwood Park called for longer prison sentences for women as a means of addressing DV. Citing the fact that 50 per cent of women prisoners are survivors of abuse Dymond-White states:

It's absolutely impossible in a few short weeks to turn somebody's life around and undo decades of abuse (BBC, 2016).

Critics of such an approach have labelled this ‘carceral feminism’ discussed in the policy chapter and literature review), and identify the wrongful arrest and conviction of survivors as a consequence of an over-reliance on criminal justice remedies (Sweet, 2016; Richie 2012). Taking an intersectional perspective, it is important to develop an understanding of the myriad social locations at play here alongside gender.

While it may be the case that the physically enforced separation of a survivor from her perpetrator (either through detention or bail conditions) may contribute to the cessation of an abusive relationship, this alone may not be the only factor that requires consideration when evaluating the value of sanctions on survivors.

Regardless of whether a criminal conviction results in a custodial sentence, a conviction is likely to have significant ramifications. In particular, consequences could include the loss of employment opportunities, denial or loss of social

housing, denial or loss of welfare benefits, immigration status problems, and problems related to custody hearings—all of which disproportionately harm women since they tend to be the primary caregivers (Double-Time, 1998; Miller, 2005; Prison Reform Trust, 2016; Unlock, 2017). Supporting criminal justice sanctions on survivors as a means of ending interpersonal gender oppression may, therefore, exacerbate systemic class and gendered oppression, particularly if it undermines their ability to find employment and housing. Additionally, the increased vulnerabilities that women of colour face with the criminal justice system adds yet another dimension to the potential for oppression and hardship. Realistically, in order that survivors are able to live self-sufficient lives free from abuse, they must have access to education, housing, secure jobs paying a living wage and child-care (Allard, 2016)

In the literature review, liberal feminist approaches to the justice system condemned the use of arrests as a means of compelling survivors to give evidence, as it mimics the power and control strategies used by perpetrators (Mills, 1999). Some feminists have gone one step further, identifying the state as having the potential to be as, if not more, oppressive to survivors than perpetrators (Sudbury, 2016). Indeed, those arrested can be exposed to further violence through the criminal justice system such as use of force during arrest, threats to remove and the removal of children and abusive strip searches. Further, in January 2017, Her Majesty's Inspectorate of Constabulary (HMIC) produced a report into police legitimacy, which stated there had been significant allegations of sexual abuse by the police. The report found that across England and Wales, the police had received 436 allegations of abuse of power for sexual gain by law

enforcement officers. Vulnerable women were the main targets for sexual abuse by officers, including domestic abuse victims, alcohol and drug addicts, sex workers and arrested suspects. The report also indicated that these figures probably did not reflect the true scale of abuse by officers.

There are a number of ways, therefore, in which the state's involvement in a survivor's life could be oppressive and/or abusive. 'Legitimate' law enforcement techniques such as the use of force and solitary detention may in themselves cause significant trauma, notwithstanding actual abuse from officers. This is all the more concerning when we consider that this may occur soon after an incident of abuse from the perpetrator. Rather than viewing the arrest and incarceration of survivors of DV as an awkward fact of the criminal justice system that has the potential to yield positive outcomes, the potential for state oppression and abuse requires recognition on the same level as interpersonal violence.

6.1.2 Impact Response

Members of the IDVA team were asked how they dealt with issues pertaining to counter-allegations as a service and in terms of individual advocacy:

We work with Minerva who work with many clients who have gone through the criminal justice process but then who have also experienced DV. I think we are a little bit more conscious and aware around that dynamic. That you will have clients who will have been perpetrators but then it is looking more into the reason of why that was in terms of their own experience of domestic abuse. Sometimes we tend to joint work with Minerva. You have IDVAs working with their key workers who are supporting clients around the domestic abuse. But our main thing is that. I think it is believing our clients, working with the women but then also gathering that information from other agencies in terms of their views as well. **Meena IDVA Manager**

At the Gaia Centre we said to her “we cant do the offending part, we can only do the IDVA part and we cant offer any support going through the criminal justice system as a defendant”. So that’s what we would do at the Gaia Centre, we would get her all the support that she wants and what we would always say to them is “we can refer you on to the Beth Centre and they can just do the offending part and we can do the IDVA part. However, that’s then having two organisations in your life, when really the Beth Centre can do all of it, wouldn’t that be easier for you to have just one organisation?” and we leave it to them to make the decision. **Ava Impact IDVA**

One strategy in dealing with cases where allegations have been made against a survivor is to refer them on to services that offer support to women defendants. In Hammersmith, this will be Minerva which offers advocacy and support to women who have or are at risk of breaking the law; support through the criminal justice system and court process; and support and ‘activities’ both during and after statutory supervision by the Probation Service or Youth Offending Service (Women’s Break Out, 2017). The IDVA speaking above also indicates a similar procedure in her formal role although there, the DV service might cease all work with any woman going through the criminal justice system as a ‘perpetrator’. This may indicate a separation of initiatives in the women’s sector in its response

to the issue of allegations levied against women, to provide services to them as offenders rather than as victims and survivors of abuse.

As discussed in the section on counter allegations above, most women who use violence in a relationship do so to escape or end abuse from their partner. In a study of women mandated to attend a perpetrator programme following conviction, Susan Miller (2005) utilised Johnson's typologies of violence (Johnson, 1995, 2008) to classify the behaviours exhibited by the women in the programme. She found that out of 95 attendees, only 5 could be categorised as "pre-emptive, aggressive behaviour". Further, none of the women's behaviour constituted "intimate terrorism", such as violence used in the context of coercive control. The women in this treatment group overwhelmingly used violence instrumentally to defend themselves or their children i.e. '*violent resistance*', or an expressive act that conveyed their frustration at a situation beyond their control (Johnson, 1995, 2008; Miller, 2005).

Despite the fact it is well documented that women very often use violence to defend themselves, a woman's potential innocence in such a context did not appear to be wholly accepted by the practitioners in this study. It is interesting, for example, that the IDVA manager Meena refers to '*clients who will have been perpetrators but then it is looking more into the reason of why that was in terms of their own experience of domestic abuse*'. This specifically situates women as *perpetrators* of violence, with the caveat that they may be survivors as well. The statement does not, crucially, define such women principally as survivors.

Although there is evidence that some within the organisation, such as IDVA Leah, believe that survivors in such circumstances have been wrongfully arrested, the others quoted above tread a much finer line, believing that those arrested may be both perpetrators *and* survivors simultaneously. More specifically, most questioned accepted that women in such circumstances may be guilty of having committed an offence during an incident, but would be assessed as being the primary victim of abuse given the context. Within the quotes by the SDVC coordinators, the IDVA Ava and the IDVA manager Meena, there is general acceptance that the crime the police have accused the woman of (although understandable) may in fact have taken place and if so, she is responsible for having committed violence in that instance. Although they offer sympathy, these three respondents do not seem to believe that the police may have arrested the wrong party.

This understanding of women's use of violence in a relationship tends to deviate from mainstream feminist understandings, discussed in the literature review, of the gendered dynamics of DV and where responsibility should therefore be focused (Browne, 1987; Campbell, 1999; Daly and Wilson, 1988; Dobash, Dobash, and Cavanagh, 2000; Dobash and Dobash, 2004; Lloyd and Taluc, 1999; Pence and Paymar, 1993; Stanko, 1990).

One explanation for this schism may be related to the arguments around gender mainstreaming that were discussed in the policy chapter (Chapter 3) of this thesis. There, Brown (1995) was cited as being critical of the way in which investment in criminal-legal solutions to DV had resulted in a distinction between harm caused by the state and that by

individual men. Understanding this from an intersectional perspective, the police have the power to decide that a female survivor ought to be arrested, as well as the power to subvert how feminist organisations will respond to that arrest.

STADV's re-conception of survivors being perpetrators of *individual* crimes sits at the intersection between traditional feminist conceptions of the dynamics of violence and the incident led approaches found in the criminal justice system. Patricia Hill Collins observes of such a dynamics that *"..domination operates not only by structuring power from the top down but by simultaneously annexing the power and energy of those on the bottom for its own ends"* (Collins, 1997, pp. 227–28). The lens therefore, when survivors of DV are arrested is not focused upwards towards a powerful stakeholder and funder, but downwards towards individual survivors with little recourse for opposition. Even in instances where the police have acted wrongly or done harm, the wholesale separation of interpersonal violence from state violence sees that the police have successfully placed themselves as neutral arbiters, supported by a women's organisations in their arbitration.

Although Minerva will undoubtedly be able to offer distinct services, knowledge and skills to women who are going through the system as defendants rather than witnesses, the way in which we name and designate 'victims' is important. Miller (2005) found that the women in the programme she researched benefitted from the treatment because the provider's philosophy and background in victim-services coalesced to produce a nascent victim-centred program. However, she also posits that accepting such women as 'perpetrators', by placing them in such services sends the

wrong message to them and the institutions around them. There is the danger that by providing services to women as 'offenders' when many agree they are actually the victims of abuse legitimates the idea that women are as likely to abuse as men, which in itself becomes a self-fulfilling philosophy. At a time when men's rights activism is becoming increasingly vocal and political driven in the de-gendering of domestic abuse, how we respond to and conceptualise women's use of violence in relationships is critical. However successful services for women offenders may be, if their work is based on the premise that survivors of abuse that have physically resisted their abuse are criminals, there is a limit to what they can offer in terms of liberation.

6.2 Witness summons

While mandatory arrest policies have been lauded as a means of providing immediate protection to survivors at the point of contact, mandatory prosecution policies are a longer-term goal aimed at holding perpetrators to account. Many of the interviews highlighted a conflict between the wider interests and pressures for institutions to respond to DV, and the self-determination of the survivor who may not wish for a criminal justice remedy. For example, most interviewees were asked about the use of witness summons, used by the court to compel witnesses to give evidence on the threat of arrest. A number of respondents stated that the courts they operated in issued witness summons' to 'lie on file', potentially to be used at a later date if the survivor disengaged from the process:

On the day they can ask for... a witness summons, if they have no indication at all then they won't...because the justice's [Magistrates'] want to issue one automatically to sit on file. **Lucy Co-ordinator Westminster**

I know we get summons in lots and lots of cases, possibly a lot more than other areas. In London we I think as a routine get a witness summons in pretty much every case and they serve the witness summons in lots of cases whereupon we don't necessarily have any intention to arrest that victim and take them to court. I think potentially it lessens the impact over time because word gets round. **Liam Hammersmith Prosecutor**

As discussed in the literature review, Cammiss (2006) found that prosecutors often held a high degree of cynicism towards survivors of DV, frequently assuming that women would disengage from the process and that the relationship would resume at some point. He found that the expectation of withdrawal often meant that prosecutors lacked empathy for complainants and therefore focused their energies on practical and administrative matters, as distinct from 'justice'. One result being, that serious cases were often wrongly held in the Magistrates' court to minimise their workload, with similar findings in the work of Cretney and Davis (1997).

While previously prosecutors may have shown distaste for handling DV cases due to their complexity, feminist lobbying has influenced policy and practice so that DV is now taken much more seriously. So much more seriously, in fact, the CPS are now willing to make the threat to *arrest* witness's if they *do not* give evidence. In line with radical feminist approaches, some respondents rationalised this as a way to help ensure dangerous perpetrators are convicted. The institutional attitude of the CPS has therefore changed in a relatively short space of time from one of dismissiveness to an active and earnest pursuit of conviction in cases of DV, for the greater

good of ensuring perpetrators as a whole are held to account. However, while the daily practice and priorities around DV has shifted, attitudes towards individual survivors may not be wholly different.

In Cammiss' research we see that prosecutors response to the complexities in DV cases was to distance themselves from complainants emotionally, and instead to invest in the practical and administrative procedures that might ensure that work on such cases was minimal. Conversely in my sample, the prosecutor and others felt that it was important that DV cases be prosecuted, and that survivors' potential disengagement from the process was interpreted as a barrier to this goal:

Sometimes actually the victims are barriers to the protection that the court are trying to impose.

Jane SDVC Coordinator Hammersmith

Therefore, the use of witness summons was understood as an administrative tool, to be used to overcome the "barrier" of the survivor's reluctance:

When we are summoning there's a checklist...20 things that we look at... of risk assessment tools and affairs. So we look at previous history, we look at risk of recurrence, we look at violence that was used in the incident and we look at the level of injury, children present. More often than not, it is actually quite easy to justify serving or getting a summons because nearly every case has several of these factors in them. **Liam Hammersmith**

Prosecutor

Ultimately, regardless of whether or not the CPS pursues cases of DV, the response is still one of a focus on administration as a way of curtailing some of the complex difficulties in DV cases. However, rather than invest in administrative procedures in spite of justice, prosecutors are now investing in numerous administrative procedures in the *pursuit* of justice, and in spite

of the survivor. The importance of keeping individual survivors in the criminal justice process at all costs to address DV generally is reflective of the extent to which radical feminist approaches have influenced prosecutorial policy. As discussed in the literature review, radical feminist approaches to criminal justice view widespread prosecution of DV cases to be crucial in transforming socio-cultural norms towards women and violence. Those who view the criminal justice system as a vehicle for social change therefore advocate that individual survivors may need to be forced to take the stand to ensure DV cases are prosecuted (Cassidy, 2006; Dempsey, 2007; Hanna, 1996; Shepard, 1991).

Respondents agreed that individual survivors might have wishes and interests that were not in concert with the wider aims of the criminal justice system, and that overriding the wishes of individual survivors may be a necessary means to achieving the aim of convicting perpetrators. However, the assumption that the threat to arrest increases the likelihood that a victim will give evidence was challenged in the literature chapter of this thesis. There, research conducted by HMCPSI (2016) was discussed, which reported that witness attendance at court was declining generally and although the use of the summons procedure had increased, there was little evidence to indicate that this had improved witness attendance. Further, the research reported that in line with findings in my own research, it was common for a witness summons to be automatically issued in all DV cases in certain areas of the country, regardless of whether the witness had indicated reluctance to attend. The report found that this was only common practice in DV cases and did not find such a high distribution of witness summons application in any other crime (HMCPSI, 2016).

There may be a number of reasons why the increase in the deployment of witness summons is not seeing an increase in the number of witnesses attending court. For one, dedicated prosecutor Liam states above that it is his belief that the over-use of summonses may have lead to a situation in which when issued, they are not taken very seriously. Members of the community or support services may inform survivors that arrests in such circumstances are rare, as a way of alleviating their fears. The result of which may be that survivors 'call the bluff' of prosecutors, expecting that the matter will end when they have not appeared in court on the day of the trial. Some of the IDVAs stated that they advise their service users to attend court but stress that no one can physically force them to give evidence:

I have explained to her I am going with her. But I have explained to her even though you attend court if you feel you don't want to give evidence no one can force you. No one will force you to give evidence. **Leah ADVANCE IDVA**

There are cases where I've gone to court to support people where they've done withdrawal statements and they've been summons to go ahead so they have to. Our advice in that situation would be go along to court and explain to the prosecutor why you don't want to give evidence and what the reasons are. And I would always make a point of being available to go to court with them, at that time to be able to assist them to speak to the prosecutor around the reasons why they didn't want to give evidence. **Olivia Former Impact IDVA**

The instruction from the CPS and the advice from an IDVA leave survivors in a contradictory position. On the one hand, the witness summons has ordered that she attend court and take the stand to give evidence on pain of arrest. On the other hand, an IDVA may suggest that if she does not want to give evidence, she ought to still attend court but decline to take the

stand once there. Given that both the prosecutor and the IDVAs are working in a partnership in the SDVC programme, it seems counter productive that the measures the CPS use to compel witness' to give evidence is outmanoeuvred on the advice of the court advocate.

Although there is evidence, discussed below, of IDVAs having sympathy with the strategy of enlisting witness summons to ensure perpetrator accountability, the quotes above suggest that IDVAs are navigating the criminal justice system primarily in the interests of their service users. IDVAs may personally feel that perpetrators need to be held to account generally, and that needs to be done through the criminal justice system. However, IDVAs are clearly developing sophisticated ways of circumnavigating prosecutors' demands on survivors. The IDVAs' encourage survivors to attend court on the day and then decline to physically go in the stand if she is too afraid to do so. The survivor's assertion is then bolstered by the IDVA advocating her position. In-so-doing, the IDVA allays the survivor's fears about taking the stand, while meeting the prosecutors' demands just enough to weaken their position in utilising power of arrest.

Where the court policy appears to have been influenced by radical feminist principles to justice in DV cases, the approach of the IDVAs in this sample were more in line with liberal feminism and the survivor-centred model, discussed in the literature chapter. However, while the IDVAs were developing ways to ensure that survivor autonomy was upheld, there was also evidence that IDVAs experienced internal conflict between the right to self-determination and the greater good:

If I am honest with you it is a really difficult question to answer because obviously these cases are of such high risk that they need to be heard in a court. It is in the public interest. But then on the flipside you have got a client who is absolutely terrified and they are essentially being forced to do something they don't want to do. I don't think I can answer that if I am honest with you. **Leah ADVANCE IDVA**

This IDVA appears to juxtapose her wider beliefs about the accountability and risk management of perpetrators generally, against the singular wishes of the survivors she works with. Although, as discussed earlier, this IDVA ultimately advised survivors on how to circumvent the punitive measures of witness summons.

Other respondents were not quite so caught between the two positions, but all engaged with the tension and showed sympathy towards both liberal and radical feminist principles. This suggests they felt the issue was not a binary one, and most stated the solution would be dynamic and changing based on the circumstances. All said that generally, best practice would dictate that the particulars of the case should be examined before a survivor is sent a witness summons. All acknowledged the possibility of retaliatory violence and potential escalation of the risk as a factor that ought to be considered.

6.2.1 Witness Summons and Familial Violence

While respondents showed sensitivity to all the arguments and were reflective of what best practice should look like, case examples of bad practice were also discussed. This IDVA discusses a case from a previous IDVA role in which witness summons was utilised with serious consequences:

She had a really serious perpetrator against her. She didn't want to give evidence; she kept saying 'I can't give evidence against this person because my family are going to beat the shit out of me if I give evidence.' Everyone refused to take a withdrawal statement. They arrested her; they held her in cells, brought her to court. This was before the trial and everyone kept saying, "but she hasn't even not showed up to trial yet.. the trial hasn't happened yet". But they said, "well we know she's definitely not going to come" so they arrested her, forced her, brought her to court.

He [then] pleaded guilty because you know how prosecution will say to defence, "well she's here", and they'll use that even if she's not actually going to give evidence. Her family beat the living daylights out of her, and she was so seriously assaulted after that case. Thank God she didn't die. From that perspective, right obviously the police were saying, she has to come, we have to proceed. I'm sure they were thinking he's a nasty guy and they have to hold him accountable. But they weren't taking into account the massive risk that was putting her through. **Ava Impact IDVA**

The IDVA does not state what kind of familial violence the survivor experienced. However, one common form of familial violence that survivors may experience from their own family, alongside an intimate partner is 'honour' based violence. It is also the primary form of familial violence acknowledged in the governments violence against women and girls (VAWG) strategy (Home Office, 2016).

As discussed in the introductory chapter of this thesis, 'honour' based violence (HBV) is the collective term referring to violence perpetrated within a patriarchal family and community structures (Gill and Brah, 2013). Chapter 1 also identified that public discourse has tended to associate HBV as being related to Muslim communities (Piper, 2005), despite the fact that research has found HBV in a range of communities and cultures across the world (Mojab and Abdo, 2004; Ortner, 1978).

One question that intersectional researchers are encouraged to reflect upon by Hankivsky et al. (2012) is whether or not current policies target a group as if they are homogenous rather than heterogeneous in their needs, and whether this reinforces stigmatisation. With this in mind, one important question to consider with familial violence such as HBV is whether or not it can be conceptualised as DV, or if it ought to be seen as a separate phenomenon altogether. For how HBV is conceptualised has significant ramifications for the policy response. The example above has themes of both intimate partner and familial violence and is an appropriate case for the exploration of such questions, with support of the literature on HBV.

One way in which HBV may differ in its practice compared with intimate partner violence (IPV) generally, is that it may be more likely to be perpetrated collectively, rather than individually (Payton, 2014). If HBV is characterised by collectivity, challenges will be faced if policy responses are modelled on IPV, where there is only one perpetrator.

The example above appears to be a model case for arguing *against* the application of an IPV criminal justice model on cases with multiple perpetrators such as HBV. There seems to have been an assumption on the part of the police and prosecutors that the only way in which the perpetrator can be held accountable for his behaviour, is by forcing his survivor to come to court. It isn't made clear whether the need for 'accountability' is considered a form of risk management or goal in itself. Either way, even if the arrested perpetrator is physically prevented from harming this survivor through detention in custody (and we don't know that this sanction

was taken), the *relational* risk to her has clearly increased through the actions of the criminal justice system. The failure to understand the wider risk factors and how criminal justice actions have a propensity to increase risk seriously endangered this survivor. Concerns around mandatory prosecution increasing the risk of retaliatory violence was one of the more potent arguments against radical feminist approaches to justice discussed in the literature (Fagan, 1989; Dugan, Nagin and Rosenfeld, 2001; Maxwell, Garner and Fagan, 2001). Aisha Gill (2009) recommended that uniform policies such as this should be called into question, especially when applied to cases of HBV that require a nuanced understanding of both risk *and* culture.

Although legislation has only very recently been utilised as standard in cases of IPV, much of what *is* established has been constructed and harnessed based on the assumption of abuse perpetrated by an individual. Significantly, a distinguishing feature of HBV is the presence of multiple perpetrators, who may include family members as well as individuals from the wider community. The serious consequences described in the case above lead us to question whether HBV ought to be treated as a completely separate entity to DV? The answer may not be an entirely straightforward one as siphoning off HBV from DV may make survivors of this form of abuse vulnerable in other ways.

As stated above, although HBV is by no means exclusive to Muslim communities, it is most commonly associated with Islam in public discourse. This is happening in the context of a rise in populist anti-immigration rhetoric, wherein anti-Muslim sentiment has become the most significant expression of xenophobia (Spruyt and Elchardus, 2012). The presence of

HBV in Muslim communities is therefore frequently deployed as 'proof' of the superiority of Western values (Korteweg and Yurdakul, 2009). This is crucial in understanding how any proposed policy might help or harm survivors of familial violence such as HBV. By siphoning HBV off into its own category of violence, policy makers run the risk of reinforcing Islamophobic rhetoric through a segregated policy and service response. If HBV survivors feel that attempts to access support will be met with the demonization of themselves and their community, it may significantly decrease the likelihood of them coming forward at all. Indeed, research indicates that institutional racism towards themselves and their community is a significant barrier to women of colour contacting the police or accessing services (Mama, 1989; Wilson, 2015; Harrison and Gill, 2017).

How we therefore conceptualise HBV is complicated through intersectional layers of gendered violence, xenophobia and racism. This poses serious challenges to any potential response. On the one hand, by siphoning off HBV as completely separate from other forms of gendered violence, we run the risk of 'othering' minority communities and reinforcing racist stereotypes that could prevent women from coming forward. On the other hand, providing a generic response that does not acknowledge relational risk could put HBV survivors at further risk.

Scholars and activists have argued that it is essential to acknowledge that there is considerable overlap between the roots of HBV and violence against women generally; namely that its purpose is to control women and girls (Gill and Brah, 2014; Patel, 2012). Rупpa Reddy, argues therefore, that HBV must be considered a sub-species of DV, with particular

features that distinguish it in the practice, rather than a different species altogether (Reddy, 2014). This approach, she argues, largely avoids the potential pitfalls of stereotyping and stigmatization, associated with separation (Reddy, 2014) . Crucially, however, this small distinction means that factors such as the presence of an extended community, the existence of multiple perpetrators or pre-planning to be taken into account by police and prosecutors so that a tailored response can be enlisted.

Applying this to the case study above, a more tailored response to the survivor's multiple risk factors may have prevented the serious assault perpetrated by her family. Throughout the narrative, it is clear that this woman has an acute understanding of the risk posed to her if certain actions were taken, and who posed that risk towards her. A far greater understanding, in fact, than the police or courts charged with managing those risks. If the justice system in this area had had a wider conception of the different presentations of DV, and a more flexible response to risk that centred the survivor's knowledge, further harm could have been prevented.

6.2.2 Agency, Power and Autonomy

Following the discussion on HBV, it is important to understand the power dynamics at play in the above case study. The police and prosecution services as nation-wide institutions could be considered a macro-level organisations. Conversely, as IDVA services are often borne out of local DV services, they may be considered meso-level phenomena for the purpose of analysis. An important part of intersectional research is to understand the effects between and across these levels, and how they

interact with the individual, self or 'micro' levels in society (Hankivsky, 2012b; Palència et al. 2014).

In the case discussed by Ava above, 'power' seems to resolutely be in the hands of criminal justice operatives, who have the state sanctioned authority not only to arrest and detain the perpetrator, but also the survivor, despite the fact she has committed no crime. Notwithstanding the fact the IDVA service is an intermediary power (with potential negotiating authority as a professional body), their protestations fail and the survivor is arrested, detained and then further assaulted by her perpetrator/s as a result of her forced attendance at court.

It is not clear what kind of multi-agency agreement existed with the case discussed by Ava, but there clearly were attempts at inter-agency negotiation, albeit unsuccessful. Even if the inter-agency agreement in this instance was weaker compared to the initiatives under analysis, the authority exercised by the police and courts demonstrate a power imbalance between the parties. The police and court as macro level institutions appear to have similar interests in maintaining the prosecution at all costs, and at the exclusion of all other concerns. The survivor, whose position in this structure could be seen as at the micro level, has indicated her wish not to attend court because of the fear of retaliation from her partner and extended family members. The IDVA, as a member of the meso level community based organisation attempts to bolster the survivor's position and advocate that it is too risky for her to attend court. Unfortunately, the combined efforts of the survivor and IDVA are no match for the collective might of the police and court whose state sanctioned authority ultimately prevails.

This case reflects literature discussed in the chapter on policy, where Pearson et al. found that conflicting relations between state and other agencies are structured in terms of their power, and when in conflict agencies do not have equal power. For Pearson and colleagues, this means that agencies might enthusiastically support a multi-agency initiative, set and dominate agendas and then withdraw from, or override it, regardless of the problematic implications for other agencies, or service users (Pearson et al., 1992).

While the criminal justice system may have ultimate power in relations with community-based organisation, it is important to consider what added value a strong inter-agency agreement might have. There is evidence that partners at Impact and the SDVCs take great pains to weigh up each case and its circumstances, as well as explore alternative means to continuing prosecution when the survivor is reluctant:

He had previous convictions for assaulting three ex-partners and he was not a pleasant man in any way. The victim basically kept saying, "I don't want to give evidence. I just don't want to be involved in this"

I spent a long time speaking to her and trying to see why did she not want to give evidence. Because I knew and everyone knew what the issue was. She was terrified of him. I explained to her, "Actually, you're giving evidence behind a screen". I think the big consideration for her, like with lots of victims of DV, is that because it's so entrenched in their lives they can't see an end in sight.

When you explain, "Actually a restraining order is something that would almost certainly be imposed if he's convicted and likely, possibly upon acquittal, so there's going to be on-going protection and the breathing space that you've had out of this DV relationship potentially could continue forever, it doesn't have to be like this,". They're under the power and control and they still are, they haven't broken out of that.

I spent a good 45 minutes speaking to this lady. Eventually I walk in and we get her into the witness box and she gave evidence really, really well and he was convicted. He gets the full six months imprisonment that he can get at the Magistrates' court and she gets a restraining order.

I said in my questioning, "Do you want to be here today?" and she said, "No, absolutely not." The bench called her in afterwards and said to her, "You've been incredibly brave," and you could sense the... I'm not sure what the word is but... but, emancipation, I guess, that she's going through by going through that process. **Liam Hammersmith Prosecutor**

This case runs in stark contrast to the case of discussed by Ava above. Here, the prosecutor appears to take on an IDVA-like role during the trial. His response to a reluctant and frightened survivor is to take the time to glean more information about the risks to her and to identify and communicate possible solutions. This prosecutor also shows a full and nuanced understanding of the dynamics of DV and the concerns of survivors going through the criminal justice process. This was

crucial in determining this prosecutor's method of engaging with the survivor.

This supportive and empathetic approach seems to have been successful with the survivor. By engaging with the survivor on her own terms and based on her fears, the result is one in which a successful prosecution is much more likely, but also that it is not at the expense of the safety and self-determination of the survivor herself. Although the perpetrator in the case of discussed by Ava was also successfully prosecuted, the severe price the survivor pays calls into question the punitive nature and risks posed by summoning and arresting a witness to reach prosecutorial aims. Many of those interviewed about the SDVCs indicated that such care and attention is strived for in all cases of DV, and that where possible, this kind of strategy would be employed as an alternative to more punitive measures.

All of those interviewed empathetically weighed up the competing interests of a reluctant survivor, against the institutional and societal responsibility to prosecute dangerous perpetrators. All showed an understanding of the survivor's position as well as the potential risks to her. However, all also stated that they felt that in very high-risk cases, a witness summons may be necessary in ensuring the prosecution of a very dangerous individual.

The power of arrest in reality is only utilised very, very sparingly. [In] really high-risk cases. I'd say possibly less than half a dozen times a year it's utilised. It's not something we relish doing, in terms of arresting victims of DV. **Liam Hammersmith Prosecutor**

There appears to be a contradiction here, in that witness summonses are almost automatically applied for in this jurisdiction, but only rarely executed through the power of arrest. Applications will be granted, but lie on file and only be sent to the survivor on the indication she is wavering. If this is ignored, it is only at that point that she may be arrested, if at all. The HMCPI (2016) discussed in the literature review, also found that this was a widespread practice in DV cases. However, their concluding guidance states:

The decision to apply for a witness summons should not be taken lightly. A witness summons is the last resort for those who disengage from a prosecution and should only be considered when all other avenues have been exhausted. Ultimately it can result in the deprivation of liberty of the victim – often impacting on those who may be the most vulnerable (HMCPI, 2016).

In the SDVCs under research, a witness summons is applied for in most cases, if not all. Automatic application of witness summons in the SDVCs certainly runs counter to this guidance. The guidance also acknowledges that in practice, those that are least engaged in the criminal justice process, may be the most vulnerable and at risk (HMCPI, 2016; Miller, 2005).

Herein lies a paradox as most interviewed agreed that witness summons should be used where the risk the perpetrator poses is very high. But by definition, the higher the risk the perpetrator poses, the higher the potential risk of retaliatory violence. If the survivor is engaging with the process but does not want to give evidence, management of the risk may be sought through other means, such as in the example given by Liam. However, if the survivor is not engaging with any agencies, it is hard to see how the court would be able to ensure that the discharge of such an application would not escalate the risk to her.

Though it was stated that arrests as a result of witness summons were rare in the SDVC, it was acknowledged that they do occur. Even if arrests are not made in the majority of cases, *threats* to arrest if a survivor is not compliant are the norm. Further, an atmosphere has established in which to threaten to arrest a survivor is considered acceptable and common practice, even if the arrest itself is considered less so.

There is a potential loophole here, whereby police and prosecutors could take advantage of such ambiguity, especially if they feel an increase in witness summons arrests are justified for their goals. If DV organisations have practiced inconsistent messaging (that threats to arrest are acceptable but the arrest itself is not), they may find it harder to contend any proposed changes to the number of those actually arrested. The potential for this is made more pertinent when the agency that has the power to do such a thing, has the power to override their advice, as we have seen in the case of discussed by Ava above. While the dedicated prosecutor, Liam appears to have a great deal of sympathy with survivors of DV, it cannot be expected that any prosecutor in the SDVC will enlist the use of witness summons with such diligence. Further, respondents have reported that in the very recent past, the SDVCs relied on a pool of prosecutors trained in DV who would work in the SDVC on rotation. If such a structure were proposed in future, it is hard to see how such a nuanced policy around witness summons would be able to be maintained with consistency with so many individuals. Further, if such a practice is considered acceptable by pioneering courts such as the SDVCs, prosecutors passing through may take that to other courts, which do not have the same safeguarding apparatus.

Additionally, any policy on the use of witness summons also poses wider, conceptual questions around gender and the criminal justice system, as illustrated by this prosecutors reasoning:

We'd only do it if there is imminent risk to the victim. And actually the comeback from her been arrested compared to the potential risk of the future is so overwhelmingly in favour of arrest, that's what we have to do. **Liam Hammersmith Prosecutor**

Within this paternalism, there does not seem to be any fear that survivors could 'comeback' with a legal challenge to the authority on which they are expected to heel. It could be argued that this paternalistic presumption comes from the expectation that women, and especially women who are survivors of DV, are in no position to challenge the criminal justice system. The fact that it is so common for *all* DV survivors (who are mostly women) to be sent a witness summons as a 'precaution', when a blanket policy does not appear in any other crime, suggests assumptions are being made about those survivors. For one, the policy appears to presume that a criminal justice remedy is generally an adequate one. It fails to acknowledge that survivors may be remedying the abuse in ways they deem more appropriate for their circumstances (such as a refuge or civil injunctions) and perhaps assumes her lack of engagement comes down to her own misguidance or a compromised state of mind brought about by her abuse (Schechter, 1982). Such a policy could be seen as further evidence of a patriarchal criminal justice system, that feels entitled to such recourse on women and might be considered an institutionalised form of coercion.

6.3 Summary

Through the examination of mandatory arrest and prosecution policies, a complex picture has emerged. Research has for some time now, found a link between mandatory arrest and an increase in the number of women being arrested for DV. The interviews conducted with members of staff may only be able to offer nascent support for the theory that the police are mistakenly arresting women. However an interesting development is how the women's sector may be responding to the arrests of women. The development of separate services such as Minerva and The Beth Centre are both women's services set up relatively recently to support women through the criminal justice system as defendants, rather than as victims. Their recent arrival as part of the wider women's sector may indicate a growing need to cater to women in this category of the criminal justice system rather than as survivors and victims of crime. However, IDVAs remain concerned that perpetrators are increasingly able to manipulate the criminal justice system to shift focus from *their* crimes, and instead punish the survivors of their abuse.

This becomes all the more pertinent when we consider those survivors with additional vulnerabilities such as migrant women, women of colour and poor women whose access to justice may be obstructed. The above findings also illustrate that this concern carries over to the prosecutorial stage of the justice system. Here we find that the homogenising tendencies of the criminal justice system may have deep and lasting impact on survivors, such as those experiencing familial or HBV, who require a more tailored response. While the SDVCs certainly do offer this through additional training and a much more flexible approach, the wide scale distribution of witness

summons with power of arrest, creates an ambiguity, which could threaten this. Ultimately there is a conflict between the state's need to act, by arresting and then prosecuting perpetrators of DV and the self-determination of survivors. The initiatives under study have stated that their aims are survivor safety and perpetrator accountability, and that survivors are centred in both of those aims. The findings of this chapter illustrate just how difficult achieving both at the same time are. The next chapter will examine alternative strategies in holding perpetrators to account for their abuse.

Chapter 7

Accountability

Alongside the potential for increasing the safety options for survivors, a second aim of the recent criminal justice initiatives under research is to increase perpetrator accountability. This chapter will examine the various methods used to ensure accountability. However, the term accountability will be used here to refer to both perpetrator and state accountability. An early feminist critique, of the criminal justice system, discussed in the literature review, is that criminal justice inaction on DV is reflective of a patriarchal legal system, which was built on the notion of male superiority (Okin, 1989; Dobash and Dobash 1979). In this context, it has been argued that criminal justice operatives failure to address DV, is tantamount to tacit enabling of the abuse of women (Kuennen, 2007; Goodman and Epstein, 2008; Hanna, 2009). For some legal theorists, the historical use of the law to subordinate women is undeniable. However, the patriarchal origins do not necessitate against reform in favour of women. As feminist legal theory has developed, the question of whether the 'male' law could be adapted to accommodate the 'female' has preoccupied those seeking a legal remedy for gender inequality (Sandland and Richardson, 2000). In particular, questions have been raised about the extent to which legal change can lead to social change.

As individual male violence and institutions with patriarchal roots have the propensity to be mutually reinforcing, approaches that aim to address both could be considered forms of 'accountability'. The Impact Project has developed enhanced evidence gathering techniques, for the purpose of making applications under *res gestae* at trial. Such evidence is

then used to pursue victimless prosecutions, in the absence of the survivors' testimony.

The first part of this chapter will focus on the Impact Project, and the unique methods it has devised to ensure the police investigate cases of DV appropriately, so that more perpetrators are prosecuted. This in turn relates to the second part of the chapter on victimless prosecution, and how *res gestae* evidence is then used in court, and what effect this has on survivors' when such prosecutions happen in their absence or against their wishes. Lastly, a new strategy of recruiting survivors to provide intelligence to police regarding other criminal activity by perpetrators, was raised as having the potential to sentence perpetrators for longer periods than crimes relating to DV alone. Although this strategy has not yet been enlisted by the initiatives under research in this study, there is evidence that this is a growing police strategy nationally, and that in some instances this is being done in full collaboration with IDVAs. Given the potential significance of this for future criminal justice and women's sector collaboration, it was felt that this example should also be included in the thesis.

7.1 Police Accountability

In the last chapter, the controversy around mandated survivor involvement was found to have a number of practical and political pitfalls. Despite an increase in the number of witness summons' being distributed, there has not been an increase in the number of witnesses making it into the stand to give evidence (HMCPSI, 2016). Further, prosecutors frequently feel that 'forced' evidence from summonsed witnesses is inevitably

of very low quality and not in the interests of justice (Hall, 2009). While the use of witness summons to compel survivors to give evidence may be seen as problematic, its advocates do not seem ill intentioned. Rather, they see mandated survivor involvement as a necessary measure in ensuring that perpetrators are held to account. Many respondents of this study were concerned that survivors ought not to be arrested or coerced into giving evidence, whilst also feeling apprehensive about the on-going risk that perpetrators may pose if no legal intervention was taken.

The dialectics between the seemingly dichotomous 'survivor autonomy' and 'perpetrator accountability' has given rise to arguments in favour of victimless prosecution. Victimless prosecution, also called evidence-based prosecution, is a policing and prosecutorial strategy, which seeks to address an historical over-reliance on the survivor's statement, by investigating other/additional lines of enquiry and presenting them as evidence.

The strategy was first introduced in San Diego in the 1989 as a means of deemphasising reliance on the survivor as the key witness. Indeed, cases are often treated similarly to a murder trial (Ellison, 2002).

Since STADV founded the Hammermsith SDVC, attempts have been made to implement a strategy, which avoids over-reliance on the survivor's statement. However, over time it was felt that obtaining additional evidence at the prosecutorial stage was often too late, and that the police ought to be taking this strategy from the point of the incident. The reason being that such evidence would be easier to obtain soon after the incident, it would reduce delays in court and would have the

additional benefit of increasing the number of cases making it into court in the first place. A key aim of the Impact Project, therefore, is to review cases for quality of evidence with the intention of increasing the overall number of convictions. Within the Impact Project, the Case Development Analyst is co-located between Hammersmith Police Station and Hammersmith Magistrate Court (where she is also the SDVC coordinator). Part of her role involves reviewing all DV case files at Hammersmith Police Station to ensure the level and quality of evidence is at the required standard, and therefore increasing the likelihood of a charging decision by the CPS. The manager of the Impact Project is a former SDVC dedicated prosecutor and is on hand to provide the police with technical advice about how best to build their cases to ensure charging and increase the likelihood of conviction. In this sense, the approach could be described as addressing both police and perpetrator accountability.

Since the inception of STADV, the aim has been to ensure that perpetrators are held accountable by the state by deemphasising the role of the survivor in achieving that goal. The former Chief Superintendent of Hammersmith Police, who oversaw the first criminal justice initiatives in partnership with STADV, reflects on how DV workers drew him to the strategy:

The thing that really attracted me to it was that they took the victim, out of the centre of the issue and the victim was just the witness and it was the responsibility of the state to prosecute, not the victim.

What I think the statutory sector need to do, needed to do and still need to do, is to recognise that it's the role of the statutory sector to prosecute not the woman and that without prosecuting we are perpetrating a fundamental social evil. We are allowing society to suffer and struggle through just not doing the simple process of recognising a crime has been committed to gathering the evidence and prosecuting the offender. Which is what they do in every other case, but not domestic violence, for what reason? Because it's difficult. **Alexander Former Chief Superintendent to Hammersmith Police**

Mandatory prosecution policies and the use of witness summons perhaps sends the message that a survivors evidence is so important that the state may want to physically force her into the witness stand to achieve a prosecution. The 'victimless' approach that is discussed here modifies that message and strategy. The former Chief Superintendent of Hammersmith frames the approach as a wider societal strategy against DV, in which the state assumes responsibility for responding to abuse, which is in line with a radical feminist approach. Advocates of the strategy feel that the criminal justice system can be utilised to create wide scale social change, maintaining that determined prosecution of perpetrators facilitates a less patriarchal society (Daly and Chesney-Lind, 1988; Hanna, 1996; Cassidy, 2006; Dempsey, 2007). As the respondent above puts it, forceful prosecution of DV cases addresses a 'fundamental social evil'.

The vast majority of respondents stated they were aware that victimless prosecutions were increasing in number, but that they had not yet had personal involvement in such a case. However, it should be noted that interviews were conducted in

the first year of the projects inception. To address the low numbers of victimless prosecutions, the Impact Project has developed procedures and training for police officers to ensure that all cases are investigated based on the assumption that the survivor will not be available to give evidence:

There has been a recent case law around *res gestae* which is something the Impact Project has done a lot to try and educate officers about, and that is... about when the timing of the significant statement came, and whether; for example if somebody called 999, police came two minutes later, and they spouted out this is what has happened, they wouldn't have had time to concoct it. And so that is *res gestae* [evidence]. And the manager of Impact has been doing a lot of work to kind of educate the officers about that; how to word it, how to identify it, how to put it forward to CPS, because that could then be essentially hearsay evidence that [can be used] if the victim didn't support or make a statement. **Jane SDVC Coordinator Hammersmith/Impact Data Analyst**

The aim of Impact has been to apply *res gestae* evidence through meticulous attention to procedural detail. By viewing the moment of initial contact as the beginning of the case (such as the 999 call), rather than the moment the survivor writes a formal statement, officers are broadening the parameters for potential evidence gathering. When interviewed, police officers spoke highly of the Impact Project and the standard with which they were now expected to investigate DV. These officers reflect on the new procedures and the support of Impact Project in improving evidence collection:

The officers have to do really good statements, because obviously the allegation is in their statements. So, we've [with Impact] trained them [first response officers] on how to do that: how to provide hearsay evidence in their statement, how to make their statements really strong. They need to write about the time they got the call to the time they arrived at the call, so they can see it's all happening really fast. How the victim looked. What the victim's demeanour was like. What the suspect said. Get the suspect to sign any suitable comment and some sort of admission about what's happened.

Really, a lot of it does rely on the original-reporting officers to get it right at the scene, which they do. Even if they don't want to give a statement, sometimes they will let us take photographs, because we're quite lucky here. We've got the iPads, so we get that through to our terminals straight away, as soon as that's submitted. We've trained the officers that even if the victim does want to proceed and will give a statement at the time, still treat it when you're doing your statement and when you're doing enquiries as if they might withdraw. It therefore means that if they do withdraw later on down the line, we've got all the evidence. Even if we can't get them to court, we can still go victimless. **DS Emily**

While DS Emily above, discusses in detail the procedural changes for first response officers, DC Jacob below discusses the benefits of having a former CPS prosecutor as the Impact manager within the station:

She's [the Impact manager] a very useful asset for officers to have because she's an ex-CPS advocate and had a specialist in domestic violence for years. So in terms of to sound things off and to talk about it, I've done that a few times with her, and she does a lot of our case paper check-ins. So you've got someone looking at it with a CPS type eye before the CPS fits, so it's cutting down on our requests for CPS and things. **DC Jacob**

Both Impact Staff and police officers were able to provide a great deal of procedural detail along with the rationale and strategy behind victimless prosecutions. Similar to recommendations made by those involved in the Duluth Model, both Impact staff and police officers appear to have

created procedures based on a shared practical philosophical framework. In Duluth the core organising philosophy refers all actions back to the priorities of victim protection, perpetrator accountability and deterrence (McMahon and Pence, 2003). More specifically with Impact and Hammersmith Police Station, there appears to be a unified philosophy that has developed which includes practically shifting the focus from the survivor's testimony, to the opportunities that police officers have to build and support the case. The strategy around victimless prosecution does not necessarily focus on immediate survivor safety per se, but utilises every aspect of the case from start to finish, to broaden out the number of options for the survivor and eventually for the state. For instance, the careful recording of the time of call; time of arrival; appearance of the house and; people inside and so on, may not in themselves reduce the risk to the survivor immediately after the incident. However, the collection of such detail is considered important for long-term case building, and could be crucial evidence several weeks or months later if the case goes to trial. Therefore, such a strategy is largely related to ensuring perpetrator accountability through the criminal justice process, rather than survivor safety in the immediate sense.

Further, although the overarching philosophy in the Duluth model refers to *perpetrator* accountability, such a strategy also strives towards police and state accountability. The police officers and Impact staff appear to have an agreed upon 'best practice' in terms of evidence gathering from the very beginning. But not only do respondents feel that this is being largely adhered to, the presence of the Impact Project is crucial in monitoring and tracking and ensuring the police are accountable to the stated aims. Both the data analyst and the

Impact manager have access to the police CRIS (central registration and identification system) records and are able to collect information and review cases on that basis. On this, the case analyst for Impact stated:

Access to the police systems was the biggest stumbling block [and] that barrier was taken away just purely through, by virtue of Impact. **Jane SDVC Coordinator Hammersmith/Impact Data Analyst**

In the policy review, Patel (1999; 2003) was cited as having raised a number of important questions relating to multi-agency frameworks and the issue of police accountability. Her concern was that the power dynamics between the women's sector and the police would be far from equal, and that the potential for police co-option was high. Patel also criticised the overly lenient 'carrot and stick' approach she saw from the women's sector towards reforming the police, raising questions about the suitability of such an approach given the extraordinary level of power the police hold. Further, she questioned the extent to which the police would be willing to open its policy and procedures up for public scrutiny (Patel, 1999; 2003).

A theme that developed in the analysis stage of this study was the extent to which an institution like the police, with patriarchal origins, can share power with women's organisations and survivors of abuse. Working from an Intersectionality Based Policy Analysis (IBPA) framework, it is important to examine the power dynamics at play between the police officers and Impact Project. One IBPA question asks researchers to state what level or combination of levels of analysis exist (e.g., micro, meso, macro) in relation to the policy 'problem'? In this instance, the question relates

specifically to power dynamics in a multi-agency, professional setting. Analysis will comprise of the dynamics between the criminal justice system, a national state body (macro) and the Impact Project as a community based initiative (meso). A further question that Hankivsky (2012) asks researchers to consider is: *“How the proposed policy responses reduce inequities? How will proposed options address intersectional inequities and promote social justice?”* (p. 39).

In terms of the criticisms raised by Patel (1999) it seems that the Impact Project have taken the traditional multi-agency practice a step further. Rather than creating additional multi-agency forums, Impact immerses itself within the physical and procedural structures of Hammersmith Police Station. The manager of the Impact Project, as DC Jacob notes above, is a former prosecutor who specialised in the SDVC at Hammersmith before coming to the role. Below, she reflects on the efficacy of her move from the CPS, to Impact:

The CPS are not set up, and don't have the structure, to focus in on local business. They don't have the capacity to have dedicated roles, necessarily, for each borough. So coming out of that straightjacket, with all the knowledge that I had acquired over the years, and then became very passionate about domestic violence during that time that I was in that dedicated role and, as I say, it was an incredible period, very exciting, to come out of that coincided with me picking up this role [Impact Manager] and also moving into the police station.

I think, it was like all the planets were suddenly aligned, everything seemed to work. The police, in this borough, had, had the experience of having the dedicated prosecutor in place for nine months. So they really understood the value of that. I was that dedicated prosecutor, so I came in here already with that reputation as somebody who was quite determined to get things done, and also because they knew me, understood that I was a very good team worker. **Rebecca Impact Manager**

Again, the Impact managers' position as the former dedicated SDVC prosecutor is highlighted as a key component in the success of the project. The benefit partly lies in the local knowledge she has about the area, its challenges and, the established relationships she has with the police. Her experience as a dedicated DV prosecutor for the area, alongside her relationship with the women's sector seems to have had a transcending effect as her reputation as a prosecutor brings credibility and respect to Impact, particularly where the police are concerned.

The Impact manager has gained her expertise in DV as an SDVC dedicated prosecutor and has alongside this built relationships with women's organisations. This has placed her in a unique position to transfer her skills to a DV organisation whilst bridging the gap between them and the state while she does so.

Traditionally we have seen that meso level organisations such as community-based services find it very difficult to penetrate or influence macro level state organisations simply by virtue of the disproportionate power and resources awarded to them (Pearson *et al.*, 1992b). The Impact Project seems to circumvent such expectations through harnessing the connections, experience and reputation of this former prosecutor and then relocating her from a state agency to a community organisation.

The effect appears to have been positive, with DC Jacob describing her unique utility in the station since she is able to provide expertise in the intricacies of the law beyond their usual remit. Being seen both as their former SDVC prosecutor

and latterly as the manager of the Impact Project situated inside their station brings authenticity to the rest of the project and its staff.

The manager of Impact refers to the success as the 'planets aligning'. In other words, there seems to have been a softening of the boundaries between meso (community organisation) and macro (criminal justice system) as the Impact manager straddles or moves between the two. This in itself creates more space for the project to critique, challenge and question police policy and procedures. This is especially the case, as CPS agents might ordinarily be considered more senior than some police officers, in certain circumstances. In particular, the aspect of the project which has given free access to police systems, (something almost unheard of for a DV charity), may well have been negotiated and achieved by virtue of the position of the Impact manager. Without the additional standing of a criminal justice 'insider' as part of the Impact package, access to case records may never have been agreed to. This is a crucial detail in terms of police accountability. Patel (1999) rightly questions the extent to which the police will open themselves up to scrutiny from outsiders. Generally speaking, 'outsiders' will not be given access to police records. However, it seems as though the Impact manager's position as a part insider, part outsider, goes some way to addressing this problem. This macro level realignment into the meso sphere expands the power based so that it is not only the Impact manager as a former prosecutor that has the power to scrutinise the police, but so too does the case analyst who has only ever been employed by the local DV service. Further, if the current Impact manager leaves, it would not be necessary for her to be replaced by another former prosecutor. Now that the Impact Project is established and the officers see the benefit, it

seems unlikely they would suddenly withdraw access based on a change in personal.

For an understanding of why the police would agree to this level of scrutiny and intervention from an outside organisation, a look back to the roots of the current criminal justice response in Hammersmith may shed some light. Here, the former Chief Superintendent explains how he came to be convinced by DV charity workers to pioneer a new DV policing strategy in the borough.

And the reason they sold it to me was, two things really; they said that it would make it more efficient, in the way we would hold perpetrators to account, and the police are always interested in arresting someone and putting them before the court, I mean that's their *raison-detre*, largely. So that was a good thing. The other thing that really attracted me to it was that they took the victim, out of the centre of the issue and the victim was just the witness and it was the responsibility of the state to prosecute, not the victim. **Alexander Former Chief Superintendent for Hammersmith and Fulham**

It appears then, that a strategy which de-emphasises survivor statements has mutual benefits for both the police and the aims of this DV charity. This former borough commander stresses that for the police the objective is to arrest and bring more criminals before the courts. Similarly, STADV have pushed for a criminal justice response as a way to keep survivors safer and deter future abuse. Historically, the criminal justice system and the women's sector have been beset with conflict and disagreement. But here, the similarities in interests rather than the differences are promoted to initiate a new partnership. It would seem that the success of the SDVC and the partnership between STADV and the police has resulted in a deepening of the relationship, to that of bedfellows in the police station. As illustrated by the quotes

from Jane and DS Emily, extensive procedures have been put in place to ensure that first response officers are collecting evidence from the point of first contact and in the weeks after the arrest. More importantly, however, both the officers interviewed also expected to have their cases regularly *scrutinised* by Impact staff to ensure that such procedures were being adhered to, and accepted constructive criticism and direction if they were not. In this sense, Impact has achieved a transfer of power from the police to a community-based group, which is a rare feat indeed.

The Impact Project is therefore an exciting development in terms of police accountability with to a wider community. At the beginning of this section, the question of whether or not the patriarchal origins of the police could be transformed in the interests of female survivors of DV. Perhaps another way to look at the Impact Project, is as an enabling state with survivors acting as 'active citizens' (Wallace, 2013). The idea of the enabling state is that traditional 'top down' public services are made redundant in favour of services built from the 'bottom up'. Communities and the individuals within them are given more opportunities for greater control over their relationship with the state (Brotchie, 2013).

Whether the Impact Project can be conceived as contributing to the evolution of a patriarchal institution or as an example of an enabling state, the power relationship between the macro, meso and micro levels remain pertinent. In this sense, it is important to note that while transferring power from the macro to the meso level is an accomplishment, intersectional research is fundamentally concerned with how more power can be placed in the hands of the most marginalised, particularly at the micro level. Indeed, if the ultimate aim of the

Impact Project is to de-emphasise the importance of survivors in the criminal justice process by taking a formulaic approach to evidence gathering and persevering with victimless prosecutions, this raises questions around the potential for such a response to meet the intersectional needs of survivors. If the aim of Impact is to minimise the role of survivors in the criminal justice process, it is difficult to see how survivors will be able to communicate their myriad needs, especially if the Impact Project only aims to increase convictions. Patel (1999) has further reflections on this, warning that accountability through multi-agency initiatives may become self-sealing, limiting itself only to the small number of professionals involved and their self-defined aims. Alongside this, a further question recommended for IBPA researchers asks where and how interventions can be made and at what level (micro, meso, macro) those interventions can be made to further social justice (Hankivsky, 2012). Given the breakthrough that Impact has achieved, an important step further would be to seek ways to open structures up to survivors and the rest of the community. The intersectional implications of victimless prosecution will be discussed further in the next section.

7.2 Perpetrator Accountability

7.2.1 Victimless Prosecution

In the last section on *res gestae* evidence, the socially transformative goals of victimless prosecution were discussed as an overarching strategy to challenge DV at the societal level. The object of such a strategy is to utilise the state apparatus to challenge DV so that institutional enabling of perpetrators can be reversed on a national scale. Advocates argue that over

time, this should result in a less patriarchal society (Friedman and Schulman, 1990; Hanna, 1996; Cassidy, 2006; Ellison and Munro, 2014).

Respondents in this study felt that a great deal of work had been put into training, briefing and advising officers at the police station as well as SDVC agencies on the legal technicalities for 'hearsay' provisions. Further, it was felt that the number of victimless prosecutions were increasing, although many still ended in acquittal. Due to the low numbers of victimless prosecutions, it is difficult to make generalisations about success or failure. Nor has it been possible to draw from case examples to examine how they might affect marginalised groups, as a primary source. Therefore the following two examples of successful victimless prosecutions will be used as case studies with additional support from the literature to theorise around these questions.

A Magistrate from Hammersmith SDVC was able to provide two detailed examples of her experience with victimless prosecutions that ended in conviction. The first of which follows:

Case Study One

The guy was accused of taking his partner's wrists, twisting them, and pushing her down on the sofa in front of his 15-year-old daughter. He pleaded not guilty. I happened to be on the case management halfway through, where the daughter was going to come and give evidence, and the wife was going to give evidence.

When I was there on the day of trial, they said the daughter wasn't coming to give evidence. When the wife gave evidence she was behind screens, but she totally changed her story from what was in her witness statement, which was taken at the scene, totally, said none of it had happened. She had pushed him. He also totally changed his evidence from his interview.

We relied on her witness statement, because that is valid evidence, which was done immediately and also a police officer came, who'd gone to the scene when the phone call came through, and he'd filled out this Section 124D form saying what had happened. That was compelling enough for us to find him guilty even though she didn't play ball. **Allison Hammersmith SDVC Magistrate**

The above case appears to be the ideal type of victimless prosecution, according to the agreed upon procedures from the point of arrest up to the trial itself. The police officer has diligently recorded the required information as soon as possible, making his own statement and notes about the scene when he arrived. Further, the witness' statement has been taken at the site of the incident, soon after the assault. Together, the early evidence from the police officer and the witness, appear to be consistent enough with each other to prove cogent and the Magistrates' find the perpetrator guilty on that basis. This is despite the survivor's evidence in court, which supports the perpetrator. In the last section on *res gestae* evidence, officers reflected on their extensive responsibilities of collecting evidence and case building on DV cases. Case Study One, above supports their assertion that

police officers are abiding by the new procedures. This Magistrate makes it clear that the officer's speed and diligence in recording their notes and taking a witness statement straight after the incident are the biggest contributors to the decision to convict.

This can be understood in terms of the power relations between the criminal justice system and those at the Impact Project. The police and court as macro level national institutions have experienced long-standing criticism for their ambivalence towards survivors of DV, and failure to provide protection when it was most needed. Indeed, alongside distaste for becoming involved in domestic 'disputes' many criminal justice operatives have justified their lack of action by blaming survivor non-compliance and withdrawal (Faragher, 1985; Hanmer, 1989; Grace, 1995; Wright, 1995).

The case above illustrates the extent to which the justice system, in this area at least, has shifted from a situation in which DV is dismissed to one in which the police and the court take an active role in a wider strategy to challenge DV. In this instance, this is having real, material impact on the outcomes of DV cases, as it is no longer taken for granted that a survivor's withdrawal from the process means the case will be discontinued. In particular, the SDVC no longer takes evidence from a survivor at face value, but instead contextualises it against other evidence from the case with practitioners' wider knowledge about DV.

A further key criticism of the criminal justice response to DV, has been its tendency to be incident, rather than context driven. A factor in understanding DV as dissimilar from other crimes is the prevalence of behaviours that contribute to an abusive dynamic but may not, in themselves be considered

criminal (Stark, 2007). The data from this research suggests that some Magistrates' are taking a broad view, influenced by their understanding of the dynamics of DV, in considering why survivors' continue to support prosecution for some time after arrest, but change position on the day of the trial. Elsewhere in her interview the same Magistrates referenced such training stating that:

Half the day is about the dynamics of domestic abuse, and the pressures that someone may be under, and then the other half is about how you deal with it in court. **Alison Hammersmith SDVC Magistrate**

This suggests that SDVC Magistrates' are expected to have a detailed understanding of the dynamics of DV, and how they may present in court as well as the tools at their disposal to deal with them.

In terms of social justice and power, Impact has certainly been successful on a number of points. They have ensured that they as a meso level, community based organisation have power and influence over a macro level organisation to set the standard by which DV will be responded to. In terms of social justice, this ensures that the criminal justice response locally has come some way from the earlier criticism of historical inaction on DV, which facilitated violence against women. This also appears to have flattened some of the hierarchical structures in the police and courts, awarding more power to a community-based organisation and thus increasing the scope for community accountability. Additionally, the police and courts appear to be operating based on the philosophy that violence against women in the home is wrong, and that they as criminal justice operatives have a crucial role in stopping and preventing it. In this sense, it could be argued that these institutions have been transformed to value women more

highly through the shifting of power from the macro to the meso level. However, while this is important in terms of the transformation of values and priorities in state agencies, how this relates to survivors at the individual level is crucial.

7.2.2 Victimless Prosecution and Survivors

While the transformation of the justice system in this area is an achievement in terms of equalising power relations, intersectional policy analysis is ultimately concerned with how power relates to those most marginalised, at the micro or individual level. Cases One and Two, together will assist in examining how victimless prosecution relates to survivors as opposed to the wider societal implications of the strategy:

Case Study Two

I do remember once we had a victimless prosecution where, this horrible offender had just been sentenced that day, for beating up an ex-partner, and he was seen by somebody, near Chelsea Football ground, punching his pregnant new partner in the stomach against a wall. It was an off-duty police officer. So he came to court. That is brilliant that, that comes to court. She wouldn't have come to court about it. So I think it's really good that it's treated seriously and taken seriously, and even if the victim is worried or doesn't want to prosecute that, if it is something serious, the CPS should prosecute. They should try to sort it out. **Alison Hammersmith SDVC Magistrate**

This case contains threads of both the state and the wider community assuming responsibility for DV, with a member of public being the first to raise the alarm (albeit an off-duty police officer). For advocates of an interventionist policy, this perhaps illustrates an ideal of societal intolerance with the responsibility for the abuse ultimately being assumed by the

state rather than those in the relationship. The Magistrates echoes the views of supporters of this strategy who see it largely as symbolic; sending a clear message to perpetrators that violence between intimate partners is taken as seriously as violence between strangers in public (Hanna, 1996; Ellison, 2003).

Unlike victimless prosecutions whereby the survivor has contacted the police and later withdrawn from the process, in this instance people outside of the relationship instigate the entire procedure. Under the former, the police or victim agencies may have some indication of the survivor's feelings about the process. In the above case, the lack of survivor voice is somewhat palpable. A manager from advocacy service, ADVANCE, provides her reflections on the issue of victimless prosecutions and survivor involvement:

I don't necessarily know how [victimless prosecutions] would improve things. I think it is important to have the victim on board if you are going to go ahead with it. I don't necessarily think they are such a good idea. I mean I obviously don't know in terms of research in terms of how that then stops or helps in terms of future offending from the same perpetrator. But I feel like when you don't have that victim on board then you are missing vital things like safety planning with them, talking about their options, saying, "These are the things that could happen in future. This is how you can protect yourself". I think you lose that because the main thing is then the engagement with the domestic violence service doesn't really happen, which I think is then the issue. From a risk perspective I don't think it is very helpful. **Meena
Manager at ADVANCE**

The perspective of the advocacy manager on victimless prosecutions runs contrary to that of the Hammersmith Magistrate. Perhaps unsurprisingly given her role, she reframes the question to focus on the position of the survivor. This manager raises important questions about how risk is

likely to be managed, if the survivor has no way to communicate what the risks are if certain interventions are taken.

In the last chapter, discussion on witness summons raised the issue of the potential for retaliatory violence, if the survivor is forced to give evidence against the perpetrator. Advocates of a victimless prosecution strategy, maintain that the state assuming total responsibility for prosecution negates the potential for retaliatory violence against the survivor.

As discussed in the literature review, San Diego initiated one of the first wide scale victimless prosecution strategies. Speaking about the issue of survivor protection, attorney Casey Gwinn was cited as stating:

Taking the responsibility for the prosecution away from the victim, and placing it on the prosecution agency, is done to insulate the victim from the batterer's anger, retaliation and coercion to 'drop' the charges (cited in Ellison, 2003).

Similar to Gwinn quoted above, the court apparatus at Hammersmith SDVC appear to make the assumption that the survivors in cases One and Two have been coerced out of supporting the prosecution. Perhaps, but the extent to which such a strategy can be said to 'insulate' the survivor from any on-going abuse requires examination. In Case Two, the Magistrate states that on the day of the incident, the perpetrator had been sentenced for an assault on a previous partner. Whatever his sentence was, it did little to prevent him from going on to assault his current partner later that day, and may have even made the situation more volatile. Although we do not know the outcome of this particular case, evidence presented in the literature review has found that mandatory

arrest and non-drop prosecution policies have tended to *increase* the violence of some offenders. Mandatory arrest has been found to increase incidents of DV when the perpetrator is unemployed, has a low educational attainment level or is an ethnic minority (Sherman 1992; Maxwell et al. 2001; Maxwell et al. 2002). Similarly, no-drop prosecution policies have been found to increase violence where the perpetrator has a history of DV (Fagan *et al.*, 1984). This is highly relevant to the case discussed above, as by the time this perpetrator had come back to court, his repeated abuse of numerous women will have been known.

Of course, at the time of his original sentencing, authorities may not have had any opportunity or reason to consider the safety implications for his current partner. However, at the point of prosecuting this perpetrator for the assault on his current partner, this survivor's non-existence in proceedings alongside the perpetrators' repeated flouting of the law ought to have given pause for thought. This is because those empirical studies that have found an association between strict no-drop prosecution policies and repeat abuse by certain perpetrators believe that this is because such a strategy has a tendency to exacerbate the perpetrators anger at an already volatile time, whilst also failing to address the risk to the survivor (Fagan, 1989; Dugan, Nagin and Rosenfeld, 2001). As the manager at ADVANCE suggests, having no involvement from the survivor throughout proceedings may make it very difficult to know whether a criminal justice intervention would be a help to her or even place her in further danger.

In order to understand the effect of victimless prosecution on unwilling survivors, understanding the reasons survivors may have for not engaging with the criminal justice process is

important. A look back at Case One will assist. In this case it is the survivor herself who has called the police, and made a statement shortly afterwards stating that the perpetrator assaulted her. On the day of the trial however, both she and the perpetrator change their evidence and the survivor speaks in support of the perpetrator. Implicit within this Magistrate's reflections is that the reasons for this, is that the perpetrator has coerced this survivor into giving evidence that supports him. While we cannot know this survivor's thoughts or motivations, research suggests that threats of violence and apologetic manipulations are common reasons for the withdrawal of support for prosecution (Hanna, 1996; Hoyle and Sanders, 2000; Kuennen, 2007; Goodman and Epstein, 2008). The court's assessment of the survivor's reasons for changing her evidence, alongside the contradictory evidence between the survivor and the police officer, leaves the court in a bind. The Magistrates' are left to decide whether they will accept the state of affairs, or try to avoid being influenced by what appears to be the perpetrator's manoeuvres.

However, the key information that might shed light on the best course of action is missing. It may well be true that the survivor has changed her evidence due to pressure from the perpetrator. But this may only be part of the story. Evidence suggests that while coercion is certainly a large part of why survivors withdraw from criminal proceedings, the picture is often more complicated than that. For example, some survivors may not wish to prosecute for their financial wellbeing such as if perpetrator is the breadwinner or pays child support (Kuennen 2007; Goodman and Epstein 2008; Hare 2010). Other women may fear retaliation if they proceed, or feel that the limited punishment involved in most convictions is not worth the effort (Kuennen, 2007). Others

have found that some survivors used prosecution to accomplish their goals, but wanted to drop prosecution once those goals were met. Such goals include using prosecution as leverage to gain a divorce, or invoking criminal justice involvement as a warning to manage the situation (Ford 1983, 1991; Bennett et al. 1999; Hoyle and Sanders, 2000).

It is plausible, therefore, that the survivor in Case One stayed with the prosecution for the weeks after the arrest up until it was no longer practical for her to or because the risk to her had increased. The survivor in Case Two, may have felt that engagement in the justice system would do nothing to decrease the risk to her, and given the perpetrator's history this may well have been a sound judgment. In short, their decisions not to support prosecutorial efforts may have been made based on considered, rational judgment, rather than coercion alone.

However, without input from the survivors' themselves, we cannot know this. But it could be argued that removing agency away from survivors' to determine these things further disempowers them and may reinforce inequalities and assumptions about survivor 'helplessness'. Indeed, some argue that such a course of action systemically re-victimizes survivors by denying them agency of their lives (Goodman and Epstein, 2008; Herman 1997; Mills, 1999).

If the multiple reasons that survivors withdraw support for prosecution are routinely dismissed as being based on her coercion alone, the criminal justice system runs the risk of further entrenching disempowerment. Under IBPA, it is crucial that the policy initiative does not produce or reinforce inequalities, stereotypes or biases. At the end of the last

chapter, the free rein distribution of witness summons was discussed as being further evidence of a patriarchal criminal justice system that feels entitled to such recourse on women, and which may be considered an institutionalised form of coercion. Similarly, victimless prosecutions that proceed with little or no input from survivors could be considered further evidence of this.

As IBPA demands that researchers pay particular attention to how policy initiatives will impact marginalised populations, it is important to develop further analysis on this basis. This has been touched on above, with the discussion on no-drop prosecution policies and the difference in outcome based on the perpetrator's background. Developing this further, it is also important to understand this in relation to survivors.

As cited above, Sherman's (1992) Milwaukee study of mandatory arrest found there were vastly different outcomes based on the perpetrator and survivors ethnicity. In particular, mandatory arrest tended to be a protective factor for white women, but increase incidents of violence towards black women. Sherman surmised that if three times as many African-Americans as whites are arrested in Milwaukee (which would be typical given police practices in that city), a mandatory arrest policy would prevent 2504 acts of violence primarily against white women, at the price of 5409 acts of violence primarily against African-American women (Sherman, 1992; Mills, 1999).

Although this study refers to mandatory arrest specifically, the studies cited above have consistently found both mandatory arrest and no-drop prosecution to be hazardous to marginalised survivors. We cannot assume, therefore, that

pursuing prosecution in a survivor's absence truly assumes the responsibility from her, or 'insulates' her from further abuse. There are real safety concerns associated with policies that forcefully pursue arrest and prosecution without the survivor's input, and women from unemployed, less educated households and black communities experience the resulting increase in violence most acutely. If the aim of criminal justice and women's organisation collaboration is to centre the safety of *all* survivors, then a blanket policy is unlikely to fulfil the objective. The case studies discussed alongside the empirical evidence presented, necessitate a more nuanced policy that takes account of both the individual survivor's desires, and the structural implications of any particular course of action. The approach of therapeutic jurisprudence has been prosed as doing just this. Therapeutic jurisprudence is a legal method which aims to apply existing legislation to promote the wellbeing of victims, or in the case of adversarial trials to at least reduce harm to vulnerable people involved (Wexler, 2000). Carolyn Copps Hartley identified that the problem in viewing DV solely as a "crime against the state" is that prosecutors will inevitable position themselves as "omnipotent saviours" (Mills, 1999; Hartley, 2003). Hartley argues that the current legal system can be transformed to ensure that survivors of abuse are positioned as active partners in the legal process as opposed to consigned to the role of mere witness for the prosecution. The approach of mandatory arrest and prosecution has might be described as a blunt tool aimed at reducing DV through a universal policy, with the associated problems having been identified throughout this thesis. Therapeutic jurisprudence may offer a solution to both the need for the criminal justice system to act on one hand, as well as the needs of survivors to have control over their own lives. This will be discussed in the concluding chapter of this thesis.

7.3 Operation Dauntless

Aside from the usual methods of holding perpetrators of DV to account through witness summons or victimless prosecution, evidence emerged through this study that police officers are recruiting survivors of DV to investigate other crimes. Below, an IDVA discusses a case she previously worked on while she was an advocate in Lambeth. Here, she indicates how high risk the case was, and how she felt this survivor had no other options to manage the risk other than through the criminal justice system:

In Lambeth, the police had identified [him as one of] the top 10 most at risk perpetrators in the borough: Operation Dauntless. And she was just not interested in police, felt like they had let her down, she didn't want to give a statement she blames the police they blame her.

This perpetrator showed up at her house with a knife. I said to her "look we really need to get the police involved now. Because the risk is just getting so high that it's not being managed well without them." Police were saying, "She doesn't want to know". And I said to the officer, "look I know she doesn't want to know, but what she thinks is that you guys have massively let her down so maybe you could call her up, maybe you could apologise for all the ways you guys messed up, even though you don't think you messed up, even though you think you did everything by the book, even though you think it's her fault that nothing has happened maybe you could just pretend like you don't think that and you could just apologise, take responsibility for what you guys did wrong, make her feel like you really care about her and try and get her on board to make a statement". It took some coaxing, but I got the officer to do this. She then loved that the officer had done this, gave a statement. Police were then able to charge him and remand him and then she massively felt that the system was now working for her, she felt a lot better.

[The Criminal Justice Route was taken because] she wouldn't move, she was adamant that she wouldn't move we think that she was holding drugs for him. He was really heavy in to drug dealing and we just thought, that maybe she was holding his drugs. Which would explain why he kept getting into her house even though, she was adamant.... So yeah I think charging and remanding him was the most effective way, and I couldn't get her down to court to get her a non-mol [non-molestation order]. Mental health all sorts of things but she just couldn't get it up to go to civil court. **Ava Impact IDVA**

It is understood that Operation Dauntless in general terms is a method of nominating the most prolific DV perpetrators in the borough, and increasing pursuit of those perpetrators on those grounds. This case example highlights a myriad of complex issues existent within the dynamic between police, professionals as survivor advocates, and survivors themselves.

For one, it is clear from the start that this survivor does not want any criminal justice involvement. Nonetheless, the IDVA directs this survivor to a criminal justice solution to the risk posed to her. Such a case highlights some of the conflicts inherent within the advocacy model. It is the *independence* of advocates that distinguishes them from other agencies, as their role is not to compel survivors to take any course of action, but simply to support them to lower the risk in any way that see fit (Robinson, 2009). However, IDVAs work is also commonly restricted to survivors who at high-risk of being seriously injured or murdered (Coy and Kelly, 2011). These two features of DV advocacy clearly have the potential to clash with one another, as evidenced by the above case.

It seems likely that the IDVA's unique position as a conduit between the police and survivor was the basis for her decision to strongly suggest for a criminal justice remedy. The IDVA describes herself as a mediator between the police and the survivor, cajoling the police to feign taking responsibility for past ills, as a method of regaining the survivor's lost confidence. In one sense, this could be seen as a sophisticated form of emotional labour enlisted by the IDVA to overcome the divide between the police and the survivor. On the other hand, it is possible that the survivor's reasons for not wanting a criminal justice response won't be addressed through such a tactic. If the police have pretended that they have treated this survivor incorrectly, and apologise for it, but do nothing to change their practice, the IDVAs actions might be viewed as manipulation of the truth of the circumstances from the survivor's point of view. The survivor, as a result of this, may have higher expectations of the criminal justice system, which may never come to fruition.

That is not to say that such mediation is ill advised in all cases. Indeed, where the police understand and accept a survivor's position, and are willing to alter their practice on that basis, such intervention could be helpful. This could be part of a wider strategy to improve practice as a means of boosting confidence, rather than attempting to boost confidence apropos of nothing. This survivor appears to have had very pertinent reasons for wanting to avoid a criminal justice response. Nonetheless, after the IDVA has orchestrated a situation in which the survivor is more willing to engage, other forms of criminality that the perpetrator is involved in become a key (if not *the* key) focus for the police. Below, the IDVA went on to say that once the survivor had provided a statement, the police went about recruiting this survivor to provide intelligence on the perpetrator's involvement in the drug trade:

The police also wanted to make her CHIS. A CHIS is when, so this guy he was drug dealing, lots of other crimes and she knew everything and the police what they wanted to do was to get her on board to tell them about the other criminal activity, in a way that doesn't implicate her. So with Operation Dauntless they're trying to target them proactively. If they can get him on a drug charge for 15 years that's good enough, right? So you then try to recruit her to do that as well. I don't know whether she accepted it as I left Lambeth but she was seriously considering it.

Ava Impact IDVA

The utilisation of partnerships between women's organisations and the police have been used to extract information from survivors' in the past, with Patel (2003) citing it as an early development in the Brixton DVU in 1988:

From a community liaison point of view, if you look at it cynically, it has been absolutely marvellous. It has brought and drawn us together with organisations in the community, particularly women and feminist groups. They have always been anti-us and it has broken down all sorts of barriers. A female officer has been invited to be on the management committee of the local Women's Aid which is unheard of (Patel, 2003, p. 168).

The same officer went on to describe how meetings with survivors supported by Women's Aid doubled-up as service provision as well as an intelligence gathering exercise, on the basis of which several drug raids were carried out locally.

More recently, the police strategy of recruiting survivors as informers in non-DV crimes is becoming increasingly institutionalised. In Strathclyde, Scotland, the police and DV advocates work together as part of the Domestic Abuse Task Force. The Task Force as a wider strategy involves using partnership working to identify the most high-risk perpetrators of DV, and prosecuting perpetrators based on all avenues of intelligence. A unique technique utilised as part of the initiative, is an alternative risk assessment, Recency, Frequency and Gravity (RFG), which was developed for Strathclyde Police in 2009 (Scottish Police Authority, 2013). The risk assessment acts as both a predictor of future violence as well as an intelligence gathering exercise in which all known criminal activity is gathered as a potential means of disrupting the perpetrator (Northumbria PCC, 2015). Both the police and the advocates use this risk assessment as a wider criminal justice strategy to target high-risk perpetrators (Scottish Police Authority, 2013). Variations on this model are being adopted across the country, such as in Northumbria, Operation Shield in Essex (Essex PCC, 2016), and Operation Dauntless (also called Operation Athena) in London. Although in the case

of Operation Dauntless above, the recruitment of the survivor as a 'CHIS' (covert human intelligence source) appears to be somewhat opportunistic, it is not clear whether this is part of a wider strategy to recruit survivors generally.

The IDVA discussing the case above indicates that this course of action will lower the risk to the survivor by potentially imprisoning the perpetrator on a serious drug charge. However, the extent to which such a course of action increases a survivor's safety requires critical examination. In 2016 Dabney and Tewksbury published a study based on several months of ethnographic fieldwork in two US police departments that use confidential informants to police the drug trade. They found that the business of using confidential informants was often extremely dangerous (for the informants), and potentially counter-productive. In particular, they found that where offenders had been successfully prosecuted based on intelligence from confidential informants, this was usually responded to with 'stop snitching campaigns' in which drug dealers would mete out serious violence on suspected informants, or ramp up violence on the community generally as a means of regaining control.

In the context of DV, it is important to question the suitability of combining DV policing for the purpose of risk management, with a wider crackdown on the drugs trade. Where the criminal justice system has been utilised to lower the risk to survivors, it is usually where there is one perpetrator, committing DV on one survivor, with the roots of that violence being linked to the societal power dynamics between men and women. The violence committed as part of the drug trade however, will be significantly wider than any one perpetrator. Further, far from violence committed in an interpersonal

dynamic to elicit control of a partner, violence committed by those involved in the drug trade use violence as a business model to protect profit.

Drawing Dabney and Tewksbury's findings to its logical conclusion, even if the police and DV services support a survivor to escape such violence, if she is encouraged to inform this could have serious repercussions on the community she has left. Indeed, it may become known that DV services are a route of escape *as well as* a means of informing. This could fuel suspicion on women in the community generally. Women in such circumstances may experience an escalation in violence and intimidation, a common tactic already deployed by suspicious and paranoid perpetrators on an individual level. In the context of the drug trade, such violence has the additional caveat of being organised and systematic (Dabney and Tewksbury, 2016).

In the case above, the IDVA hopes that the perpetrator may be in custody for up to 15 years if the survivor informs the police of his activities, and he is successfully convicted on this intelligence. However, the IDVA also indicates the survivor has no plans to move. If the police feel that the perpetrator has committed crimes serious enough to be sentenced to 15 years in prison, it may be that he is part of a wider network in the drugs trade. It is not clear how this survivor would be protected from reprisals if the perpetrator or his associates become suspicious that she has provided police with intelligence. Although the IDVA indicates the survivor will not be implicated, if she ends the relationship at the same time as the police have enough intelligence to charge him for drug related offences, suspicions may grow about this survivor's 'loyalties'.

As well as concerns around escalating violence, Dabney and Tewksbury (2016) identified unethical police practices in the procurement of informers. In particular, the practice of arresting an offender and then offering them 'deals'. They refer to such defendants as 'indentured informers' whereby those arrested are pressed to give information for leniency in subsequent court proceedings or the promise that all charges will be dropped. They also found that in their study, this was the most common means of recruiting informers. While from the IDVA's account, there does not appear to have been anything agreed upon these lines, we do not know for certain how the interaction between the officers and the survivor went, as the IDVA had left by the point her recruitment as a CHIS was being discussed. For one, this survivor's original misgivings about engaging with the police may have been as much about her association with the drug trade, as their response to her abuse. In this context, the orchestrated apology from the police officer may have been interpreted as a guarantee of leniency from the police regarding her circumstances. However, a woman's status as a survivor of DV is not prioritised over the investigation of other crimes, and survivors can and will be arrested for breaking the law, even when their criminal activities have emerged through the investigation of their abuse (as discussed in Chapters 5 and 6).

The survivor in the case above is also potentially vulnerable to arrest, as there are suspicions from the police and the IDVA that she is holding drugs at her home for the perpetrator. Such a set of circumstances certainly has the potential for seriously unequal power relations between the survivor and officers when negotiating her recruitment as an informer. The IDVA appears to speak about the recruitment in straightforward,

uncomplicated terms as though it would be the answer to the survivor's problems so long as the perpetrator is sentenced to prison for long enough. But questions remain about the risk posed to the survivor from the wider drug trade if she did inform. Further, it is not clear whether or not she would be totally free to decline. For instance, if she did, is it possible the police would try to coerce her by threatening to arrest her for her involvement? There is a danger that this survivor may feel 'indentured' by the police only offering meaningful protection via this route.

Although on the face of it, the carrot and stick approach employed by the officers may not yet be based on the threat of charges, it does seem to be based on the promise of a lengthy sentence for the perpetrator. However, there lies within this IDVA's account a level of acceptance of the terms in which these two very different crimes are being dealt with. From the literature review, it is clear that feminists, police, prosecutors and policy makers have spent 40 years developing and debating the safest ways to utilise the criminal justice system to support women in cases of DV. Far less time has been spent reflecting on the suitability of targeting perpetrators of DV through other kinds of criminality, far less its legitimacy. For one, even the most staunchly anti-carceral feminists accept that survivors of DV will sometimes need to call the police if they are in danger (Bumiller, 2008; Richie, 2012; Sweet, 2016). However, no such consensus has been built around how other crimes are policed, or if there is agreement over whether such crimes ought to be criminalised in the first place. Both the United Nations and the World Health Organisation have called for drugs to be decriminalised, so that the worst effects of illegal drug trade would be mediated through regulation (WHO/UN, 2017). Conversely, few if any voices are arguing for

decriminalisation of DV. Given this backdrop, one could question whether it is legitimate that a survivor can only expect to have her perpetrator sentenced so highly due to his involvement in the drug trade, and not based on the violence he has meted out on her – particularly when the criminalisation of drug use is so hotly contested.

Taking an intersectional perspective, it is also important to acknowledge who is most impacted by the policing of the drug trade. In the US, despite the fact that drug use and selling is comparable between ethnicities, people of colour are more likely to be stopped, searched, arrested, prosecuted, convicted and incarcerated for drug law violations than their white counterparts (Tonry, 1995). In fact, while the War on Drugs initiated in the Nixon era had the stated aim of eliminating the supply and demand of drugs, the strategy has always been dogged with accusations of an ulterior, racial motive. It has been argued that the key facets of the War on Drugs, such as long term incarceration though mandatory minimum sentencing, and stop and frisk laws, have been disproportionately used against communities of colour, resulting in entrenched inequalities and wide scale structural violence for those communities (Tonry, 1995). Similarly in the UK, a study by LSE and human rights organisation Release found that black people were twice as likely to be charged for drug offences than white people arrested for the same crime (Eastwood, Shinner and Bear, 2013). The women's population as a whole has more than doubled between 1995 and 2010, from 1,979 to 4,236 (Women in Prison, 2017) and has been heavily linked to the increased criminalisation of the supply and consumption of drugs (HM Inspectorate of Prisons, 2005). In a climate where women's involvement in the drug trade is increasingly being responded to with punitive custodial

sentences, it cannot be assumed that survivors who come to notice are not similarly vulnerable to criminalisation.

While discussing the policing of drug crime may seem like an aside from DV, intersectional research demands that analysis should not focus on one axis of power alone. Indeed, as discussed in the literature review, intersectional feminists have been critical of radical feminist approaches to criminal justice that are pursued at the expense of other forms of oppression (Sokoloff and Dupont, 2005). Intersectional scholars writing on DV have argued that siphoning off gendered oppression whilst ignoring the myriad other structural conditions of poverty, racism, homophobia or xenophobia for example will not provide survivors with the means to transform their circumstances (DeKeseredy and MacLeod, 1997; Richie, 2000; Incite!, 2014). With this in mind, questions can be asked about the suitability of DV advocates investing in criminal justice strategies to prosecute perpetrators on non-DV crimes. Particularly when those crimes carry so much controversy through contested illegality and oppressive policing. Further, given that some survivors will be made more vulnerable through contact with the criminal justice system rather than made safer, critical engagement in this is required from those agencies working to empower survivors.

As Incite! – a group of women of colour against violence state:

Strategies designed to combat violence within communities (sexual/domestic violence) must be linked to strategies that combat violence directed against communities (i.e., police brutality, prisons, racism, economic exploitation, etc.) (Incite!, 2014).

As it stands, there is very little critical literature to be found on the use of the alternative RFG risk assessment or Operation Dauntless. As it appears such a model is becoming increasingly popular with police departments, more research is crucially needed to understand the risks; ethics; and potential consequences for different survivors in the community. Until then, feminist DV movement cannot safely advocate for survivors to be recruited as informers in the investigation of non-DV related crimes.

7.4 Chapter Summary

In conclusion, criminal justice institutions in collaboration with DV organisations are increasingly developing new ways of ensuring that perpetrators are held to account through successful prosecution. The Impact Project has instituted not only a new approach to gathering evidence, but also a system of accountability for the police. Having STADV employees based in the station, with access to police files and on the basis that they will instruct police practice, is a pioneering initiative. The enhanced evidence in turn, can be used to strengthen cases for prosecution and/or prosecute perpetrators in the absence of the survivor as the witness. This chapter outlined some of the problems of pursuing prosecution without survivors, particularly regarding safety. However, there is scope for the use of consensual victimless prosecutions that will be discussed more fully in the concluding chapter of this thesis. Lastly, this chapter has discussed the strategy of recruiting survivors to provide intelligence to the police regarding other crimes, as a means of holding the perpetrator to account for DV. The institutionalisation of this strategy appears to be relatively new, but is growing across the

country, despite very little empirical evidence or critical literature as to the consequences of such an approach. Overall, while there is some potential in utilising strategies for perpetrator accountability in a way that support survivor autonomy, there remains a number of questions about how these strategies are being used in practice, particularly regarding their safety.

Chapter 8

Conclusion

The aim of this study has been to examine the relationship between the criminal justice system, women's organisations, and survivors in relation to partnerships on DV. This conclusion brings together the three central arguments that have emerged from my findings. It begins by identifying the benefits of collaboration involving shared workspaces, and the difference this can make to safety planning. However, it also emphasises the problems that develop as a result of such a model, and the dangers of impinging on organisational independence. Secondly, it discusses how investment in criminal justice responses to DV may be unintentionally increasing the criminalisation of victimhood and undermining survivor self-determination. Finally, this chapter will identify new approaches to accountability for both perpetrators and the criminal justice system. In particular, the last section will focus on how close collaboration on a common goal can shift the balance of power and provide opportunities for women's organisations to hold the state accountable. However, it will also stress that this in itself should not be the end goal, and a lack of scrutiny of the difference in interests between the state, women's services, and survivors may result in a lack of focus on the most important goal: survivor safety. Throughout this chapter, recommendations for future practice have been developed with the support of the transformative questions of IBPA (Hankivsky, 2012b).

8.1 Collaboration, Safety and Independence

In Chapter 5, a complicated picture emerged of the benefits and drawbacks associated with collaboration within shared workspaces. The examples presented by Olivia and in the court observation illustrate the ease with which key information can be shared, and how influence is enacted on state operatives who have unmatched power to offer immediate, physical protection to survivors. In particular, an important example of this is Olivia's example of devising a sophisticated and elaborate safety plan to support a post-partum survivor to reach the housing department before her perpetrator was released home. This case is in line with findings by Coy and Kelly (2011) whose evaluation of IDVA services found that there were material and practical benefits to advocacy support being based in statutory services. However, such a model may become problematic when the survivor is on the 'wrong side' of the state, such as with undocumented migrants. An example of this is the case in which an IDVA re-establishes contact between the police and a migrant survivor who seems to have gone to great lengths to avoid this, the result of which is that she is then reported to the Home Office.

Although we do not know what the IDVA's reasons were, or the eventual outcome, the potential dangers in such an approach remain concerning. Robinson (2009) found in her evaluation of IDVA services that locating advocates in statutory services was a major threat to their independence, as this could lead to the interests of statutory partners being prioritised over the safety of survivors. The example given by the police officer confirms this warning, as the officer highlights how obliging and assistive the IDVA was in facilitating *his* goal of maintaining prosecution, despite this

being against the interests of the survivor. While a collaboration based on shared physical space can address some of the practical problems of safety planning, over time such close proximity may discourage scrutiny of statutory partners. How, then, can two such disparate outcomes offer insight on potential ways forward for policy and practice? The transformative questions from IBPA can help to answer this question. Transformative question nine asks *how will proposed options address intersectional inequities and promote social justice?* The sub-question goes on to ask *'how will options address intersectional inequalities and avoid producing further inequalities for some populations?* (Hankivsky, 2012: 39). Essentially, how can a policy be devised that utilises those aspects that improve safety for some survivors, without undermining the safety of others?

A number of proposals might offer answers to this question. First of all, although there are practical benefits to IDVAs being based in the police station, the Impact Project is unique in that the roles held are not solely front-line focused. Both the project manager and case analyst roles focus on police procedural responses, and do not generally have contact with survivors as part of their roles. An adjustment to the structure of Impact therefore, could be to move the IDVA role back to the community based IDVA team, and utilise the rest of the Impact team to help ease communication between IDVAs and officers. In the case of the post-partum survivor whose perpetrator faced imminent release, a similar safety plan could be enacted, but according to a slightly different structure. Assuming the main concern to be the ease of contact between the officer and the IDVA, the rest of the Impact team could support this by being available to locate officers on behalf of the IDVA team. Further, the presence of the remaining Impact roles would

ensure that police priorities remain survivor-focused.

There is a danger that this structure could become too convoluted, creating additional barriers in the safety management process; however, if such a structure has the potential to secure the independence of IDVAs while maintaining access to safety measures, this ought to be sufficient motivation to explore its potential. The problems associated with a lack of independence in IDVAs are a further cause for concern. This is particularly salient given the vulnerable position of undocumented migrant survivors, who may be facing intimate partner violence and state oppression – while their support service focuses on the interests of the institutions that seek to deport or incarcerate them. Against the backdrop of Britain's imminent departure from the European Union, and an increasingly hostile environment for all migrants, it is critical to develop policies that do not reinforce bias. An additional problem is that this proposal may result in an increase in work for the rest of the Impact team. However, a lack of independence may be undermining the most important aim of the project: survivor safety. If survivor safety is prioritised over perpetrator accountability, then work practices may be more easily adjusted to increase the focus on safety where this has been found wanting.

Placing the IDVA with the wider community based team might provide the separation needed to ensure that safety planning is more focused on the needs of survivors (Howarth *et al.*, 2009; Robinson, 2009). This may also provide greater opportunity to scrutinise the response of statutory partners. Indeed, setting aside time for critical reflection on partnerships with statutory bodies may also help to guard against bad practice and co-option by powerful partners

(Schon, 1983; Gould, 1996). A community specialist domestic violence service is more likely provide the conditions needed to engage in rigorous critical reflection for IDVAs, compared with their current base (albeit for three days a the week) in the police station.

One aspect in relation to safety that this thesis has not developed is an intersectional approach to risk assessment. DV policy and service provision has shifted in the last 15 years to focus on risk assessment as a means of managing the potential for repeat victimisation. The most commonly employed risk assessment is the SafeLives (formally CAADA) risk indicator checklist, a list of 27 questions of which 14 ticks would generally be assessed as 'high risk'. It should be noted that professional judgement is a caveat to the numerical assessment and a professional can assess a survivor as 'high risk' based on their own conclusions (Robinson and Howarth, 2012). This relatively new approach has been developed through actuarial methods, which seek to calculate probability to identify risks and maximise consistency (Radford and Gill, 2006). While risk assessment as a tool has been helpful in understanding the threat perpetrators pose, it has been criticised as being used to ration shrinking resources, as increasingly only those assessed as 'high risk' qualify for support (Coy and Kelly, 2011). Although numerical risk assessment has come to dominate service provision, traditionally feminist support has focused on safety planning. Similarly, since this thesis is grounded in feminist methodology the choice was made to apply an intersectional approach to safety planning as distinct from risk assessment. As discussed in Chapter 5, a scaled down understanding of risk that focuses solely on the perpetrator fails to take into account the risk of violence or oppression from other sources such as

the state. IBPA provides a new way forward both in terms of theory and in practice implications for safety planning in DV.

8.2 Survivor Self-Determination and Freedom

8.2.1 Arrest

The issue of mandatory proceedings has thrown up a number of problems for survivors. Both the self-determination and physical liberty of survivors has been shown to be endangered by mandated criminal justice proceedings. Mandatory and pro-arrest has been linked to both a decrease in violence towards women from white, employed households and a increase in violence towards women from minority, unemployed households (Sherman, 1992). Additionally, the policy has also been linked to an increase in the number of women being arrested for DV, when they are in fact survivors of abuse. Thus, on the one hand, mandatory arrest does appear to be working for some sections of the community, while on the other others are being put at risk of repeat violence or state oppression.

As with the policy around IDVA independence and co-location, a nuanced policy that centres survivors and their safety could improve the situation. IBPA question seven asks intersectional researchers to consider *where and how can interventions be made to improve the problem?* This is followed by the accompanying sub-questions ‘*what are the logical entry points; at what level can interventions be made (micro, meso, macro); and what available policy levers could be used?*’ (Hankivsky, 2012b).

One route to avoiding the pitfalls of mandatory arrest is to

develop a new approach for first response officers arriving at DV incidents. Mandatory arrest was a policy devised in response to the unwillingness of the police to involve themselves in DV cases. While the policy certainly has problems, it has also gone some way towards forcing the issue as a police priority. Rather than returning to an era where the police response is dismissive or minimising, the recent increase in importance of DV for police can now be utilised to frame a survivor-defined response from officers. Therefore, when officers arrive at an incident, they ought to glean from the survivor what the best course of action is for her, and put a plan of action in place on that basis. Practically speaking, this would involve giving police officers extensive training in the dynamics of DV, and the range of available options (criminal justice, or otherwise) for managing risk.

Such a response would also have to rely on a partnership working from the incident onwards, rather than engaging other agencies further down the line (Mills, 1999). For example, DV advocates could either attend incidents with police or, failing that, be available through on-call phone support to speak with the survivor, assess the risk and then put a safety plan in place immediately after the incident. Where arrest is felt by the survivor to be the most helpful option, this can obviously still be deployed. But if she prefers alternative housing or the removal of the perpetrator with a police order this can be arranged through the support of the police and the IDVA at the scene. It would also require a local agreement from social services and housing departments so that officers attending have a range of options with the assurance of a speedy, multi-agency response. This way, officers build on the strategies the survivor may have already devised to manage her abuse, which can empower her to go on

developing a realistic plan for addressing her violence in a way with which she is happy (Mills, 1999).

A heightened and nuanced response such as this might also help to deal with the problem of increased survivor arrests. Training in the dynamics of DV could also include education on how to identify the primary perpetrator of abuse (Buzawa and Buzawa, 1990; Chesney-Lind, 1997). However, as discussed in the introduction of this thesis, the current national definition of DV does not reflect the gendered reality of such abuse. Although specialist training may go some of the way towards addressing the issue of survivor arrests, this may be undermined by a definition that tacitly implies that domestic violence is as likely to be committed by women as men.

An opportunity to amend the definition of domestic violence arose in June 2017, when the government announced in the Queen's Speech that it would draft a Domestic Violence and Abuse Bill. At the time of writing, this bill is in the consultation period, but the government have indicated the focus will be on criminal justice remedies, and a review of the current definition of domestic violence (BBC, 2017). This provides a key opportunity for activists, academics and women's organisations to lobby for a national definition of domestic violence that acknowledges that women are primarily the victims of violence committed by men.

A gendered definition of domestic violence would also make it easier for women's organisations to engage in institutional advocacy with criminal justice partners, and challenge the police when it is felt they have arrested the wrong party. Chapter Six discusses the re-characterisation of women defendants accessing ADVANCE and STADV services as

‘perpetrators as well as survivors’, alongside the introduction of criminal justice support services as an alternative to domestic violence advocacy. While it is positive that services are being provided for survivors’ who are defendants, it could be argued that this is a regressive form of gender mainstreaming. Partnership with a powerful state body, such as the police the police as a institution are able to subvert feminist organisations and shift their practice to make it more in line with their own objectives (Brown, 1995). However, labelling survivors as ‘perpetrators’ sends the wrong message both to the survivors themselves and the institutions that support them, even if women’s criminal justice support services may be able to offer crucial support through the criminal justice system (Miller, 2005). This is made all the more salient when we consider the rise in Men’s Rights Activism, which is becoming increasingly vocal in its promotion of the de-gendering of domestic abuse. A gendered definition of domestic violence would therefore put domestic violence services in a better position to challenge survivor arrests. Further, women’s services could reframe survivors’ use of violence as *resistance*, and provide advocacy and services to women on that basis.

8.2.2 Prosecution

The initiatives under study have been found to variously utilise witness summons and victimless prosecution as a means of maintaining prosecution, where survivors disengaged from the process. Chapters Six and Seven discussed the risks and threat to survivor freedom that are associated with both prosecution strategies. As with the above recommendations on mandatory arrest, prosecution policy can be altered to centre survivor

choice and safety. As discussed in Chapter Six, the inconsistent practice of making the threat to arrest, whilst stopping short of actual detention is a loophole that is vulnerable to being taken advantage of by police and prosecutors. The respondents from STADV and to a lesser extent ADVANCE gave ambiguous answers when questioned about witness summons, and there was not a wholesale rejection of their use, even though there was consensus that it is frequently misused. However, there is evidence that the use of witness summons is not increasing the number of witnesses taking the stand (HMCPSP, 2016). Further, findings in Chapter Six indicate that the risk of police and prosecutors overriding the advice of support workers is significant.

With that in mind, it seems that work can be done to ensure that relations between the survivor, the prosecutor and domestic violence services are more horizontal. Since ADVANCE and STADV already engage in advocacy with prosecutors when arrest is most liable, it seems reasonable to believe that the IDVAs or IDVA managers could engage in institutional advocacy to end the use of witness summons, and the resultant arrests or threats to arrest. Not only would this place more power in the hands of DV services to influence procedure (when currently they are surreptitiously supporting survivors to circumvent arrest), more importantly it would also place more control back into the hands of survivors, whose liberty would no longer be toyed with.

It may be that the only way in which DV services can prevent a recurrence of the horrific consequences of the case of familial violence presented in Chapter 6, is by engaging in institutional advocacy to end the overuse of witness summons. Currently, it appears that DV workers are relying on good relationships

with criminal justice operatives to quell potentially risky interventions. This is not to be downplayed in anyway. Nonetheless, however good they might be, interagency relationships are nominal and have no legal basis. The issuing of witness summons in all cases of DV, conversely, gives the police and prosecutors the authority they need to increase the arrests of survivors at any point they see fit, regardless of outside advice. It seems appropriate that any policy that gives the state more power to compel a survivor of DV to behave in a particular way ought to be the domain of those advocating for her interests. Indeed, Mills (1999) suggested that forcing women into the stand often forces them to recant or speak in the perpetrators favour. Instead, prosecutors can strategize with survivors to identify what role they can take in the process, and if there is anything the court can do to improve their situation. This was done in the example described by MM, who worked with the survivor, addressed her safety concerns and came to an agreement about her role in the trial. That said, she was still somewhat reluctant to take part, and therefore may have benefited from victimless prosecution.

Some of the problems associated with victimless prosecution were discussed in Chapter Seven. Ultimately, such a strategy can be entirely based on evidence other than the victim, and can proceed with no contact or input from the survivor whatsoever. Evidence has found that this strategy has the potential to exacerbate risk, by making the situation more volatile without putting a safety plan in place (Fagan *et al.*, 1984; Dugan, Nagin and Rosenfeld, 2001). One proposal therefore could be to draw together improvements in criminal justice procedures, and apply them to a 'survivor-defined' prosecution strategy (Herman, 1997; Mills, 1999; L. Goodman and Epstein, 2008; Nichols, 2013). Such an approach has the

scope to maximise safety as well as utilise the criminal justice system to empower survivors in a meaningful way.

As discussed in Chapter Seven, survivors may have a number of legitimate reasons for not wanting to take a central or marginal role in the prosecution. However, survivors may also want specific measures from the criminal justice system that may or may not include conviction. Indeed, there is evidence that survivors would appreciate a more flexible approach to prosecution. Hoyle and Sanders found that a number of women they interviewed would support prosecutions that didn't involve them giving evidence. Hare (2010) found that while 70% of survivors supported prosecution, only 37% were willing to go to trial. With this in mind, survivors could be given the opportunity to take a more collaborative, negotiated role from the beginning of the case, especially since any outcome is likely to impact on them more than any other party involved. Strategies based on taking a collaborative and non-hierarchical approach to work with survivor's is by no means new, as I discovered when taking part in the Heritage Lottery fund oral history project 'You Can't Beat a Woman', which recorded the early history of the women's refuge movement. As part of this project, I had the opportunity to interview Dr Liz Kelly, currently professor of sexualised violence at London Metropolitan University, but also one of the founders of the first women's refuge in Norwich. When asked whether there was anything she would change about where the movement has come, she said:

I think we lost the 'We'. I speak about this at conferences, including Women's Aid conferences. I think there's been a 'hierarchisation'. One of the big debates we had in the eighties was about the parity between children's workers and women's workers. And I suspect there's no parity now in organisations. There, there'll be CEOs, managers, but it's but more than that, more than that. It's a, it's a hierarchical division between women in the refuge and women using the support services and women providing the support services 'cos its not just refuges. And so they're 'clients' or 'service users' or, if you're lucky, 'survivors.' And it's not a sense of a 'we'. The idea that it's a collective struggle, both at a local and a bigger level has gone (Liz Kelly Interviewed for *You Can't Beat A Woman*, 2017).

Criminal justice initiatives, which uphold policies of pursuing prosecution against the wishes of the survivor, or in her absence, might be considered an example of the 'hierarchisation' that Kelly discusses here. Therefore, rather than seeking to remove the survivor from the process when she disagrees with it, an alterative model could facilitate survivor input, whatever that is, as part of the process itself. Such an approach could elevate survivors to partner-like status, similar to the police officer, advocate or prosecutor rather than the 'client' who simply receives an intervention. For example, survivors may fear giving evidence in a trial setting, but be more willing to support prosecutors with information that would ensure a restraining order is awarded, without the need to give evidence. This might ensure that the survivor gets the protection she requires early on, and prosecutors may have enough evidence to proceed with a victimless prosecution that the survivor is in agreement with, and by which she feels protected. Evidence suggests that when survivors' choices are respected by a criminal justice response that also works collaboratively with other agencies, survivors are less likely to be re-abused or return to their perpetrator (Zweig and Burt, 2007). Further, survivor-defined methods

overall have also been found to have lowered rates of re-abuse, depression, higher satisfaction with the justice system and greater well-being for survivors in general (Bybee and Sullivan, 2002; Belknap and Sullivan, 2003; Jordan, 2004; Zweig and Burt, 2006, 2007; Moe, 2007; Goodman and Epstein, 2008; Bennett and Goodman, 2010; Filson, 2010; Bell *et al.*, 2011; Nichols, 2011, 2013, 2014; Nurius *et al.*, 2011).

Current procedures could be shifted to ensure that victimless prosecution is presented as a choice to the survivor, rather than a reactive strategy taken by professionals when she is not cooperating. A common feature of abuse is to limit the choices of those abused, something that many survivors will have experienced (Hanna, 2009). Although many survivors may appreciate an approach based in their own autonomy, this is likely to be most acutely felt by survivors whose relationship with the criminal justice system has not historically been grounded in the principle of self-determination, such as migrant survivors, survivors of colour and those in poverty.

8.3 New Approaches to Accountability

The final overarching theme that has emerged over the course of my research has been the concept of accountability. As discussed in Chapter Seven, the aim of the initiatives under research is to hold both the perpetrator *and* the state to account. Indeed, early assessments of the justice system identified it as a patriarchal legal system, working in a predominantly male workforce, who were therefore more likely to support the notion that women should be subject to their husbands' authority. This, in turn, would influence their decision not to intervene (Dobash and Dobash, 1979, p. 212). Therefore, accountability can be interpreted as referring both

to attempts made to hold the perpetrator and the state accountable for male violence. The Impact Project and SDVCs aim to hold perpetrators accountable for their abuse by arresting, prosecuting and sentencing them appropriately. But the criminal justice system is also held accountable for its response to DV through these initiatives. This is most true in the case of the Impact Project, due to the unusual fact of its giving DV specialists access to police records on the premise that discrepancies will be addressed with officers.

8.3.1 Police Accountability

The Impact Project appears unprecedented in its scope: bringing in an outside, voluntary service agency to oversee police activities. The Impact Project therefore offers an exciting opportunity to increase police accountability and confidence within the wider community. However, although Impact is an exciting development that has equalised the power base between the police and local DV services, this in itself should not be considered the end goal. Intersectional researchers Sokoloff and Dupont (2005) suggest that women's organizations should act as institutional reformers by monitoring the police response to DV, particularly with regards to women from marginalized communities that have historically had a strained relationship with the criminal justice system. Now that such a position has been secured, the next step would be to open Impact up to survivors at the individual level, especially those who have had a difficult relationship with the police.

Mandatory arrest and prosecution policies have been criticised for seeking to instil more power in the police and courts,

without considering what impact this will have on axes of marginalization other than gender (Sokoloff and Dupont, 2005). Having a community organization based full-time within the police station, and with authority to challenge police responses, provides an existing opportunity to address police responses to survivors of colour, LGBTQI survivors, migrant survivors, trans survivors, disabled survivors and anyone else historically marginalized by oppressive police practices. Further, where survivors have received inadequate support from the police, the Impact Project can offer a way for survivors to address problems. This could be an advancement on the work done by Southall Black Sisters, who provide support for survivors to make formal complaints to the local police force, whenever the services has been found wanting (Patel, 1999). The Impact Project could build on such work, by acting as an inhouse intermediary through which survivors could gain access to the police to have their grievances heard, and therefore have them addressed through a more human and less bureaucratic process. Although the Impact Project has achieved unprecedented levels of access and influence on police practice, the next step is to share this opportunity with survivors, thus increasing police community accountability.

8.3.2 Perpetrator Accountability

Although institutional accountability is an important part of the initiatives being studied, this is as a means of reaching the ultimate goals of survivor safety, and perpetrator accountability. There have been various methods of achieving perpetrator accountability discussed in this thesis. Mandated prosecution and victimless prosecution were both discussed

above as part of their relationship to women's self-determination. Operation Dauntless and similar schemes will be discussed here as a relatively new approach towards perpetrator accountability.

In the case of Operation Dauntless, police officers identify the most prolific domestic abusers in the borough and seek to neutralise them by prosecuting them for other crimes they may have committed – an approach that is becoming increasingly popular across the UK. In many cases, this seems to be based on intelligence provided by the survivor. It is concerning how little critical engagement there has been on this new approach, particularly with regards to the safety implications of merging the investigation of DV and organised crime. As discussed in Chapter Seven, the IDVA model has been developed with intimate partner violence in mind, where there is generally risk from one perpetrator (Hoyle, 2008). Risk assessment and safety planning has not been devised to reflect the kind of risk posed by gang affiliation, or association with organised crime. Given this, it seems premature for advocacy services to be endorsing Operation Dauntless as an effective safety measure. Therefore, a logical recommendation with regards to such approaches would be for women's organisations to refrain from endorsing such methods, and urgently investigate the safety implications of such an approach.

An issue that seems to cut across all of the themes discussed here, is the conflict between holding perpetrators accountable through the criminal justice system, and the interests of the survivor. Although both women's organisations and the criminal justice system claim to share these aims, inherent within these agencies is a fundamental difference in priorities.

Coming back to the quote by the former Chief Superintendent of Hammersmith Police in Chapter 7:

And the reason they sold it to me was, two things really; they said that it would make it more efficient, in the way we would hold perpetrators to account, and the police are always interested in arresting someone and putting them before the court, I mean that's their *raison-detre*, largely. The other thing that really attracted me to it was that they took the victim, out of the centre of the issue and the victim was just the witness and it was the responsibility of the state to prosecute, not the victim.
Alexander Former Chief Superintendent

Indeed, while this quote encapsulates how the women's sector and the criminal justice system have been able to find common ground, it also reveals the root of many of the problems identified in this thesis. Above all else, the police and courts are interested in arresting and prosecuting criminals. And while this is also true of women's organisations, perpetrator accountability is a means of ensuring women's safety, and is not the goal in itself. This study has certainly found examples where survivor safety and perpetrator accountability have not been in conflict, and the approaches to both have complemented each other. The examples of the post-partum survivor and the survivor with learning difficulties both demonstrated the potential for successful partnership based on joined up work and a focus on safety. However, partnership has been less successful in cases where survivor safety and perpetrator accountability have not been in agreement.

At the time of writing, the news is again reporting another high profile domestic murder aggravated by police failings. In January 2016, Katrina O'Hara was murdered by her ex-partner. Shortly before her death, Katrina reported incidents of harassment, stalking and threats to kill. The Independent

Office for Police Conduct report into her death found that in the period before her murder, the police had seized her mobile phone to collect evidence of the perpetrator's threats to kill her. Katrina was not given a replacement phone, and had no means of calling for help at the time of her death. The report also identified that the police had twice identified Katrina O'Hara as a 'perpetrator' of assault and criminal damage against her ex-partner, and interviewed her under caution for this. At the time of Katrina's murder, her perpetrator had several other convictions for DV and a five year restraining order for abuse towards an ex-partner (Independent Police Complaints Commission, 2018).

This case is another example of police priorities leading to a myopic approach from the criminal justice system. In this instance, the police view a mobile phone as evidence to be gathered, rather than a lifeline for an abused woman. The fact that the victim was twice misidentified as the 'perpetrator' also highlights the dangers of an incident led approach to DV, which fails to identify women's vulnerability to male violence. Although the initiatives under research have certainly brought justice agencies a long way on survivor safety, the criminal justice system continues to repriorise the work of women's organisations around arrest, investigation and conviction.

In the quote of the chief superintendent, part of the strategy that appealed to him was that the victim would be 'taken out of the agenda' in pursuit of perpetrator accountability. While he frames this as the state assuming responsibility from the survivor, there remains the persistent problem that removing the survivor from the criminal justice process creates as many problems as it solves. As the findings of this thesis have shown, extending measures that remove survivor choice from the

equation has the potential to de-centre survivor interests altogether.

Examples of this are numerous, and include: IDVA collusion in the oppression of migrants by the state; arrest of survivors; the reconception of survivors as 'perpetrators'; the mandated testimony of victimless prosecutions that ignore risk; and the recruitment of survivors as informers in organised crime without risk assessment. All of these issues are the result of a criminal justice approach to DV which prioritises arrest, investigation and conviction as the ultimate goal. Patricia Hill Collin warns of the dangers of unequal partnership, stating that 'domination operates not only by structuring power from the top down but by simultaneously annexing the power and energy of those on the bottom for its own ends'. While women's organisations have forced the issue of DV up the criminal justice agenda, and have achieved a great deal in terms of women's safety, the danger is that the criminal justice system may continue to force women's organisations to refocus attention on its own interests, rather than the interests of survivors. Partnership between the criminal justice system and women's organisations must therefore continue to be critiqued through reflection on its relationship to the interests of survivors of DV. Conversely, a strategy that 'removes survivors from the equation' may only serve to reinforce co-option. Therefore, only a strategy that centres survivors above the interests of the criminal justice system has the potential to put power and control back in the hands of survivors.

8.4 Concluding Thoughts

This research makes an important contribution in revealing some of the intersectional concerns of partnership between the criminal justice system and women's organisations working on domestic violence. It has applied a new and nuanced lens to the myriad ways in which survivors from a range of social locations might experience a range of criminal justice approaches. Intersectionality Based Policy Analysis offers a new and innovative approach to safety planning with survivors of domestic violence. This could have implications for survivors from a range of social locations, at risk of oppression and violence from sources much wider than intimate partner violence. For example, there are increasing concerns that BME survivors fleeing DV are frequently being sent to refuge or temporary accommodation in ethnically homogenous areas that leave them vulnerable to racism and hate crimes (Burman and Chantler, 2005; Roy, Ng and Larasi, 2011). Clearly there are a considerable number of survivors for whom the threat of violence from an intimate partner is one of many forms of oppression that are to be navigated, and failing to take account of all could place them at further risk. For survivors facing racism, homophobia, transphobia, Islamophobia, classism, ableism or oppression based on migration status – these risks do not exist separately from the risks posed by a violent partner and frequently intersect and reinforce each other. Taking an intersectional approach to safety has the potential to offer genuine empowerment to end *all* forms of oppression and violence against *all* survivors.

Appendix 1

Intersectionality Based Policy Analysis

The IBPA Framework has two core components:

1. A set of guiding principles, and
2. A list of 12 overarching questions to help guide/frame/shape the analysis.

The IBPA Guiding Principles are intended to ground the 12 key questions, and supporting sub-questions, in order to ensure that each is asked and answered in a way that is consistent with an intersectionality-informed analysis. In short, the principles are intended to be used in concert with the questions. A scaled down summary of the Guiding Principles is as follows:

- **Intersecting Categories From:** intersectionality conceptualizes social categories as interacting with and co-constituting one another to create unique social locations that vary depending on time and place. It is these intersections and their effects that are of concern in an intersectionality analysis (Hankivsky and Cormier, 2009).
- **Multi-level Analysis:** particular attention must be given to the effects between and across various levels in society, including macro (global and national-level institutions and policies), meso or intermediate (provincial and regional-level institutions and policies) and micro levels (community-level, grassroots institutions and policies as well as the individual or 'self'). The significance of and relationship between these various levels of structure and social location are not predetermined in an IBPA, but rather reveal themselves through the process of research and discovery.
- **Power:** Attention to power is fundamental to intersectionality and highlights that i) power functions at discursive and structural levels to exclude particular knowledges and experiences (Foucault, 1977); ii) and that subject positions and categories (e.g. 'race') are constructed and shaped by processes and systems of power (e.g. racialization and white supremacy); and iii) these process work together to shape experiences of privilege and penalty between and among groups (Collins, 2000). Within this, it is important to acknowledge the relational nature of power-i.e. that a person may simultaneously experience both power and oppression in varying contexts and at varying times (Collins, 1990).

- **Reflexivity:** One way in which intersectionality acknowledges power is through reflexivity. Reflexivity acknowledges the importance of power at the micro level of the self and the relationship we as individuals have with the macro levels of wider society. Practicing reflexivity when conducting an IBPA requires researchers, policy actors and stakeholders to commit to on-going dialogue and deconstruction of “tacit, personal, professional or organisational knowledges” and their influences on policy (Parken, 2010, p. 85).
- **Time and Space:** Experiences of time and space are highly dependent on the period and geographical location in which you live. Furthermore, privileges and disadvantages, including intersecting identities and the processes that determine their value, change over time and place (Hulko, 2009). Thus, time and space are not static, fixed or objective dimensions and/or processes, but are fluid, changeable and experienced through our interpretations, senses and feelings, which are, in turn, heavily conditioned by our social positioning/location, among other factors (Tuan, 1977).
- **Diverse Knowledges:** Intersectionality is concerned with epistemologies and power, and in particular, with the connection between power and knowledge production. Including the perspectives and worldviews of people who are typically marginalized or discounted in the production of knowledge can work towards disrupting forces of power that are activated through the production of knowledge (Dhamoon, 2011).
- **Social Justice:** Intersectionality is driven by the goal of social justice. Theories of social justice often challenge inequality at the source and require those engaged in responding to social injustice to examine complex social and power relations. Additionally, social justice activity can create new ways of thinking and being (Potts and Brown, 2005). A social justice approach to social policy aims to transform social structures, which is crucial to addressing the root causes of oppression (Farmer, 2005).

Equity: Linked with the IBPA principle on social justice, equity is concerned with fairness. As expressed by (Braveman, 2003), equity in public policy exists when social systems are designed to equalize outcomes between more and less advantaged groups. The IBPA Framework extends usual equality-based practice by encouraging analysts to consider policy issues through an intersectional lens, looking not only at gender equity, for example, but also at the impacts of the intersections of multiple positions of privilege and oppression (Hankivsky,

2012a). (large parts of above taken from An Intersectionality-Based Policy Analysis Framework Edited by Olena Hankivsky 2012)

IBPA Descriptive Questions

- 1. What knowledge, values and experiences do you bring to this area of policy analysis?**
 - What is your experience with policy and policy analysis? What type of policy areas have you worked in?
 - What are your personal values, experiences, interests, beliefs and political commitments?
 - How do these personal experiences relate to social and structural locations and processes (e.g., gender, 'race' and ethnicity, socio-economic status, sexuality, gender expression and age; patriarchy, colonialism, capitalism, racism and heterosexism) in this policy area?
- 2. What is the policy 'problem' under consideration?**
 - What assumptions (e.g., beliefs about what causes the problem and which population(s) population(s) is/are most affected) underlie this representation of the 'problem'?
- 3. How have representations of the 'problem' come about?**
 - What was the process in framing the 'problem' this way?
 - Who was involved and why was the 'problem' defined in this way?
 - What types of evidence were used?
 - How has the framing of the 'problem' changed over time (e.g., historically) or across different places (e.g., geographically)?
- 4. How are groups differentially affected by this representation of the 'problem'?**
 - Who is considered the most advantaged and who is the least advantaged within this representation? Why and how?
 - How do the current representations shape understandings of different groups of people?
 - What differences, variations and similarities are considered to exist between and among relevant groups?
- 5. What are the current policy responses to the 'problem'?**

- Who has responded to the ‘problem’ and how? For example, how have governments and affected populations and communities responded to the framing of the ‘problem’?
- What are the current policy responses trying to achieve?
- Do current policies focus on target groups? If so, are they seen as homogenous or heterogeneous? Are they stigmatized by existing policy responses?
- How do existing policies address, maintain or create inequities between different groups?
- Do existing responses create competition for resources and political attention among differently situated groups?
- What levels or combination of levels of analysis exist (e.g., micro, meso, macro) in relation to the policy ‘problem’?

IBPA Transformative Questions

6. What inequities actually exist in relation to the problem?

- Which are the important intersecting social locations and systems? For example, how do ‘race’, ethnicity, class, sexuality and other social locations and systems of inequality (racism, colonialism, classism, heterosexism) interact in relation to this policy problem?
- Where will you look to find necessary information to help you answer this question (e.g., evidence from academic sources, grey literature and policy reports focusing on intersectionality-informed analyses)?
- What potential approaches can be used to promote discussion of the problem across differently affected groups (e.g., Parken’s (2010) Multi-Strand Method, which lays out a process for understanding intersecting inequities in the evidence gathering phase of policy)?
- What are the knowledge/evidence gaps about this problem across the diversity of the population?

7. Where and how can interventions be made to improve the problem?

- What are the logical entry points? What are the available policy levers (e.g., research/data, political champions/allies, laws/regulations/conventions, resources)?
- What are other examples of successes? How could policy interventions build on these examples?
- Who is part of the proposed intervention? Who is positioned to influence and implement the intervention?
- What role can diverse communities play in these interventions? How will they be meaningfully engaged and supported in providing input?

- At what level or combination of levels (e.g., micro, meso, macro) can interventions be made?

8. What are feasible short, medium and long-term solutions?

- How can solutions be pragmatically positioned and promoted in relation to government policy priorities (e.g., budget allocations, ministerial priorities and departmental plans)?
- How can proposed solutions be synthesized into a clear and persuasive message?

9. How will proposed policy responses reduce inequities?

- How will proposed options address intersectional inequities and promote social justice?
- How will you ensure that the proposed options do not reinforce existing stereotypes and biases or produce further inequities for some populations?
- How will the solutions interact with other existing policies?
- What might be the challenges and opportunities for proposed policy solutions?

10. How will implementation and uptake be assured?

- Who will be responsible (and who is best positioned) to ensure the implementation of the policy recommendations?
- What time frames and accountability mechanisms are identified for implementation?
- How do the policy solutions encourage solidarity and coalition building across divergent interests and groups?

11. How will you know if inequities have been reduced?

- How will you measure policy implementation and outcomes?
- What intersectional factors will be measured in the evaluation process? How will they be measured?
- How will affected communities be meaningfully engaged in assessing the reduction of inequities?
- What will be the measure of success?

12. How has the process of engaging in an intersectionality-based policy analysis transformed the following:

- Your thinking about relations and structures of power and inequity?
- The ways in which you and others engage in the work of policy development, implementation and evaluation?
- Broader conceptualizations, relations and effects of power asymmetry in the everyday world?

(Hankivsky *et al.*, 2014)

Appendix 2

Informed Consent Form for Respondents

Informed Consent Form for Professionals working in the Criminal Justice Systems with Domestic Violence Cases who are invited to participate in the research “An evaluation of collaboration between the women’s sector and the Criminal Justice System as a strategy to end violence against women”.

Name of Principle Investigator: Aviah Sarah Day PhD Student

Name of Organization: The University of Essex and Standing Together Against Domestic Violence

Name of Sponsor: The Economic and Social Research Council and Standing Together Against Domestic Violence

Name of Project and Version: An evaluation of collaboration between the women’s sector and the Criminal Justice System as a strategy to end violence against women

This Informed Consent Form has two parts:

- **Information Sheet (to share information about the study with you)**
- **Certificate of Consent (for signatures if you choose to participate)**

You will be given a copy of the full Informed Consent Form

Part I: Information Sheet

Introduction

This thesis seeks to examine the relationship between the women’s sector and the criminal justice system as a strategy to end violence against women, in particular domestic violence. I am seeking to understand what this collaboration has achieved in terms of positive outcomes in cases of domestic violence. This will be done by exploring the process and practice changes that have been devised out of this collaboration and linking them with potentially positive outcomes for survivors. I am also seeking to understand the ways in which the dynamic between the women’s sector and the criminal justice system may face difficulties or limitations. I will use the Impact Project and the SDVCs as case studies for this research.

Purpose of the research

The purpose of this research is two-fold. Firstly, the data collected would act as the empirical evidence that I can base claims about the benefits of criminal justice collaboration on. Secondly, the results of this research will be used by Standing Together Against Domestic Violence to showcase their projects and their achievements. This could in turn have significant practice and policy implications.

Participant Selection

You have been invited to take part in this research because you have extensive experience of working with domestic violence cases in the Criminal Justice System. Your knowledge and experience would provide crucial insight into how the women's sector and the Criminal Justice System have collaborated to impact on domestic violence cases.

Voluntary Participation

The decision to participate in this research lies solely with you. If you decide at any point that you no longer wish to be part of this research, your decision will be respected and any data relating to your interview will be destroyed at your request.

Duration

It is expected that the interview will last approximately one hour. The interview can take place at your work or other place of convenience for you.

Risks

It is not expected that there will be risks to you as a result of participation in this research as no personal questions will be asked. However, due to the nature of the subject matter (namely, domestic violence) you may reveal personal information about yourself unintentionally or accidentally. Such information would not be used in the research and data relating to it would be destroyed. If at any point, a question is asked that make you feel uncomfortable or that you do not wish to answer, please do not feel under any obligation to do so.

Benefits

This research would have potential benefits in your practice and in wider policy implications. The results are likely to be

able to pin point areas of good practice and effective measures that may be beneficial to you in your daily practice.

Confidentiality

Confidentiality will be maintained via the removal of any personal or identifying information from your interview transcript. Your interview will initially be recorded on a Dictaphone device and stored securely on a password encrypted computer. This will also be the case for the resulting interview transcript. Only myself, my PhD supervisors and colleagues at Standing Together Against Domestic Violence will have access to the data relating to your interview.

Right to Refuse or Withdraw

You do not have to take part in this research if you do not wish to do so. If you decide at any point that you no longer wish to take part in this research, your interview will be destroyed. You can decide this at any point during the interview and afterwards up until the completion of the PhD (expected September 2017).

Part II: Certificate of Consent

(This section is mandatory)

I have read the foregoing information, or it has been read to me. I have had the opportunity to ask questions about it and any questions I have been asked have been answered to my satisfaction. I consent voluntarily to be a participant in this study

Print Name of Participant_____

Signature of Participant _____

Date _____

Day/month/year

Statement by the researcher/person taking consent

I have accurately read out the information sheet to the potential participant, and to the best of my ability made sure that the participant understands that the following will be done:

I confirm that the participant was given an opportunity to ask questions about the study, and all the questions asked by the participant have been answered correctly and to the best of my ability. I confirm that the individual has not been coerced into giving consent, and the consent has been given freely and voluntarily.

A copy of this ICF has been provided to the participant.

Print Name of Researcher/person taking the consent_____

Signature of Researcher /person taking the consent_____

Date _____

Day/month/year

Appendix 3

Interview Questions for Magistrate

1. Can you please give me a brief background of your career before becoming a magistrate?
2. How did you become and SDVC magistrate/do you have any experience of working in an ordinary magistrates court?
3. Can you walk me through each part of your involvement in court cases from start to finish?
4. What kind of preparation/training was involved/how much?
5. How do you think an SDVC as a court compares with an ordinary magistrates court?
6. In what way is your role distinct from that of a magistrate in an ordinary court, can you provide examples of this in the court please?
7. Can you walk me through each element of your involvement in the SDVC (including outside the court)? (Can you tell me about your involvement in the SDVC steering group outside of the courtroom itself?)
8. How much do you know about cases/prepare for cases before they are heard in the court?
9. What are you looking to understand when making decisions pertaining to bail applications? What evidence is offered to you or do you ask for? Which agencies offer you information? How do they each contribute to the eventual decision?
10. When making a decision to remand a defendant, what evidence do you generally require and how is the threshold met? Do you feel this is different from an ordinary court?
11. When giving your final judgment, how much space do you give for providing your own opinions to the defendant/about the witness etc?

12. When making decisions regarding sentencing, which agencies offer you information/do you ask information and how do they each contribute to the eventual decision?
1. How do you manage disagreements between different agencies in the court?
13. Are you able to settle disagreements between different parties/agencies in the court? How?
14. What are your thoughts on victimless prosecutions?
15. What are your thoughts on witness summonses?
16. Are you in a position to make suggestions for interventions if you are personally worried about the risk of a defendant/witness or anybody else? Under what circumstances?
17. What specific aspects of the SDVC model do you think works particularly well?
18. Is there any part of the model that you think can be improved?
19. Why did you decide to specialise in DV?

Appendix 4

Interview Questions for Police Officers

1. Can you please give a brief account of your career before coming to work in Hammersmith?
2. How did you come to work in the CSU?
3. Can you give an explanation of your general activities, perhaps what an ordinary day looks like plus any other significant parts of your role. (At what point do cases come to you? At what point in the case do you begin work?)
4. What is your understanding of the Impact Project?
5. Have you engaged in any specific domestic violence training? Where was that? What was the context? What did you think of it?
6. What sort of reasons would you speak to an IDVA/they speak to you? How do you feel about these interactions?
7. For what sort of reasons would you speak to the Impact manager?
8. How do you make decisions about the risk to victims?
9. What can you do if you are worried about the risk to victims?
10. How do the IDVAs determine risk? What if you disagree with the IDVA about risk level?
11. How do you go about taking statements from victims?
12. What happens if the victim is reluctant/does not engage?
13. How would you prepare for referring a case to the CPS? How much evidence is gathered? How long can it take, do you have deadlines?
14. How has Impact changed evidence gathering?
15. How are charging decisions made?
16. Can you take me through the process of what happens when a victim wishes to withdraw her statement?
17. What are the difficulties involved in victims withdrawing?

18. How is it decided that a victimless prosecution will be pursued?
19. How is working in a police station with Impact Project different for working in another police station?
20. What is your role once the case gets to court (bail conditions, remand, trial, sentencing,
21. How is an SDVC different to other courts, DV etc?
22. Do you often take victim impact statements?
23. What motivates you in this role?

Appendix 5

Interview Questions for Prosecutor

2. Can you please give me a brief background of your career before becoming a prosecutor?
3. How did you become and SDVC prosecutor/do you have any experience of working in an ordinary magistrates court?
4. Can you walk me through each part of your involvement in court cases from start to finish?
5. What kind of preparation/training was involved/how much?
6. How do you think an SDVC as a court compares with an ordinary magistrates court?
7. In what way is your role different from a prosecutor covering DV cases in an in an ordinary court. Can you provide examples please?
8. Can you walk me through each element of your involvement in the SDVC? Are you involved in the SDVC steering group?
9. How much do you know about cases/prepare for cases before they are heard in the court?
10. What are you looking to understand when making a case regarding bail applications? What evidence do you try to include? Which agencies offer you information? How do they each contribute to the eventual decision? Do you seek out further information? Provide examples?
11. When requesting to remand a defendant, what evidence do you generally require and how is the threshold met? Do you feel this is different from an ordinary court?
12. When making suggestions regarding sentencing, which agencies offer you information/do you ask information of them and how do they each contribute to the eventual decision? What kinds of sentences are you suggesting that may be different from an ordinary magistrates court?
13. How do you manage disagreements between different agencies in the court?

14. What are your thoughts on victimless prosecutions?
15. What are your thoughts on witness summonses?
16. Are you in a position to make suggestions of interventions if you are personally worried about the risk of a defendant/witness or anybody else? Under what circumstances?
17. What specific aspects of the SDVC model do you think works well?
18. Is there any part of the model that you think is particularly important to keep?
19. Is there any part of the model that you think can be improved?
20. Why did you decide to specialise in DV?

Appendix 6

Interview Questions for IDVAs

1. Give a brief account of your career before coming to [your organisation].
2. Can you outline your role title as well as your daily activities?
3. What reflections do you have on how [your organisation] and the police work together given your background.
4. How much of your role involves in CJS compared to other support?
5. When engaging with the police, what sort of thing would you liaise with them about?
6. How do you feel about the strategy of having DV specialists like IDVAs based in the police station?
7. What happens when a survivor wants to withdraw?
8. How do the police feel when a survivor wants to withdraw?
9. Can you walk me through how a victimless prosecution works?
10. How would survivors feel about victimless prosecutions?
11. How you feel about them?
12. What happens in cases of counter allegations? How is it decided who the perpetrator is? What, if any, is your role regarding the police?
13. What happens in cases where a survivor has a specific reason not to want to speak with/engage with police? How is she supported?
14. How would an IDVA determine risk in a case and how police would?
15. Do you ever disagree with the police? What happens in those situations? Please provide examples.
16. What tools do you have available to you to lower the risk? Are any only available through the police?
17. Why do you work in domestic violence?

Appendix 7

Interview Questions for Founders/Early Stakeholders

1. Can you give a brief history of your career leading up to working at Standing Together?
2. Can you please give a brief history of how you came to be involved with Standing Together?
3. Can you explain where Standing Together's focus on the Criminal Justice System stemmed from?
4. What were there broad goals that were aimed for in changing the institutional response to domestic violence?
5. At the case level, what were the aimed for goals?
6. Were there particular areas or structures within the CJS that you felt could be utilised to address domestic violence?
7. What difference did you feel that collaboration between a domestic violence charity like ST and the CJS could make in any given case?
8. What were the initial areas of the CJS that those at STADV felt required attention? Why?
9. Where do you think the historical problems in the CJS you identify stemmed from?
10. Why do you feel domestic violence requires court specialism compared with other crimes?
11. Could you go into detail of what specific outcomes you felt that CCR/multi-agency working in the CJS would affect?
12. What did the initial structure of collaboration between Standing Together, CJS and other agencies look like? Proposed projects, committees, steering groups? How did these things work?
13. What were the initial stumbling blocks in starting collaborative projects and structures like this?
14. If there were stumbling blocks, how were these issues addressed?

15. Were there any particular agencies that you found difficult to work with?
16. Where did Standing Together's focus on institutional structure rather than front line work stem from?
17. What are your reflections on how well collaboration worked in the early days of the SDVC etc?
18. Is there an area that you feel collaboration has been most effective in (holding perpetrators to account, lowering risk, increasing victim satisfaction?)
19. Is there anything you would have changed about the approach then, or how it is practiced now?
20. Lastly, why have you decided to make domestic violence a focus of your career over?

Appendix 8

Interview Questions for SDVC Coordinators

1. How long have you worked as an SDVC coordinator?
2. What drew you to this role/how did you come to know of such a role?
3. Do you have a history of working in the criminal justice system?
4. In your experience, how do SDVCs operate differently from ordinary courts?
5. What do you think is made possible with specialism that wouldn't be available in another court?
6. What specifically does an SDVC seek to address? Why is this not possible in other courts?
7. Do you think it is successful? What specifically about the initiative works well?
8. What SDVC components does your court hold that makes it 'specialist'? Has this stayed the same over time?
9. What do the specific components in your court do? What do they seek to address?
10. What measures does the court enlist to ensure a survivors safety? How might this be different from another court?
11. How does the SDVC monitor its success? What overall outcomes does it look at? (i.e. convictions, repeats, withdrawals).
12. How does the SDVC work with a case when the victim wants to withdraw or does not engage? How affective do you feel the response is?
13. Are there ever situations where the person arrested/charged is someone who you believe to be the victim of abuse rather than the perpetrator? If so, how is this navigated?
14. Are some outcomes more important than others? And to whom? (i.e. Survivor, community organisations, CPS, police?).
15. How does the SDVC enlist multi-agency practices? How affective are these?

16. In your opinion, what kind of affect does multi-agency workings have on outcomes. Do you have any examples?
17. Do some agencies work better together than others?
18. How easy is it to gain information from other agencies?
19. What are the limitations of the SDVC?
20. Are there times when the wishes of the survivor and wishes of agencies within the court are not in agreement? If so, how is this navigated?
21. Does the court ever use witness summons compel survivors to attend court and give evidence? What are your thoughts on this?
22. Why do you work in DV?

Appendix 9
Interview Questions for Impact Manager and Case Analyst

1. How did you come to work in the domestic violence field?
2. What is the exact nature of the problems being presented with, that impact staff need to intervene in? What exactly is it, on a daily basis that isn't happening that should be? Please provide some examples.
3. Please explain your specific role and how it distinguishes from other Impact staff members.
4. Can you provide an example whereby you have noticed a discrepancy in a case in relation to risk, and how you intervened?
5. How affective do you generally find these kinds of interventions on risk level?
6. How are they received by the police officers?
7. How do the police assess risk and how do Impact staff? What happens if you disagree?
8. What measures are available to you/the police to manage the risk of any given case?
9. Are there any problems in getting more safety measures put in place?
18. What happens in cases of counter allegations? How is it decided who the perpetrator is? What, if any, is your role regarding the police?
10. What happens if a victim indicates she wishes to withdraw her allegation? Who would she first communicate this to, generally?

11. How would you/the police respond to a victim wishing to withdraw?
12. What is Impact staff's position between the police and the victim when the victim wants to withdraw?
13. Can you provide an example of a case where too little evidence was gathered by the police, and how you intervened?
14. What do Impact staff do to ensure all available evidence is included in cases?
15. Do you feel that Impact staff's recommendations have an influence on charging decisions?
16. How does the decision to pursue a victimless prosecution take place? Who generally suggests it?
17. What is the process of a victimless prosecution?
18. How successful are victimless prosecutions? What are their stumbling blocks?
19. Where there is enough evidence, will victimless prosecutions always be pursued? Would this come more from Impact or police?
20. How are you interactions and intervention with the police recorded/monitored? How much detail is given?

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