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A Case Control Analysis of Offenders Issued with Domestic Violence Protection Orders (DVPOs) in Hertfordshire

A Retrospective and Prospective Study

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Abstract

Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs) were introduced to all police forces across England and Wales in 2014. They were a new power borne out of the Crime and Security Act 2010, and they enabled the police to put in place protection for the victim in the immediate aftermath of a domestic violence incident, even when no legal action was planned against the perpetrator. The Home Office argued that they filled 'the gap' in domestic abuse victim protection (Kelly et al. 2013).

This work set out to understand the efficacy of the introduction of the DVPO in Hertfordshire, through a retrospective and prospective study that compared the offending of a sample of offenders who had been issued with a DVPO (n=74), with a matched sample of offenders without a DVPO (n=148). The non-DVPO sample was identified through a case matching process that utilized the Cambridge Crime Harm Index (Sherman 2007; Sherman et al. 2014) as a measure of the value of harm.

The results from extensive analysis demonstrated that Hertfordshire Constabulary had failed to implement the national DVPO policy appropriately. This was evidenced in the slow adoption of the process, the low numbers of orders secured when compared to the availability of similar matched cases, the number of DVPO recording errors and the number of unsuitable cases that the DVPOs had been applied for.

Statistical analysis indicated that the DVPO sample had significantly more prior arrests, and a greater prevalence and frequency of post DVPO reoffending, when compared to the non-DVPO sample. There were, however, no significant differences between the two groups, in terms of their prior or post DVPO crime harm. These results suggest that DVPOs in Hertfordshire were in the aggregate 'reserved for' those who present with a more severe criminal history, despite the lack of

evidence to support their ability to desist or deter reoffending. However, before any decision

regarding their continued use is made, further research that encapsulates national data and the

introduction of a Randomised Control Trial (RCT) is recommended.

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Chapter 1 – Introduction

A Domestic Violence Protection Notice (DVPN) is an emergency non-molestation and eviction notice, issued by the police to a suspected domestic abuse perpetrator. Any officer can identify cases suitable for an order, but they can only be authorised by a police Superintendent. The orders are largely limited to offenders who have been arrested for a domestic abuse offence, but are not being charged, and who are being released no further action (NFA). The DVPN sets out prohibitions that, in effect, bar a suspected perpetrator from returning to a victim's home (even when that home is shared with the perpetrator) and/or contacting the victim. Within 48 hours of the DVPN being issued, the police must then make an application to the Magistrates' Court to convert the DVPN into a longer lasting Domestic Violence Protection Order (DVPO).

The DVPN requires the perpetrator to attend Magistrates' Court and, providing conditions are met, the magistrates will issue a DVPO which can prevent the perpetrator from further contact with the victim for a period of up to 28 days. The order cannot be extended beyond that period, although further DVPOs can be sought. The order allows for up to five different possible prohibitions designed to keep victims safe:

- Non molestation of the victim-survivor;
- Preventing the perpetrator from evicting/excluding the victim survivor from the premises;
- Restricting the perpetrator from a premises;
- Requiring the perpetrator to leave a premises;
- Preventing the perpetrator from coming within a set distance of the victim-survivor (i.e. non-contact) Home Office (2013).

Domestic abuse forms a large part of the core police business of preventing crime and disorder. Estimates show that domestic abuse related incidents costs society £15.7 billion a year in

public services, loss of economic output and human and emotional costs (Walby 2009). Her Majesty's Inspectorate of Constabulary (HMIC) findings show that domestic abuse related crimes account for 8% of all crime recorded in England and Wales (HMIC 2014). Nationally, police records show there is an emergency call relating to domestic abuse every 30 seconds (Hume 2015). With such growing numbers of incidents being reported with commensurate demands, it is no surprise that a governing body such as the Home Office (HO), who are charged with holding agencies that protect the most vulnerable to account, were keen to introduce an intervention that they saw as being able to reduce domestic abuse, reduce criminal justice and health costs, and strengthen partners and police ability to protect and support victims (Kelly et al. 2013).

Research Design

This research will take the form of a retrospective and prospective study, built around a comparison between samples of domestic abuse cases where DVPN/DVPOs have been issued, with similar matched cases where they have not. Through a broad based narrative approach, the research aims to understand the journey taken in Hertfordshire to secure a DVPO by addressing the below research questions.

1.   **Is the National DVPN/DVPO policy being implemented appropriately for Hertfordshire's domestic abuse cases?**

2.   **Do offenders in cases in which a DVPO has been issued have a different prior criminal history, when compared to a sample of similar cases in which a DVPO has not been issued?**

3.   **Is there an association between the issuance of a DVPO and a subsequent difference in the prevalence, frequency and harm of domestic abuse, when compared to a sample of similar cases in which a DVPO has not been issued?**

The focus of this research is the issuance of the DVPO, as opposed to the DVPN, as the majority of the DVPNs applied for in Herts ultimately become full DVPOs.

These specific research questions are borne out of a number of hypotheses; firstly that Hertfordshire Constabulary failed to implement the National DVPN/DVPO policy in circumstances envisaged by national guidance (Kelly et al. 2013). Secondly, that an offender's prior criminal history influences the issuance of a DVPO. Finally, offenders with DVPOs have less prevalence, frequency and harm of offending following the issuance of a DVPO. These hypotheses were postulated because, although Hertfordshire Constabulary adopted the DVPO policy, it wasn't implemented in force until June 2014, four months after the national introduction. Moreover the numbers of DVPOs secured in Hertfordshire, when compared to its levels of domestic related incidents, suggested it could be an outlier for its DVPO use. Also, given the policy was introduced across England and Wales following the evaluation of a three force pilot, one would expect the DVPO to have had a beneficial effect on reoffending, and echo the findings of the HO pilot that indicated DVPOs were successful in reducing domestic violence and abuse particularly in chronic cases (Kelly et al. 2013) otherwise.

Structure of the Dissertation

This first chapter provides an introduction and brief outline to the research of the subject matter. Beyond this introduction, the second chapter considers the present literature on protection orders, which intends to give a theoretical underpinning to the work. Given the relative newness of the literature on DVPNs/DVPOs, the research relies on the findings of the Home Office's post pilot evaluation that assesses the introduction of the DVPOs (Kelly et al. 2013; HO 2015). However, to enhance its understanding of the efficacy of protection orders, additional literature that analyses the use of protection orders in the United States (US) and Europe and criminological theories of desistence deterrence, and defiance, provide further context.

A thorough explanation of the methodology of the experiment, which describes the selected research design, is detailed in Chapter 3. The methodology details how a lengthy case matching process was undertaken to enable similar cases of domestic abuse without DVPNs to be identified for analysis in comparison with a cleansed DVPO sample. Chapter 3 also details how this research showcases the innovative application of the Cambridge Crime Harm Index (CHI) to measure the harm of offending (Sherman 2007; Sherman et al. 2014) as opposed to the traditional metrics of prevalence and frequency (although both of these metrics are considered in the analysis too).

A detailed review of the results forms Chapter 4. These results include quantitative findings from a number of independent sample t-tests that have been conducted to identify and analyse the differences between the DVPO sample and the non DVPO sample. Chapter 5 sets out a detailed discussion of the findings offering an explanation as to the results that have been reported, limitations to the research and recommendations for further study. Finally the work concludes with a brief conclusion.

Although domestic abuse has been the subject of more police practices research that any other crime (Sherman 1998), there is still a weakness in the existing evidence base regarding the effectiveness of protective orders. This research into Hertfordshire's use of DVPNs/DVPOs seeks to add to the debate of whether this type of restraining order is an effective domestic abuse solving strategy, or whether the introduction of the DVPO is just another example of legislation that is "statutorily promising but procedurally inadequate" (Logan et al. 2006 p. 200).

Chapter 2 - Literature Review

Introduction

DVPN/DVPOs were introduced nationally in the United Kingdom in 2014. The relative newness of the legislation means the extent of their impact on domestic abuse has only begun to be explored in literature in the UK. Therefore, this review of the literature will utilise the findings of European and US studies that examine the effectiveness of equivalent domestic abuse protection orders instead. Protection orders come in a variety of forms that are labelled differently e.g. restraining orders, civil protection orders, no contact orders, harassment orders and domestic violence orders. They are issued under different jurisdictions that have unique sets of rules and procedures and they have different prohibitions attached to them. However, the varieties of protection orders are all designed with the same goal of reducing the risk of either threatened or actual harm by mandating no contact with another person. Consequently, they provide useful context upon which the analyses of Hertfordshire's DVPO data will be built.

Organisational Context

DVPNs/DVPOs were first trialled in the UK in 2011/2012, following a review on serial perpetrators of domestic abuse led by Chief Constable Brian Moore (the then policing lead for Violence and Public Protection). They are governed by sections 24-33 of the Crime and Security Act 2010. The relevant sections began 30 June 2011 and ran over a one year period in three pilot areas: West Mercia Police, Wiltshire Police and Greater Manchester Police.

The pilots ended on the 29th June 2012 and were subject to an evaluation (Kelly et al. 2013) that used a mixed methods approach, combining qualitative and quantitative elements to address the following questions:

1. How were DVPOs implemented and delivered across the three pilot sites?

2. What did practitioners, victim survivors and perpetrators think about DVPOs?

3. Were DVPOs effective in reducing domestic violence across the pilot sites?

4. What was the value for money of the pilot?

To answer those questions, the HO matched DVPO cases from the three pilot areas to other similar cases where a DVPO could have been sought but was not. The DVPO cases were drawn from the same time period and the matching criteria focused on key variables that were likely to be connected to future victimisation (Kelly et al. 2013). Developing a matching protocol proved a challenge for the HO, as the three pilot forces used different crime incident recording systems that were not easily searchable. The HO produced a final matched group that they thought was "a compromise between the ideal and what was practically possible" (Kelly et al. 2013 p55). They matched according to the following criteria:

- Police force area;

- Date of arrest (matched cases occurred no more than one week before/after the DVPO case);

- Reason for arrest;

- NFA was subsequently taken;

- Sex of the perpetrator;

- Whether the victim-survivor was pregnant (assuming 'no' if no information was provided);

- Whether there were children in the household (initial plans were to match for the number of children, but this information was not available from the data); and

- The police-assessed risk level of the case (standard, medium or high on the Domestic Abuse, Stalking & Harassment, Honour Based Violence (DASH) risk assessment (Kelly et al. 2013 p57).

A total of 414 DVPOs were granted by the courts across the three pilot sites for the pilot period. Initially the HO was able to find matches for 289 cases (Kelly et al. 2013). The matched cases occurred approximately on the same date (within seven days), within same force area, with similar domestic circumstances. All prior police involvement to the DVPO and all police involvement post DVPO (for between nine and nineteen months) was also examined. However the HO found it impossible to include all prior domestic violence incidents in the initial matching criteria, so the priors in the matched data were subsequently examined. Analysis revealed statistically significant differences between DVPO and matched cases in the numbers of previous incidents recorded on police systems (Kelly 2013 et al. p29). As a result of this finding only 123 DVPO cases where previous incidents did not differ statistically were labelled the 'best matched' sample, were used in order to allow extra confidence in the findings (Kelly et al. 2013 p29).

Home Office Evaluation

The HO final pilot sample size (n=123) was exceedingly modest. However the HO analysis represented (in the UK) "the first time that the impact of 'removal orders' have been evaluated against a comparison sample and provided the best evidence available for their effectiveness" (Kelly et al. 2013 p6). The HO reported that overall DVPOs were associated with a reduction of 1.0 fewer incidents per victim survivor after the DVPO had been issued compared to cases that resulted in NFA ($p=.019$), a result that was statistically significant at the (0.05) level. In cases where a DVPO was used after a third incident, this increased to 2.2 fewer incidents ($p=.023$). This was again another result that was statistically significant at the (0.05) level and lead to the conclusion that they were more effective in chronic cases. The post pilot evaluation concluded that "DVPNs/DVPOs filled a gap in protecting victim-survivors of domestic violence" (Kelly et al. 2013 p55).

Limitations of the Home Office Evaluation

The positive conclusions of the HO evaluation (Kelly et al. 2013) led to the national introduction of the DVPNs/DVPOs. However, there are limits to the HO evaluation. These can be seen in the findings, the design, the financial benefit and the measures of success used. Although the HO analysis indicated there was a reduction in incidents, when the HO narrowed their sample down further, they found there was an overall increase of 0.2 more incidents ($p=.397$) when a DVPO was used at the first incident. Although this is not a significant increase, it does suggest the need for further investigation on the impact of DVPOs specifically on first incident (Kelly et al. 2013). This is something that this research into Hertfordshire's DVPO data will undertake in its examination of reoffending post DVPO issuance.

There are also limitations to the selected research design. The HO considered both RCT and quasi experimental (control area) designs. However the random allocation of suitable cases to either treatment (DVPO) or control (arrest followed by NFA) for a RCT design was not thought feasible. The differences in the way forces handle domestic violence also made the quasi experiment inappropriate (Kelly et al. 2013) which is why the case matching design was considered the best approach. However, as with any case matching approach, the HO recognised that one cannot discount completely the influence of an unknown factor that had not been controlled for in the matching (Kelly et al. 2013).

Staff within Hertfordshire Constabulary's Domestic Abuse Investigation Support Unit (DAISU) who manage the DVPN/DVPO process confirm that a DVPO costs £226 per application. If the DVPN/DVPO is contested by the perpetrator the cost of the order increases to £515 each. These are one off costs that are charged by the court to the police to hear the orders and they do not include costs incurred from staff attending court or any enforcement of the orders. There are other associated costs in terms of case file preparation and court attendance. It is estimated that

domestic violence costs the country approximately £15.7 billion per annum (Walby 2009).

Unsurprisingly, the HO was equally keen to explore whether DVPOs provided value for money. The

HO produced an Impact Assessment (IA) which considered the financial implications of the

introduction of DVPOs. The economic assessment, which included a cost benefit analyses,

established that the initial set up and transition costs to police forces and other agencies based on

the pilot was estimated at £3.1m (Ashley 2013). The HO also established that the national

introduction of DVPOs would result in £5.0m additional police costs and £1.0m Criminal Justice

Costs per year. In total the annual costs were £6.0m (plus one-off transitional costs of £3.1m).

Scaled up over a ten year period this equated to £55.1m (Ashley 2013).

In terms of benefits, the evaluation of the pilots stated it produced an 11% reduction in

victimisation (measured by police call outs for domestic violence) and the HO assumed that this

equated to an 11% reduction in the baseline costs (the average baseline cost of victimisation

£5,898). This baseline cost was calculated from the offences the perpetrators in DVPO cases were

arrested for using the cost crime framework. If these benefits are scaled up to the national level,

the benefits of DVPOs were estimated to be £2.6m per year or £22.6m in ten years (Ashley 2013

p8). The economic analysis of the pilot suggested that DVPO could produce a net social and

economic impact of £896,518 which disappointedly equates to a loss of 77p return of 23p for every

pound spent. The HO also concluded that the net present value of the introduction of the national

introduction of DVPOs would be -£32.5m (i.e. a net cost) equivalent to an average net impact of

£3.7m per year (Ashley 2013 p7).

Aside from the costs, the HO publications (Kelly et al. 2013: Ashley 2013) used international

comparators from Western European countries such as Austria and Germany (where orders were

already in widespread use) as further argument to support the national introduction of the

DVPN/DVPO legislation in the UK. However the examples cited by Ashley (2013), and the majority

of these European studies (Logar, 2005: Hagemann-White, 2006), are not direct tests of how these orders affect individual victims. They looked instead at the year-on-year increases in the application and use of the evictions and banning orders. Simply using these orders more cannot be inferred as a viable measure of success. While these studies provide useful reference material they are silent on whether the protection orders have any real impact on reoffending.

Although a national roll out of DVPNs/DVPOs to all 43 police forces in England and Wales followed from 8th March 2014, the earlier evaluation studies were conducted in a limited set of locations. The HO did produce a one year assessment (HO 2015) aimed at establishing how the measures were working nationally. However, much as was the case with the European findings (Logar, 2005: Hagemann-White, 2006), these evaluations focused solely on data on the numbers of DVPOs authorised, granted and breached. Their one-year report on the UK's DVPO use (HO 2015) did not examine any real measures of victimisation nor evidence exactly how the DVPOs prevented harm.

Research on the Efficacy of Protection Orders

The absence of literature on the effectiveness of DVPOs in the UK, leads one to turn to literature on protection orders in other nations. However, unlike the studies cited by the HO as evidence of the successful impact of protection orders (Ashley 2013; HO 2015) this chapter considers a wider breadth of material. Most of the existing literature regarding protection orders seeks to address the question of whether protection orders reduce re-victimisation. In an examination of 15 US studies, Benitez et al. (2010) identified varying effects of the impact of protection orders. They found violations in domestic abuse protection orders (measured by repeat victimisation) with an incredible degree of variation, ranging from 7.1% to 81.3%, (Holt et al. 2003; Horton et al. 1987; Chaudhuri and Daly, 1992; Kaci, 1992; Meloy et al. 1997; Klein,1993; Grau et al. 1985, McFarlane et al. 2004; Isaac et al. 1994, Mears et al., 2001; Carlson et al.,1999; Harrell &

Smith., 1996; Logan, Cole, et al. 2007, McFarlane et al.,2004; Tjaden & Thoeness, 2000 in Benitez et al. 2010). None of the aforementioned studies involved RCTs. The preferred research methodology in these studies was either a retrospective or prospective cohort study and only two studies had the benefit of a control group, (Holt et al., 2003; Mears et al., 2001 in Benitez et al. 2010).

Overall, most of these US studies reported a revictimisation rate of 40-60%, which echoes similar findings in Europe. For example, a study between 2005 and 2007 by the Swedish National Council for Crime Prevention (NCPP) examined the revictimisation of (n=214) domestic abuse offenders. The NCCP study had a follow up period from 2009 that followed cases for a minimum of 28 months and a maximum of 52 months. It identified that 31% of the (n=214) domestic abuse offenders had received a restraining order, of which 44% had reoffended. (NCCP, 2003 in Strand p.256). However this Swedish study once again consisted of retrospective analysis and it lacked a control group for comparison. This raises doubt on the authenticity of its findings.

If revictimisation is accepted as the sole metric for effectiveness, then any decrease in revictimisation would conversely indicate that protection orders are effective in reducing domestic abuse. Holt et al. (2003) provided evidence of this in their retrospective study of women issued with protection orders. They found an 80% reduction in police reported violence in a year following the issuing of a protective order. Not only are the results compelling due to the sample size, but the study design included a control group without protection orders. The protection order group (n=477) consisted of 214 women, who had temporary or permanent protection orders and who had previously reported partner violence. This group was combined with 263 women selected at random from a wider group (n=583) who had temporary, or permanent protection orders, but who had not reported partner violence. The non-protection order group (n=506) were selected at random from a sample (n=2,590), who had reported partner violence in the previous 15 months to

the start of the research period, but who had not obtained a protection order. The inclusion of a control group is important, as the benefit of the control group is "it helps separate the effects attributable to the independent variable from the effects attributable to other factors in the study" (Ko 2002). A factor which many of the studies Benitez et al. (2010) found were lacking.

For example Carlson, Harris and Holden (1999) reviewed (n=210) couples, looking at police records for a two year period before and after the issuing of an order, and found a decrease of 66% in police contact. However a closer examination of Carlson et al. (1999) reveals a lack of comparison group that did not have protective orders in place, posing the question whether the reduction in revictimisation would have occurred anyway. On initial examination, a number of other studies also report the positive impacts of protection orders. For example a study by Chaudhuri and Daly (1992), indicated two thirds of the women in their sample were not re-abused. However the sample size of Chaudhuri and Daly's (1992) descriptive study was small (n=30), and the study, which involved interviews with victim survivors one week and two months after a protection order was filed, only ran for two months. Again, Chaudhuri and Daly (1992) did not include a comparison group that did not have protective orders in place.

Crime Harm

Another important consideration, when looking to understand the journey taken to secure a protection order, is an understanding of what is meant by harm and whether the classification of harm influences how a violation of a protection order is perceived. Many studies measure only whether violence reoccurs and treat all such instances equally as 'violations' of a protection order. Their measurements stop at this point, and pay little attention to how often these events take place, or how much harm results from them. This measurement of harm is important, as a number of authors note that the protection orders are often given in the highest risk of cases (Strand, 2012;

Ko, 2002) and the HO evaluation argues they are effective in chronic case (Kelly et al. 2013). There is however no consistency around how high risk is measured.

Sherman (2007) argues that a more effective way to measure the impact of crime reduction experiments would be by measuring harm by stressing seriousness over prevalence or frequency alone. Sherman et al. (2014) challenged the notion that a single count of crime was a strong measure of harm, as it was misleading because all crimes are not equal. They proposed multiplying each crime type by the number of days of imprisonment each could attract under sentencing guidelines and created the Cambridge Crime Harm Index (CHI) (Sherman et al. 2014). No other protection order research to date has used this kind of measure. Not only will the present research be the first to benefit from an application of the CHI to track the amount of harm committed by offenders pre and post DVPO issuance, but it will compare it to the harm committed by those in a control group also.

The results of existing research studies on the impact of protection orders are persuasive, but they present their own difficulties (Ko 2002 p.376). Several additional possible concerns with this literature are quickly apparent. There are issues regarding generalizability, in the context of US and Europe policing style and culture, and the inconsistent language surrounding protection orders and their construction has been criticized for making comparisons difficult (Benitez et al. 2010). The wide range of protection order violations could also be attributed to differences in how reoffending is measured. The results are also often based on self-reported re-abuse and consequently they are likely to show a lower rate of reoffending (Logan et al. 2006). It is also challenging to compare individual studies with one another due to their difference in methodology, lack of control group, differing sample size and inadequate follow up period (Benitez et al. 2010; Logan et al. 2006; Ko 2002).

Discourse on Desistence, Deterrence & Defiance

The aforementioned studies, with their conflicting findings, demonstrate that the issue of protection order efficacy is complex. On one hand it can be argued that an increase in self-reported abuse is a positive consequence of any domestic abuse intervention. Victims are being given a voice and with it the confidence to report victimisation that would otherwise go ignored. However the literature on protective orders in this research takes the view that any increase in domestic abuse reporting is a negative consequence of the protection order. This research into Hertfordshire's data, takes the view that the expected effect from the DVPOs is a reduction in reoffending.

Added to this complexity is the raft of literature that aims to provide understanding on what conditions are needed to reduce offending. Bottoms (2014, p.2) states that "most offenders… eventually desist from crime; and to a significant extent they do this on their own initiative". However Bottoms (2014) also suggests the presence of five themes of desistence: age and maturity; situational desistance; agency and day-to-day 'going straight' and social bonds. Each of these themes provides interesting insights into understanding desistance from crime. But as this research seeks to establish if there is an association between DVPOs and reduced reoffending, it is this later theme, social bonds, that has particular relevance and will be discussed in further detail next.

Social bond theory argues that the tighter an offender's bonds are with society, the more they have to lose from offending and as a consequence they are less likely to offend (Sampson and Laub 1993). It shares similarities with "stakes in conformity" theory (Toby 1957) that reiterates the stronger the individual's social bonds, the more they risk by engaging in criminal activity. The bonds with society can take many forms e.g. social status, relationship, reputation and employment (Ko 2002). Sampson and Laub (2003) also introduced the concept that offenders with

tight social bonds desist at 'turning points', which are pivotal moments in the desistence process. This research will explore the association of the DVPO and the prevalence, frequency and harm of offending, and whether the DVPO is an example of a 'turning point' in action.

Linked to social bond theory is Braithwaite's (1989) theory of reintegrating shaming. Braithwaite suggests there are two types of reintegrative processes, stigmatic shaming and reintegrative shaming. Stigmatic shaming is designed to set the offender apart from society by labelling him/her as a law breaker. It shares similarities with labelling theory (Farringdon 2005). Reintegrative shaming brings the offender and society together through an imposed criminal justice sanction. Braithwaite (1989) believed that the punishment should focus on the offender's behaviour and not the offender. Although DVPOs were introduced as a part of victim focused strategy, they are issued to the offender and set out prohibitions that the offender must adhere to. A by-product of this (one that this research will explore by examining the reoffending of those with and without a DVPO) is they could stigmatise the abuser. As this research will establish, could this be to such an extent they maintain their offending. This is a view that shows links to deterrence theorists who argue, "some policies that are effective in preventing crime in the short term may be ineffective or even criminogenic in the long run" (Nagin 1998, p.1).

Sherman (1993) also acknowledges the importance of the offender's social bonds when he states "individuals with strong bonds and attachment magnify the shamefulness of criminal sanctions" (Sherman 1992 p.162). However Sherman (1993) also argues that neither social bonds theory nor reintegrative shaming went far enough to explain under what conditions crime increases, or reduces. Sherman (1993) suggests a better way of understanding the conditions would be to integrate Braithwaite's theory with Tyler's (1990) work on procedural justice, and Scheff and Ratzinger's (1991) sociology of the master emotions of pride and shame to produce 'defiance theory'. This is "the net increase in the prevalence, incidence, or seriousness of future

offending against a sanctioning community caused by a proud, shameless reaction to the administration of a criminal sanction" (Sherman 1993 p.459). Sherman asserts that this theory can account for a number of differences in the sanctioning effects and collective retaliation, but he is quick to acknowledge that not all facts fit and they would be made better with empirical data (Sherman 1993).

Having discussed the conditions of offending through an understanding of desistence deterrence and defiance theory, it is important to examine how protection orders such as DVPO may serve as a suitable theoretical response to offending. Desistence theorists argue that the most effective way of capitalising on the impact of relationships is to design a response that utilises the threat of punishment rather than an actual punishment, creating a "Sword of Damocles" effect as a means of deterring offending (Sherman 2011). Sherman (2012 p.205) additionally argues that "reversing the emphasis from severity to certainty could produce better results."

Durlauf and Nagin (2011) explore the "Sword of Damocles" concept further, arguing rather than just the threat of punishment producing deterrence; the threat has to have more certainty, more celerity, less severity, more compliance. Durlauf and Nagin suggest that a lesser punishment would still be effective, providing it is more likely to happen and happen quickly. Interestingly, McNeill (2012) shares the view of Bottoms (2014) regarding people's free will to stop offending. However McNeill expands on this and argues the desistence will be quicker and more likely if it is "assisted" (McNeill 2012). An example of assistance can be found in an examination of Operation Turning Point, in Birmingham UK. Implemented in 2011, Turning Point was a randomised controlled trial that "compared the effectiveness of court prosecution for low harm cases with a structured diversion to a deferred prosecution linked to a turning point contract" (Neyroud and Slothower 2013 p.2).

The Turning Point contract lasts approximately four months and has two conditions: not to re-offend and to comply with the contract. It has a minimum of a further two conditions that are agreed with the offender and that are linked to the offence for which they are arrested. A breach of any of these conditions will result in prosecution. Completion of the contract will result in NFA (Neyroud and Slothower 2013). The rates on recidivism have yet to be published, but the early main findings are Turning Point is as least effective as a court prosecution, there is an improvement in victim confidence in out of custody disposals, and financial savings from out of custody disposals (Neyroud and Slothower 2013).

One can apply this theory to DVPOs and argue that the orders are a form of contract (albeit they are often wholly accepted by the perpetrator). They are invoked quickly, as the DVPNs are issued immediately post arrest and the DVPO applications are issued within 48 hours. Additionally, whilst the issuance of the order is not a sanction per se, the perpetrator is likely to see any one of the five prohibitions associated with the order as a punishment. Furthermore, if an offender breaches any condition of a DVPO they can be arrested for civil contempt of court and put before a magistrate, who can fine them up to £5,000 and/or send them to prison for up to two months. Which one could argue, is a further form of punishment.

This research will therefore take these theoretical concepts of assisted desistence (McNeill 2012) and the suggestion that a punishment that is certain, quick and less severe will have a positive effect (Durlauf and Nagin 2011) and apply them to Hertfordshire's DVPO data and look at the impact on reoffending. This will then enable greater understanding as to whether a DVPO prevents further offences and further evidences the "Sword of Damocles" in action (Sherman 2011).

Summary

Through analysis of the limited findings following the UK introduction of DVPOs/DVPNs, an understanding of the discourse in offending, and the conflicting findings from international studies, this chapter has shown it is difficult to convincingly demonstrate that protection orders protect. What the studies have demonstrated is that the victim survivors who receive them tend to benefit immediately afterwards (Holt et al. 2003; Kelly 2013) and there is a raft of criminal theory that suggests a DVPO should produce a positive effect. These difficulties support the need for further understanding on the topic, which this research from Hertfordshire, specifically its understanding of the impact of the DVPO on reoffending, seeks to contribute to.

Chapter 3 - Methodology

Introduction

The RCT is considered the 'gold standard' of research design (Kelly et al. 2013.). Whilst it may be more effective to randomly allocate cases to receive a DVPO or not, it was simply not practical to conduct a RCT in Hertfordshire in the time available for this research. Therefore the alternative methodology of a retrospective and prospective descriptive study, to establish the impact of the introduction of DVPOs in Hertfordshire was chosen. In devising a suitable methodology, this research drew on national guidance regarding best practice and use of DVPNs/DVPOs (HO 2011; COP 2016), and used it in conjunction with quantitative data regarding DVPN/DVPO usage nationally in comparison to DVPN/DVPO usage in Hertfordshire. This was then used to address the first research question.

1. **Is the National DVPN/DVPO policy being implemented appropriately for Hertfordshire's domestic abuse cases?**

This methodology is built around a comparison between domestic abuse cases where DVPNs/DVPOs have been issued, and similar cases where they have not. The introduction of a matched non-DVPO sample was produced using matching characteristics, which included measures of harm and date of occurrence, bringing a good degree of validity to the research and its findings, enabling the below and overleaf remaining research questions to be answered.

2. **Do offenders in cases in which a DVPO has been issued have a different prior criminal history, when compared to a sample of similar cases in which a DVPO has not been issued?**

3. **Is there an association between the issuance of a DVPO and a subsequent difference in the prevalence, frequency and harm of domestic abuse, when compared to a sample of similar cases in which a DVPO has not been issued?**

This research and its chosen methodology also provide Hertfordshire Constabulary, with a preliminary assessment on the effectiveness of DVPNs/DVPOs as a domestic abuse problem solving strategy. Findings from the HO indicated that the DVPO sample produced more costs that benefits, (Kelly et al. 2013). But one study on the impact of DVPOs is not enough, replication in other Constabularies is therefore essential. Moreover, the evaluation of the pilot of DVPOs (Kelly et al. 2013) was based on the start-up costs for DVPOs in three forces and the costs and benefits may be different now it has been rolled out nationwide. For Hertfordshire, it also provides an additional opportunity, as it allows the Constabulary to address its ability to meet the aims of the re-elected Police and Crime Commissioner. Specifically, his "victim focus" vision and how the Constabulary can "keep people safe by ensuring resources protect those at most risk of harm" (Lloyd 2015).

Data Collection & Issues

This research analysed existing data stored electronically by the Hertfordshire Constabulary, along with nationally available data. Consequently there were no risks associated with new data collection. The data relevant to this research (domestic abuse crime/incident/DVPN/DVPO records) form part of the Constabulary's registration with the Information Commission Office (ICO). The ICO requires every organisation that processes information, to register the information with them. Providing the information is gathered for legitimate police purposes as the data subject of this research is, any restrictions to its use and ownership are removed.

However, the existing data collection does present risks to the ethical standards of the organisation. The examination of data includes identifiable domestic abuse victims, offenders,

locations and circumstances involving all levels of risk. A proportion of data are sensitive, for example those cases that concern Honour Based Marriage and Forced Marriage. Therefore, all of the domestic abuse data was anonymised prior to analysis and only summaries of values (e.g. means, medians, percentages) were presented. There is therefore no risk of any direct information about these being made known to the wider public.

Methodology & Data Analyses

As stated, the most appropriate methodology chosen to address this research (within the available time frame) appeared to be a retrospective and prospective descriptive study of the impact of DVPOs in Hertfordshire, that involved the comparison of a treatment group, (i.e. where DVPOs had been issued as part of the natural sequence of decisions made by the police), against a similar group (where DVPOs had not). Whilst data belongs to the Constabulary, they had not been analysed previously and were stored across multiple electronic systems which made data extraction difficult.

The DVPN/DVPO data are manually recorded on a Microsoft Excel spread sheet by staff working within DAISU. The spread sheet contains the following information:

- Victim's full name, date of birth, address
- Perpetrator's full name, date of birth, address
- DVPN Date of issue
- DVPN Issuing officer and team
- Authorising Superintendent
- Expiration date of DVPO
- DVPO Issuing magistrates' court
- Date DVPO was issued
- Crime Incident System (CIS) number

- Whether DVPO contested at Court

- Officer presenting at court

An initial examination of the spread sheet found that, despite the small numbers, manual inputting resulted in a number of data recording problems issues (e.g. missing dates of birth and incorrect CIS numbers being recorded). To maximise the accuracy of the DVPN/DVPO data, the data was cleansed by manually cross checking the database against CIS. All the missing data fields, which included dates of birth, crime numbers and dates of DVPO issuances, were reinserted into the spread sheet. As a result of this initial cleanse the DVPO spread sheet then showed that, between 1st July 2014 and 1st August 2016, in Hertfordshire there had been 112 DVPN/DVPO applications.

The above time span forms the date parameters that were used, for the present study. All Constabularies were instructed to implement the DVPN/DVPO legislation from March 2014, but it was only introduced in Hertfordshire Constabulary on 30th June 2014. However the introduction of a cut off period for data selection, of 1st August 2016, takes into account the fact the legislation was new. This time frame maximised the time period from which to secure data, and conduct research that not only would address the aims of the study, and would be of practical benefit to the Constabulary.

In order to address the first research question, concerning the appropriateness of DVPO implementation in Hertfordshire, it was necessary, following the DVPO data cleanse exercise, to undertake further analyses of the DVPO sample. In particular, this research looked at the circumstances of the DVPO issuances in Hertfordshire, in the context of national guidance (COP 2016, HO 2011), to identify any local nuances or trends in the DVPO application or use. As a result

of this examination, a number of data issues were identified and developments in the methodology were then made.

There were four cases recorded on the spread sheet where a caution was issued and one additional case where a charge lodged against the offender had been issued alongside the DVPO application. According to national guidance, in cases where an offender has been charged with a domestic abuse related offence, bail conditions that offer respite from the offender, rather than DVPN/DVPO, is a preferable disposal (COP 2016). Domestic abuse is often an on-going issue tied to problems that are likely to be chronic in nature. Cautioning is aimed at low level offending where the offender has admitted the offence and therefore it would not be appropriate to issue a caution for anything other than rather anomalous situations (HO 2011). Furthermore national prosecution guidance actively discourages the use of cautions in domestic circumstances (Crown Prosecution Service (CPS) 2016).

The Association of Chief Police Officer (ACPO 2008) guidance on investigating domestic abuse recommends the use of positive action which invariably means an offender is charged and prosecuted. However, the CPS recently reported in their Violence Against Women and Girls (VAWG) report (2016) that in 2015 the numbers of domestic abuse cases referred to them for charging purposes fell (4.1%) from 122,898 to 117,882. In the same publication the CPS positively reported that in 2015, 69.7% of domestic abuse cases resulted in an offender being charged and 74.5% of cases resulted in a conviction (CPS 2016). These figures highlight a gap in prosecutions for domestic abuse and this becomes even more apparent when one considers the identity of a domestic abuse offender is known in 100% of all cases. There are a number of factors that influence a failure to refer cases to the CPS for consideration of prosecution. The most likely scenario is the lack victim co-operation and/or the failure of the case to meet the evidential standards. The resultant outcome for the cases that fail to go to CPS for charge is NFA and the DVPO is a way of giving the police something useful for people who would otherwise be difficult or

impossible to help. Consequently the most likely scenario for a DVPN/DVPO application and issuance therefore, are cases where an arrest has been made, but the offender is to be released from custody with NFA. As a result the cases that resulted in a charge or cautions and a DVPO, were removed from the sample.

There were eight cases recorded on the spread sheet that involved non-intimate family members. The definition of domestic abuse is "any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender sexuality" (HO 2013). The DVPO legislation does not differentiate between non-intimate and intimate family members. However the prohibitions attached to DVPOs, for example the non-contact between a perpetrator and victim; lend themselves to being used in intimate relationships rather than cases involving non-intimate family members. This could offer an explanation to the relatively low numbers of non-intimate case usage in Hertfordshire's DVPN/DVPO sample. Whilst it seems clear that DVPOs have been considered useful in a few cases of non-intimate partner violence, these cases are rare and seem far outside the norm. Moreover DVPOs may have a different effect in these cases than they do in instances of partner violence, which form the bulk of the sample in Hertfordshire. For these reasons, the eight cases involving non-intimates were excluded from the sample.

The spread sheet also contained two cases where the presenting incident that led to the DVPO had been a non-crime incident, rather than a crime incident. The DVPN/DVPO legislation can be used as it was here in cases where an arrest has not been made (Kelly et al. 2016). Such instances would obviously apply to those domestic abuse cases where no crime had occurred. However, in order for a DVPN to be available, the following legal requirement must be present:

- The suspect must be over 18

- There must be reasonable grounds for believing that the suspect has been violent or threatened violence towards and associated person **and**

- The DVPN is necessary to protect the associated person from violence or threat of violence by the suspect (COP 2016).

There is no current definition of 'violence' in any of the HO guidance or in the Crime and Security Act (2010) that the DVPO legislation originated from. However, it would be unlikely that any case where a suspect had been violent or threatened violence would not result in a criminal offence and a crime, rather than a non-crime. Therefore an application for a DVPN/DVPO as a result of a non-crime domestic incident does not appear to be an appropriate use of the legislation. Moreover there are so few of these cases in Hertfordshire that it seemed prudent to assume that they would be quite different from criminal incidents, and to exclude the two non-crime cases from the data for the present study.

A small number of couples (also called 'dyads' in the literature) received multiple DVPOs in the study period. There were 19 DVPN/DVPO applications recorded on the spread sheet that involved ten couples, i.e. eight couples had two applications attributed to them each, while one couple had three applications. There is no limit to the number of applications that can be made against a domestic abuse offender. But as this research was concerned with criminal history prior to the issuance of the DVPO, the initial case concerning each couple that resulted in a DVPO application was retained, and the subsequent DVPOs that were issued to these couples subsequently were removed. There were two applications for domestic abuse incidents that involved two couples in same sex relationships, i.e. one application per couple. There were three cases where DVPOs were issued against female offenders in heterosexual relationships. Although these scenarios fulfil the criteria for a DVPN/DVPO application, they were so rare amongst Hertfordshire's DVPO data, that they presented anomalies that had the potential to make matching

difficult. As a result these cases were also excluded from the DVPO sample. Worryingly, there were six cases on the spread sheet that, on closer examination, revealed no DVPO had been issued. There was a variety of reasons for these errors, such as the applications were withdrawn before they were put before a Superintendent or they had not been authorised by a Superintendent or Magistrates' Court. There was also one case of domestic abuse that had been given a crime and a no crime number. There was one case where a DVPO had been issued but the date of the offence, i.e. when the 'violence' had occurred actually pre dated the legislation so this was also removed. All these cases were removed from the analysis.

As Table 1 (below) shows these removals shrunk the available sample dramatically, from 112 to just 74. Nevertheless, the circumstances around these cases were concerning enough that removal seemed the only acceptable option.

Table 1: DVPO Population With Case Extraction

DVPO Population	112 cases
Remove 5 caution/charge cases	107
Remove 8 non intimate cases	99
Retain only first incident from 9 repeat cases remove 11	88
Remove same 2 sex dyads, 3 female offenders	83
Remove 2 non-crime,	81
Remove 6 errors	75
Remove 1 crime that predated legislation	n=74 cases DVPO sample

Matched non-DVPO cases

The production of the non-DVPO sample for comparison, although essential for the validity

of the research, was challenging. This was unsurprising, given the size of Hertfordshire's domestic

abuse data. For example, a search of Hertfordshire's corporate system revealed that in the

2015/2016 policing year, the Constabulary recorded 17,789 domestic abuse incidents. This

represented a 12.1% increase on the previous year. As this research required a detailed review of

the cases in the non-DVPO comparison sample, it was clearly impractical to examine the full non-

DVPO population. Moreover, a larger full population would also produce an almost artificially high

level of statistical power for analyses, which is ultimately based on only a fraction of DVPO cases in

the treatment group. Therefore, a further smaller comparison non DVPN/DVPO sample was

required before meaningful comparisons, comments and conclusions could be drawn to address

the research questions, and to gain an understanding of the journey taken to secure a DVPN/DVPO

in Hertfordshire.

To establish a non-DVPO population, Constabulary in-house performance analysts, took the

same characteristics that produced the cleansed DVPN/DVPO population (n=74) using the following

eligibility rules:

- A domestic incident took place on or after 1st July 2014 to the 1st August 2016;

- The incident involved a DA crime (identifiable through CIS numbers);

- The incident involved an arrest or no arrest but an interview out of custody for a DA

  matter;

- The arrest resulted in a NFA disposal;

- A single male offender was arrested;

- A single female victim was identified;

- The incident was not already in the DVPO sample (see overleaf for more detail);

- The offender and victim were intimate partners of one another.

They then applied these criteria to the non DVPN/DVPO population from Hertfordshire's CIS recorded domestic abuse cases to obtain a list of prospective cases for the non-DVPO sample. Several tools were used to extract the data i.e. CIS English Sentences, ibase and SQL Server Reporting Services (SSRS). The analysts then established the Home Office Crime Recording Codes of the presenting offence. The importance of the HO codes and their role in the measure of harm and the case matching process will be discussed later in this chapter.

Despite the application of these eligibility criteria, the non-DVPO comparison sample produced an unwieldy total of 2,656 domestic abuse crimes available for potential matching. It was therefore necessary to reduce the sample further. This reduction was achieved by matching incidents of domestic abuse in the identified non-DVPO sample (n=2,656) against (n=74) cases in the DVPO sample. This methodology shared similarities with the HO evaluation (Kelly et al. 2013), but rather than matching on levels of risk which is a subjective measure, this research matching process was achieved through a combination of the application of CHI and date matching which will be explained in greater detail subsequently.

Each Constabulary uses a unique identifiable crime recording number, this number enables them to locally measure performance, manage risk and allocate resources. However, the differences in each Constabulary's recording systems/methods make comparisons between forces and nationally monitoring of crime difficult. In 2002, the HO introduced HO Counting Rules (which encompasses National Crime Recording Standards (NCRS)) to provide a national standard for the

recording and counting of 'notifiable' offences and provide greater victim consistency recorded by police forces in England and Wales.

At stated previously, the analysts identified the HO code for each presenting domestic abuse offence on the non-DVPO sample (and the DVPO sample too) and used it to identify the associated crime harm value. It is important to note that when the data presented itself for the research initially, the prior criminal history was measured by applying the crime harm value to a single incident i.e. the incident that either led to the issuance of the DVPO or the matched non-DVPO incident. There were cases in both samples where the HO code could not be matched exactly to the CHI, so the closest crime harm value was selected. For example, there were two crimes recorded with HO codes 195/41 and 196/07, but an exact crime harm value for these crimes could not be found. These crimes were incidents involving the communication of malicious data, and, as these offences shared similarities with other communications offences, the same crime harm value of one day was applied. This subjective decision making was far from ideal, but for the purpose of this research, the methodology was considered the most appropriate alternative.

The CHI was applied to all the DVPO and non-DVPO cases, with the intention of matching the cases that shared the same or the closest CHI values. However, additional criteria such as the date the crime was reported, was applied to the non-DVPO sample to enhance the matching. This enabled the non-DVPO cases to be further analysed to establish those cases which occurred within +/- seven days against each DVPO case. Database software was then used to identify, match and then rank the non-DVPO cases (n=2,656) with the exact crime harm value and the closest reported date, to the DVPO sample. The matches were ranked to show whether the match was the first, second, third or fourth choice. The closest two suggested matched crimes from the non-DVPO sample were then manually selected as a match for the DVPO sample, providing a non-DVPO sample (n=148).

As well as incident level exclusion the matching exercise also involved offender level exclusion. This meant that if an offender had ever been served with a DVPO, he could not then appear in the non-DVPO sample. Furthermore each non-DVPO offender was only allowed to appear once in the sample. In other words if a non-DVPO case was matched to one DVPO case, it could not also be matched to a second (or third, fourth, etc.) DVPO case. If two DVPOs both matched to the same non DVPO then the one with the best match retained the non DVPO case, while the other case had to move on to the next-highest ranked non DVPO match.

Once the DVPO sample (n=74) and the non-DVPO sample (n=148) were established, the crime harm values of the offenders from both samples were then analysed, to establish if the offenders showed any differences in their prior criminal history. Due to issues of data extraction it was not possible to separate the domestic abuse offending from other sorts of illegal conduct so all prior offending was captured and examined. This potentially included domestic offending with other partners. The results of the matching can be found in the next chapter.

The two samples were matched using only the amount of crime harm which occurred during the presenting incident, and did not include each offender's full prior criminal history. In order to answer the question regarding prior harm in totality, a lengthier period of prior harm needed examining. One way of doing this would have been to examine the total prior harm of all non-DVPO offenders, up to and including the date of DVPO issuance or the date of the domestic abuse offence that resulted in NFA and no DVPO, prior to any matching exercise. The crime harm value would then be applied to all offences and the same matching exercise would be undertaken. The non-DVPO sample would then be secured by matching total prior harm. Given the amount of Hertfordshire's domestic abuse data however, this method would have been impracticable. As an alternative, analysts secured the prior offending of both the DVPO sample and non-DVPO sample

after matching was completed, from the DVPO date and matched non-DVPO date back to 1st January 2012. The crime harm value was then applied to all the HO codes of the prior offences. This was a sufficient time period to gain a retrospective sense of total recent prior harm from the two samples.

As this research also encompassed a prospective descriptive element, the performance analysts also secured arrest data from offenders from the DVPO and non-DVPO sample, post DVPO issuance or matched incident date. This data was used to analyse and establish any differences in reoffending between the two samples. All offenders were initially monitored for a period of 28 days. The 28 day period, while clearly quite brief and providing only limited statistical power, encompassed the statutory enforcement period of the DVPOs. This was useful as it allowed a close examination of whether the DVPOs evidenced a "Sword of Damocles" effect (Sherman 2011, 2012). In addition, the offenders were monitored for a further nine, twelve and eighteen months and data on any reoffending was secured to establish if there was a deterrent over a longer period of time. This wider monitoring period also involved the application of crime harm values to the HO codes of their offending. This use of the crime harm enabled the prevalence, frequency and harm of the offending within the two samples to be established.

Statistical Analysis

The main analysis was conducted to establish whether there was a difference in prior criminal history and the prevalence, frequency and harm in offenders issued with a DVPO compared to the matched sample of similar offenders which did not involve a DVPO. The principle test used in this analysis was a two tailed independent sample tail t-tests. This was conducted using the Microsoft Excel software application. The difference in effect size was also quoted using Cohen D.

Type of Offending

The principle limitations of this methodology was the measurement of offending. Due to issues in Hertfordshire data quality and extraction, it was not possible in this research to separate the non-domestic abuse offending from the DVPO and non-DVPO samples for the analysis. As a result, this research has had to adapt and consider all offending, not just domestic abuse related offences. The majority of studies on the efficacy of protection orders that were discussed in the Chapter 2 - Literature Review use reoffending against the same victim, as a measure of the effectiveness of protection orders (Benitez 2010). However this research examined reoffending in its broadest sense and although different victims will be captured, revictimisation to specific victims in Hertfordshire cannot be drawn out.

Summary

This chapter has demonstrated that the process to produce the cleansed DVPO sample and the matched non-DVPO sample was extremely challenging. Not only did such close scrutiny and cleansing ensure the data was accurate, and it enabled analysis to establish if the orders were applied to cases that merited their use, allowing research Question 1 to be addressed. It also enabled mandatory characteristics to be identified, which were then used to establish the comparison sample of Hertfordshire's non DVPN/DVPO population to address the remaining research questions. The results and analysis of which can be seen in the next chapter.

Introduction

This research began with the hypothesis that the national DVPN/DVPO policy was not being

implemented appropriately in Hertfordshire Constabulary. It was also hypothesized that offenders

in the cases where a DVPO had been issued would have a different prior criminal history when

compared to a sample of similar cases in which a DVPO had not been issued. Moreover, it was

anticipated, given the national introduction of the DVPN/DVPO following an evaluated Home Office

pilot, (Kelly et al.2013) that the issuance of DVPOs would have a different and positive impact on

the subsequent prevalence, frequency and harm of domestic abuse. This research would then

provide Hertfordshire with an evidence base for the continuance of DVPOs as a domestic abuse

crime prevention/reduction tool.

**Hertfordshire Constabulary's Use of DVPOs**

In order to effectively analyse whether the national DVPN/DVPO policy has been

implemented correctly in Hertfordshire and address Research Question 1, it is helpful to reconsider

the DVPO data issues that were highlighted previously in the methodology. There were specific

issues that resulted in 34% of Hertfordshire's DVPO cases being declared ineligible for research and

removed from the sample, leaving a cleansed sample of just 74.

One can disregard the 24 cases that fell within the DVPO application criteria, but were

removed to maintain homogeneity in the DVPO sample (i.e. the non-intimate cases, the repeat

cases, the cases involving same sex couples and those offences involving female offenders). Then

the remaining 14 cases that were also removed (i.e. the cautions, charge, non-crimes and errors)

evidences Hertfordshire's inability to implement the DVPN/DVPO policy appropriately. These 14

cases make up 12.5% of Hertfordshire's DVPO cases, which is a considerable case loss and is all the

more striking when one considers, in the very small numbers of cases they were employed, they were used incorrectly in one out of every eight times.

As discussed in the previous methodology chapter, the matched non-DVPO sample (n=148) was produced from a wider pool of potential matched domestic abuse cases (n=2,656). These matched cases all shared the same characteristics of the DVPO sample (n=74), with the only exception being that they had not received a DVPO. This poses the question why the rest of these thousands of potential cases were handled without the use of DVPOs. The vast majority of DVPOs seem to have been used appropriately. However, a sizeable minority were used for cases which run contrary to national guidance and (even more importantly, DVPOs were used in such a small number of cases that thousands of potential uses of this tool were never acted upon. Table 2 (below) illustrates Hertfordshire's DVPO usage.

Table 2: Hertfordshire Constabulary's DVPO usage 1st July 2014 - 1st August 2016
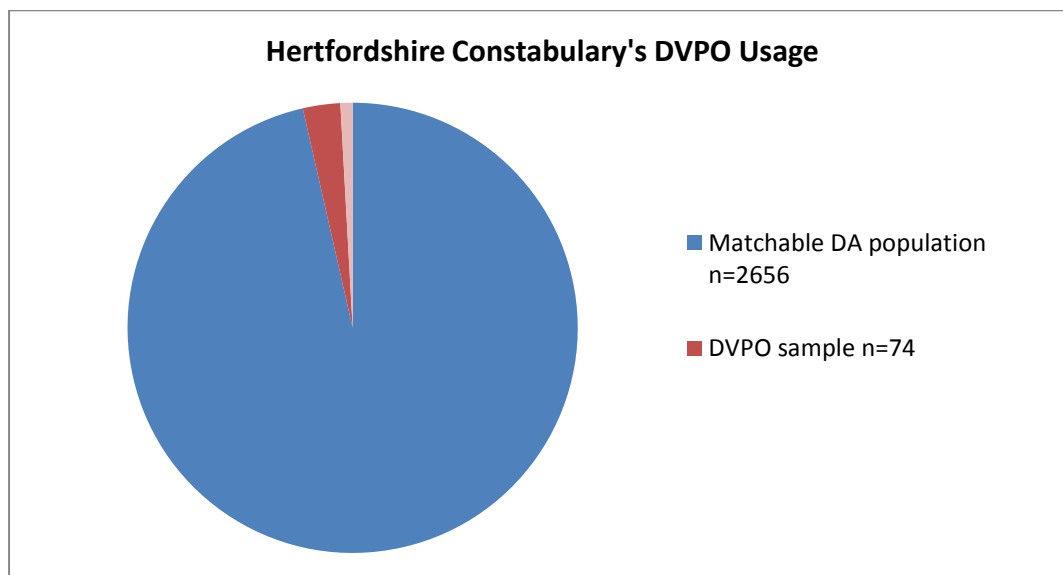
The population of similar domestic abuse cases were produced by identifying cases that were similar to, and met the same criteria, as the 74 cases of the DVPO sample. This screening meant that there were 2,730 total cases during the research period which matched this narrow set

of criteria. All of them, based on what we can tell, should have been eligible to receive a DVPO, and yet only 74 (2.7%) of them did.

Hertfordshire Constabulary's use of DVPOs can be contrasted with the numbers of DVPOs secured by the three pilot forces of Greater Manchester, Wiltshire and West Mercia during the Home Office 15 month pilot as demonstrated in figure 1 (below). This research into Hertfordshire's DVPO use does not have access to the data behind the three forces DVPOs, and therefore assumes that their data reflects the total numbers of orders obtained, and not just the total number of ones which were issued correctly. Therefore any comparison of Hertfordshire's DVPO use with the three forces is against Hertfordshire's total number of DVPO (n=112) and not the sub sample (n=74). It is also important to highlight, in figure 1, the fact Hertfordshire's data covers a time span of just over 25 months compared to the 15 months of the HO pilot.

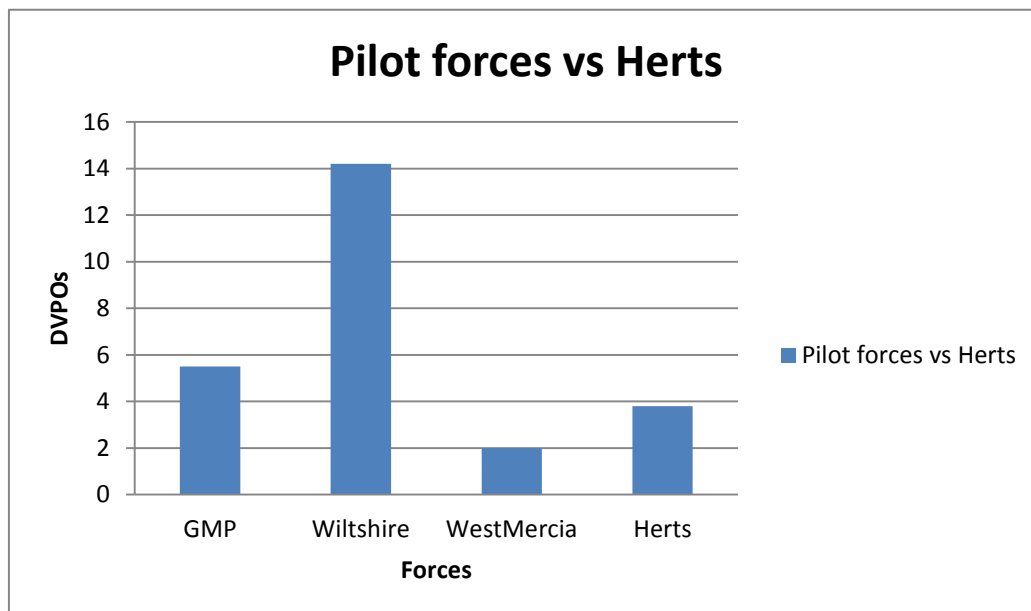**Figure 1: DVPO Usage per 1m Population**

Figure 1 (above) demonstrates the compared the mean monthly use of DVPOs. The data was adjusted by the number of months used to produce the accounts (15 for the pilot forces and 25 for Hertfordshire) and it also took into account population data from each police force area. Data from

the Office of National Statistics (ONS) report that GMP have a 2,756,200 population, Wiltshire a

703,300 population, West Mercia a 703,300 population and Hertfordshire a 1,166,300 population

(ONS 2016). This produced a monthly rate of DVPO use per 1m of population, of 5.5 for GMP, 14.2

for Wiltshire, 2.0 for Mercia and 3.8 for Hertfordshire. Whilst Hertfordshire use of DVPOs is lower

than GMP, it is not an outlier. West Mercia, by contrast, is very low at just 2.0 DVPOs per month

per 1m of population. However West Mercia were also just getting started with DVPOs well before

the national rollout. Whilst the numbers indicate West Mercia may not have implemented the

policy as well, they may now be doing much better now that they have more experience and the

policy has become national.

Prior Criminal History

The results will now move on to consider Question 2 and attempt to establish if there is any

difference in prior criminal history between the DVPO sample and the matched, non-DVPO sample.

As discussed in the methodology, the starting point of the period of the research that encapsulates

prior offending was 1st January 2012. For the DVPO sample, the finish cut off point for prior arrests

was the date of the offence for which they were arrested and received a DVPO. For the non-DVPO

sample, the finish cut-off point was the date on which the offence they were arrested for (that

resulted in them not receiving a DVPO) was reported. For ease of presentation this date will be

referred to as the non-DVPO date.

In its examination of the prior criminal history between the DVPO sample and the non-

DVPO sample, this research firstly considered the harm that could be established from the offence

for which the offenders in both samples were arrested. For ease of presentation this data will be

referred to as the presenting offence. This was important as this crime harm was a key matching

value that was used to create the non-DVPO group. If the matching process worked as anticipated

then the two groups should be exactly alike in terms of their presenting crime.

Crime Harm of Presenting Offence
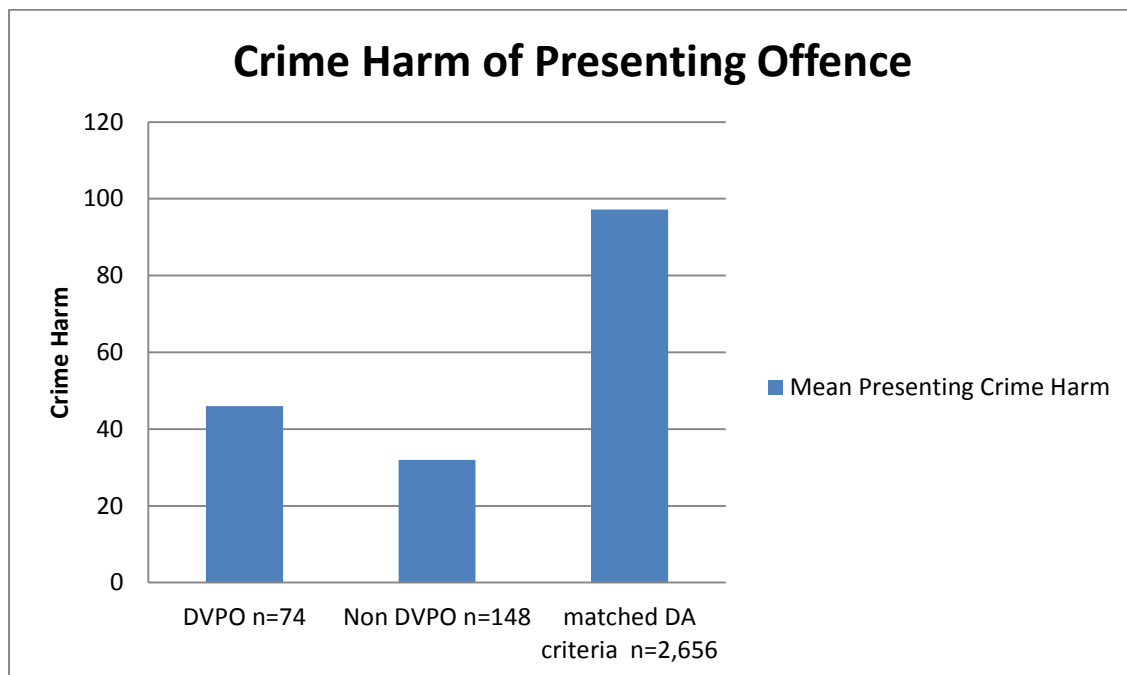
In the same way that this research used the Cambridge CHI (Sherman et al. 2014) in the matching process, the CHI was applied to the HO codes of the presenting crimes from both samples to establish if there was any difference in presenting harm. Figure 2 (above) demonstrates the mean crime harm of the presenting offence in both groups, in comparison to the crime harm of the matched domestic abuse (DA) criteria group. The presenting offence is the offence which resulted in an NFA and DVPO for the DVPO group or a NFA (and no DVPO) for the non-DVPO group. The results highlight the difference between the crime harm of the DVPO sample, when compared to the non-DVPO sample. An independent sample t-test confirms the difference is not statistically significant, (p=0.961) and the effect size is small, (d=0.062). Figure 2 (above) also clearly shows if the matching process had not been undertaken in this way, then the difference in the crime harm of the two groups would be even greater.

The analysis moved on to consider the volume of prior offences in the two groups and revealed that the offenders in DVPO sample had a mean of 4.040 prior arrests in the period leading

37

up to a DVPO being issued. The offenders in the matched non-DVPO sample had a mean of 1.972

prior arrests in the period leading up to the matched incident selected for this research. Figure 3

(below) shows the difference in the mean number of prior offences. Given the slight difference in

prior arrests, in comparison to the large difference in sample sizes, the data was further analysed

using an independent sample t-test. The analysis showed that the difference was statistically

significant (p=0.001) and the effect size was medium (d=0.522).

Figure 3: DVPO and non-DVPO sample mean prior arrests since 1ˢᵗ January 2012
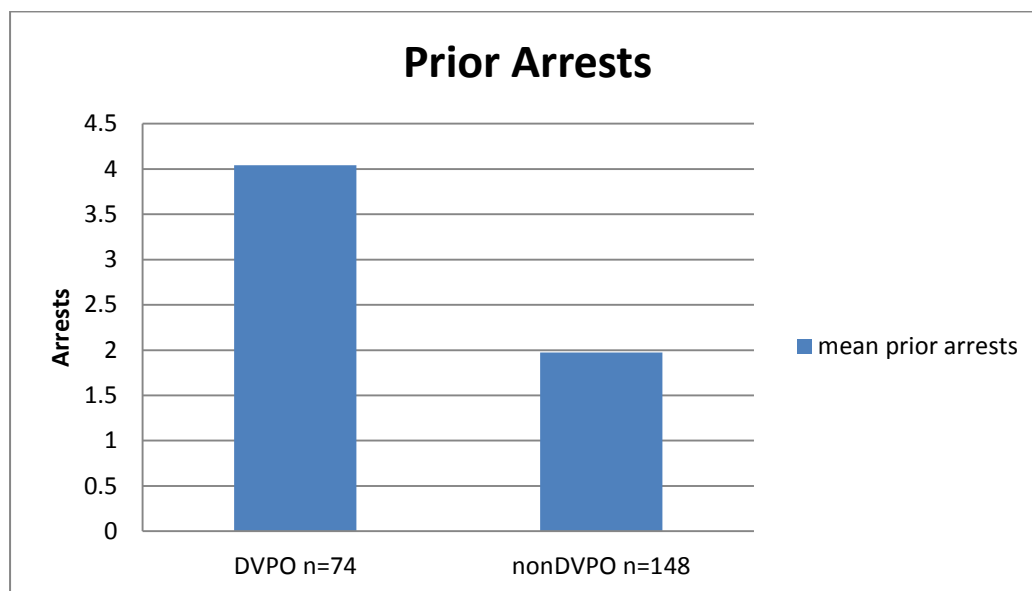
Given the statistical significance in the difference of the prior offending, the data was further

analysed to establish if there were the presence of the so called "Power Few" (Sherman, 2007), in

the samples (in particular the DVPO as they had the greater volume of prior offences), and whether

it is this group of prolific offenders are responsible for the majority of the prior offending. The

results can be seen in figure 4 (overleaf).

Figure 4: "Power Few" Offending within DVPO and non-DVPO sample
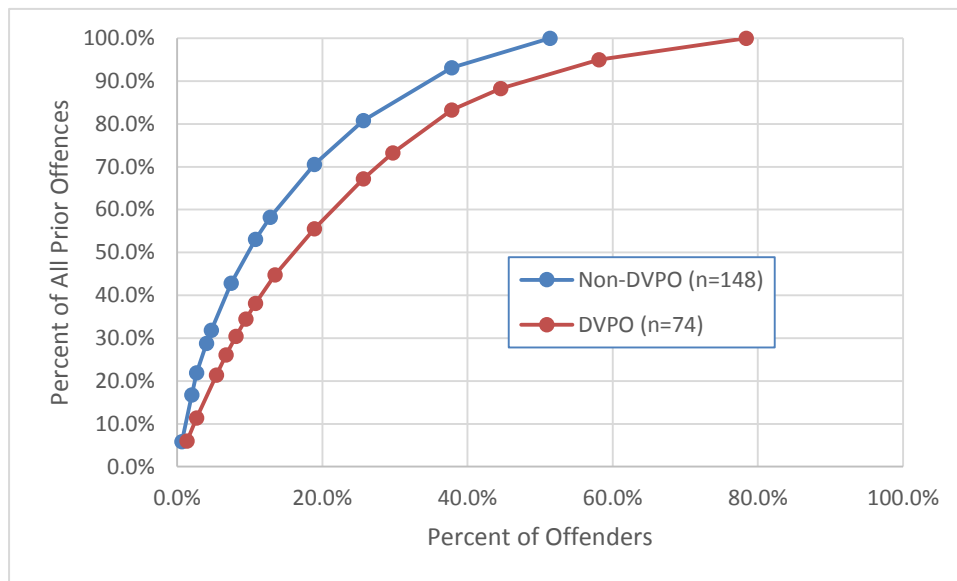
The Pareto analysis at figure 4 indicates the presence of a "Power Few" group of offenders (Sherman 2007); however these offenders can be found in both samples. As figure 4 shows, in the DVPO group 37.8% of the offenders committed 83% of the total prior offences. In the non-DVPO group 25.7% of the offenders committed 80% of the prior offences. This analysis also indicates that the offenders in the non-DVPO group had a slightly higher disproportionality in the distribution of their prior offences. Although the non-DVPO group committed far fewer prior offences more of these offences were accounted for by a smaller minority of the offenders than was true for the DVPO group.

On the opposite end of the spectrum to the "Power Few" offenders, the analysis also considered whether there was a difference in the number of offenders in either sample who had a complete absence of prior offending. In the DVPO sample 21.6% of the offenders had zero prior arrests (in Hertfordshire) from January 2012 to the date of their DVPO issuance. In the non-DVPO sample 48.6% of the offenders had zero priors. This analysis is captured in figure 5 (overleaf), which highlights the prevalence of offending between the two groups.
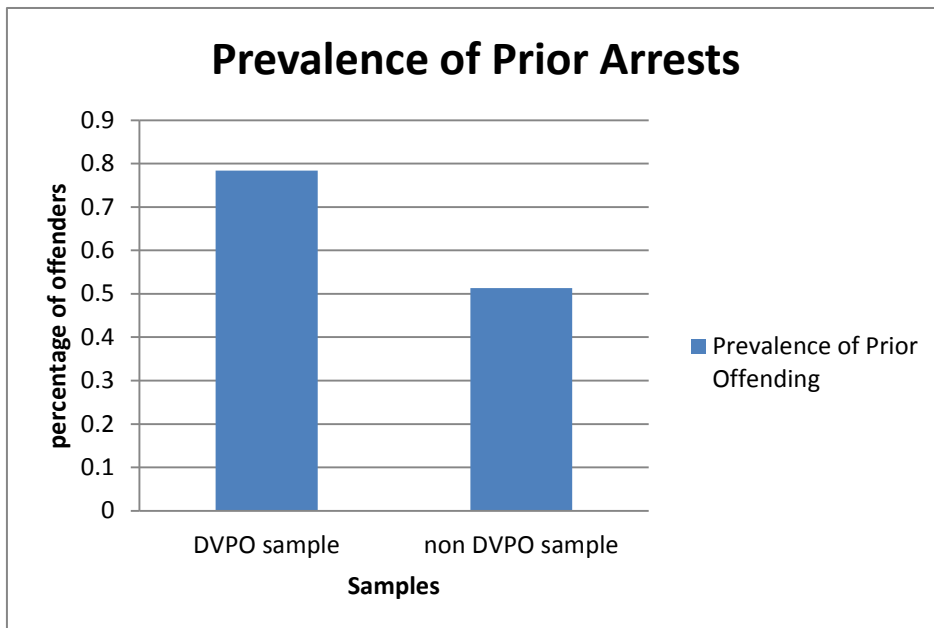
As expected, the DVPO sample with its higher mean number of prior offences has the higher prevalence of offending. The data was further analysed using an independent samples t-test. The analysis showed that the difference was statistically significant ($p < 0.0005$) and the effect size was medium (d=0.586).

In its consideration of prior criminal history, the research has so far focused on the volume of offending, to establish if there is a difference between the DVPO sample and the non-DVPO sample. However this focus is too narrow, as it fails to assess the impact of the prior offending and, in particular, how harmful that offending is. Once again, the research used the Cambridge CHI (Sherman et al. 2014) and applied it to the HO codes of all the prior crimes from both samples. (The presenting crime that had been subject of earlier analysis as demonstrated earlier at figure 2 was removed from this further analysis). Using the CHI in this way enabled a truer sense of the prior harm in both groups to be established, and the results can be seen in figure 6 (overleaf).
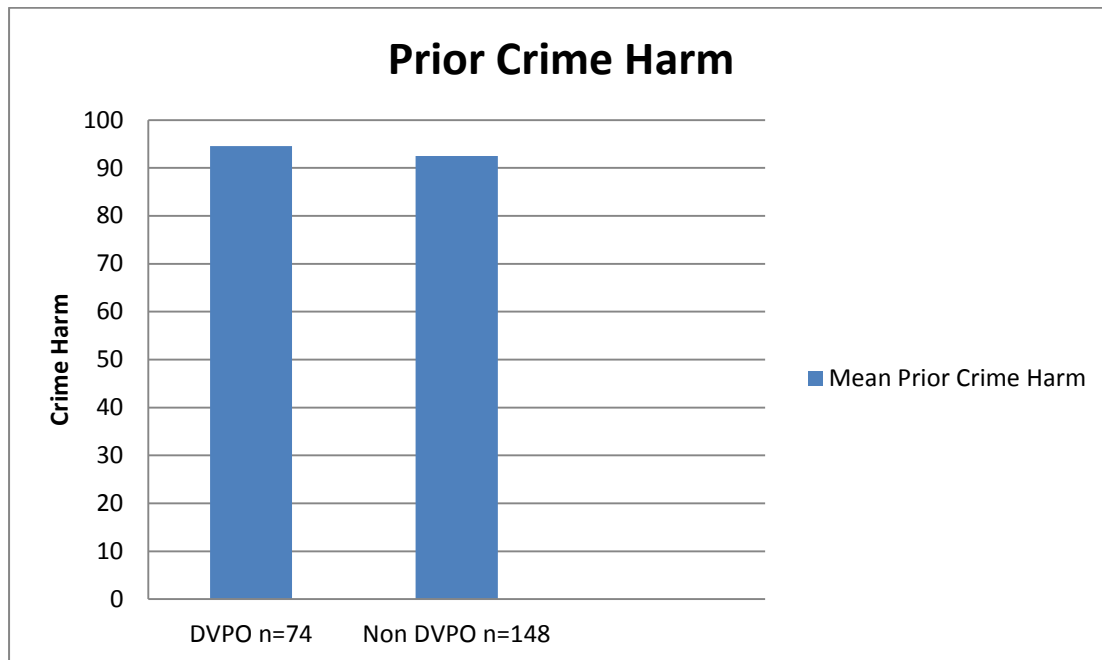
Figure 6 (above) highlights the difference in crime harm between the two samples. The offenders in the DVPO group have a difference of 2.12 (94.58 vs. 92.46) in their mean prior crime harm when compared to the non-DVPO sample. Once again, an independent sample t-test was carried out. In contrast to the previous findings found statistical significance between the two samples in priors, the sample t-test results on prior crime harm showed that the difference in mean prior harm between the two groups was not statistically significant (p=0.961) and the effect size was extremely small (d=0.006).

In its attempt to answer the research Question 2, regarding prior history, the results thus far have shown a statistically significant difference in the mean number of prior offences between the two samples, yet no significant difference in the crime harm. So, whilst a greater volume of offences were being committed by the DVPO group (when compared to the non-DVPO group), an examination of the crime harm of that group indicates they were no more harmful. This research has also identified the presence of a "Power Few" group of offenders in both groups (figure 3). The

two groups looked somewhat similar to one another before and up to the moment when the DVPO decision was made. However, in order to fully address the research question regarding the difference in prior criminal history, a further examination of the crime harm of the samples in comparison to one another was undertaken and the results can be seen in figure 7 (below).

Figure 7: DVPO and non-DVPO sample pre Incident Crime Harm
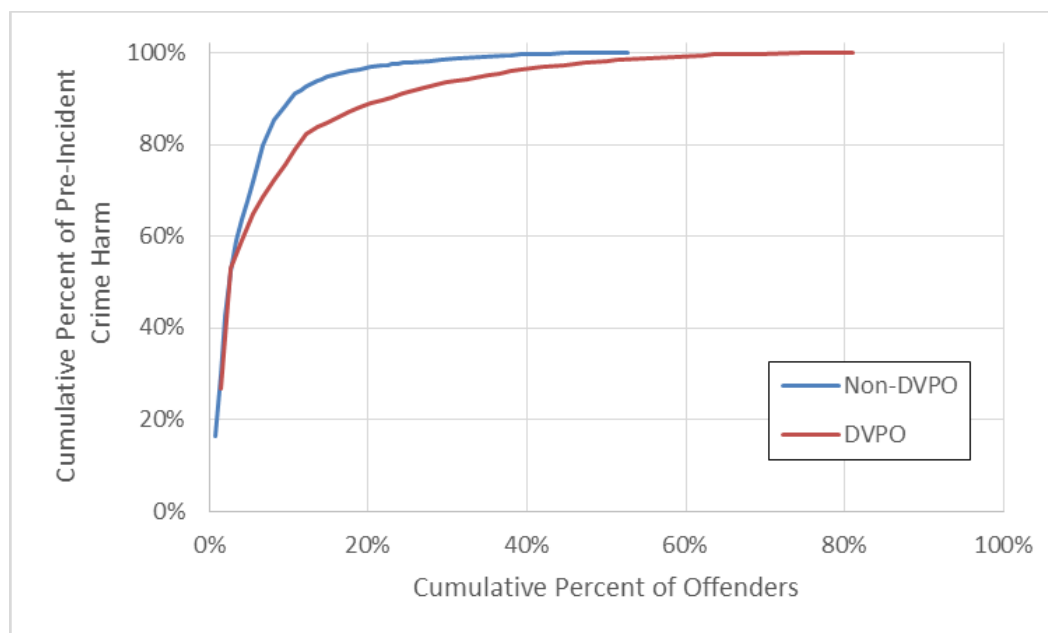
The analysis at figure 7 shows both curves lying in close proximity to one another and they both show as expected the "Power Few" distribution. In the DVPO sample 20% of its offenders were responsible for 89.6% of the crime. In the non-DVPO sample 20% of its offenders were responsible for 96.9% of its crime harm. This analysis indicates once again that the non-DVPO group had slightly higher disproportionality in the distribution of their prior crime harm. Although the non-DVPO were shown sample to be less harmful prior to the non-DVPO date, a greater proportion of harm was attributable to a smaller minority of the offenders than was true for the DVPO group.

So far the analysis has demonstrated that the offenders in the DVPO sample have a greater number of prior arrests when compared to the matched non- DVPO sample. The findings also indicate that both the DVPO and the non-DVPO sample have, within them, the presence of "Power Few" offenders in both prior offence count and prior crime harm. However, through the application of several independent sample t-tests, the results have shown that it was only the difference in prior offence count that was statistically significant at the (0.05) level.

Through an application of the Cambridge CHI and further independent sample t-tests, the difference of harm in the prior criminal history and the presenting crime of both samples have also been analysed. The results show, the difference, is not statistically significant. The remainder of the results in this chapter will address Question 3, and look at what happens after a DVPO is issued, specifically is there a difference in terms of prevalence, frequency and harm, and is that difference is significant?

Post DVPO Reoffending

The data collection to establish if there was a difference between the two groups in the prevalence, frequency and harm of domestic abuse was secured by capturing the post-incident reoffending. The starting point for the post criminal history collection was the first day after the DVPO incident (in the majority of cases this was the day after the DVPN was issued). The end point of the data collection was 1st August 2016. These time parameters allowed a lengthy follow up period for those DVPOs secured at the start of the implementation. For example the first DVPOs (from the summer of 2014) will have had 25 months of follow-up period. Those that occurred more recently, however, would only secure a few months of data. It would have been preferable to have had a rolling follow up period that was exactly the same length for every case, such as 12 months. This is important, as a number of studies on the effectiveness of protection orders are critical of shorter follow up periods (Ko 2002). However in the case of this research, that would

not have worked, as not only was the sample size small, but it would have been reduced even

further if the research only concerned itself with those cases that could provide a full 12 month

follow up period. Therefore steps were taken to minimise the impact of having a different follow-

up period for each case, i.e. matching only with non-DVPO cases which were reported within +/-

seven days of the DVPO report date, so that the matched cases have nearly identical amount of

follow up time.

It is important to note, as discussed in the limitations in the methodology that the re-

offending in both the DVPO sample and the non-DVPO sample is evidence of further criminal

activity generally. The criminal activity measures reported here do not necessarily stem from

domestic abuse arrest or an arrest involving the same victim. However, during the application of

the CHI to the re offending crimes, repetitions of the same and applied to crime types most

commonly associated with domestic abuse (e.g. simple assault and actual bodily harm), suggesting

repeat domestic abuse offending (notwithstanding it may not be the same victim).

Prevalence

The analysis at figure 8 (overleaf) revealed that 41 (55.4%) of the offenders in the DVPO

group were rearrested (following the DVPO issuance) for new offences that occurred within the

post-DVPO time frame of this research period. The analysis further revealed that 57 offenders

(38.5%) in the non-DVPO group were rearrested during the research period. How the difference in

the mean reoffending in the two samples during the post DVPO period compares to one another is

seen overleaf.
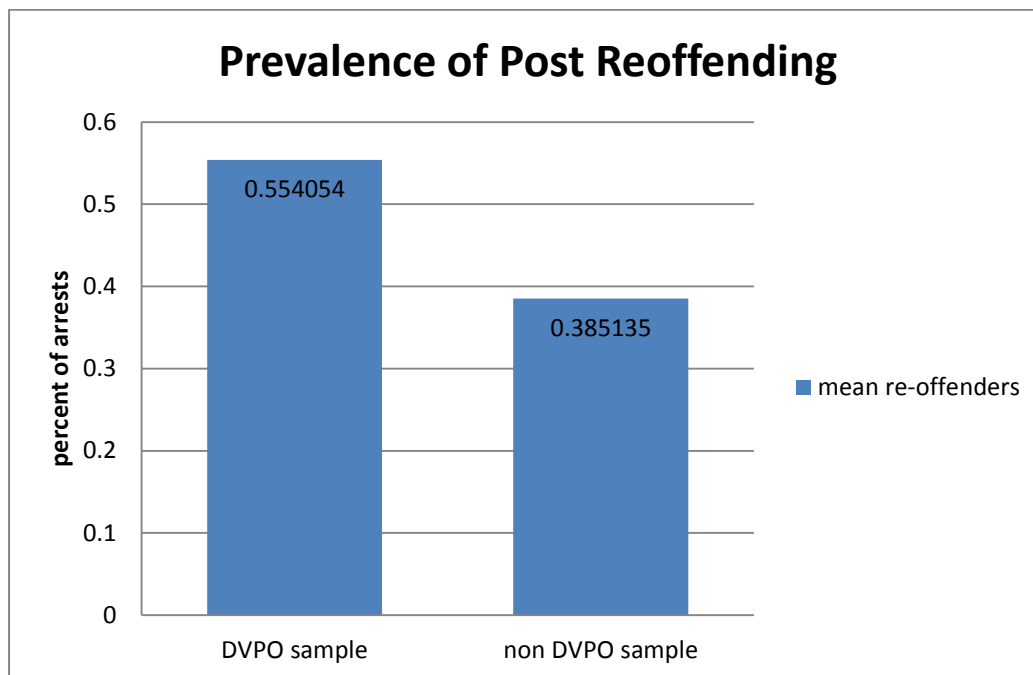
An independent sample t-test shows that the difference in the mean prevalence in the two samples is statistically significant (p=0.031) and the effect size is small (d=0.309). It is important to note, however, that the observed difference was in the opposite direction from what would be expected if DVPOs successfully reduced offending. DVPO offenders were significantly more likely to reoffend during their post-DVPO period than were members of the matched comparison group.

Frequency

Having established that there were more offenders arrested in the DVPO sample when compared to the offenders in the matched non-DVPO sample, a difference that is statistically significant, this section of the results will now consider the frequency of re offending. It will establish if there is a difference in how often the offenders from the two samples were arrested post DVPO issuance or matched non-DVPO incident and if there is a difference is it statistically significant.

The difference in the mean reoffending in the two samples compared to one another is seen in figure 9 (below).

Figure 9: Frequency of Post Reoffending
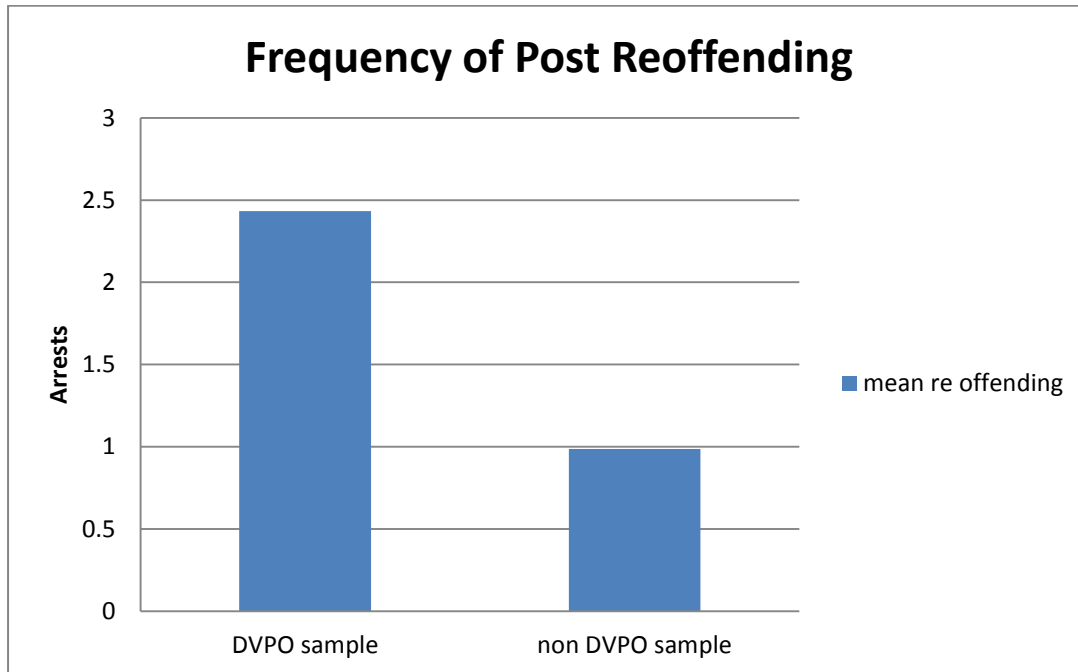
One can see in the above chart that, once again, the offenders within the DVPO sample are the most criminally active. Not only do they show greater prevalence for re-offending (figure 8), but as the analysis at figure 9 demonstrates, they were arrested more often than the offenders in non-DVPO sample. The analysis above shows a substantial difference in mean re offending in the two groups. An independent sample t-test confirmed that the difference was statistically significance (p= 0.002) and the effect size was medium (d=0.485).

Research question 3 sought to establish if there was an association between the issuance of a DVPO and a difference in the prevalence, frequency and harm of the DVPO sample when compared to the non-DVPO sample. The hypothesis being that those with the DVPO should experience a reduction in re-offending. The analysis undertaken thus far has explored the

prevalence and frequency. It just remains for any difference in the crime harm from the re-offending in both samples to be established. This will now be considered in the final part of this chapter.

Crime Harm

This research utilized the Cambridge CHI (Sherman et al. 2014) in the production of the matched non-DVPO sample, and in the evaluation of the prior history and presenting crime of both the DVPO and non-DVPO sample. The analysis indicated there was a difference in harm in both the prior history and the presenting crime, and indicated that the DVPO group was the most harmful, however statistical tests confirmed that the difference was not statistically significant at the (0.05) level. How these results compare with measurement of harm in the post reoffending of both samples can be seen in figure 10 (below).

Figure 10: Crime Harm Comparison
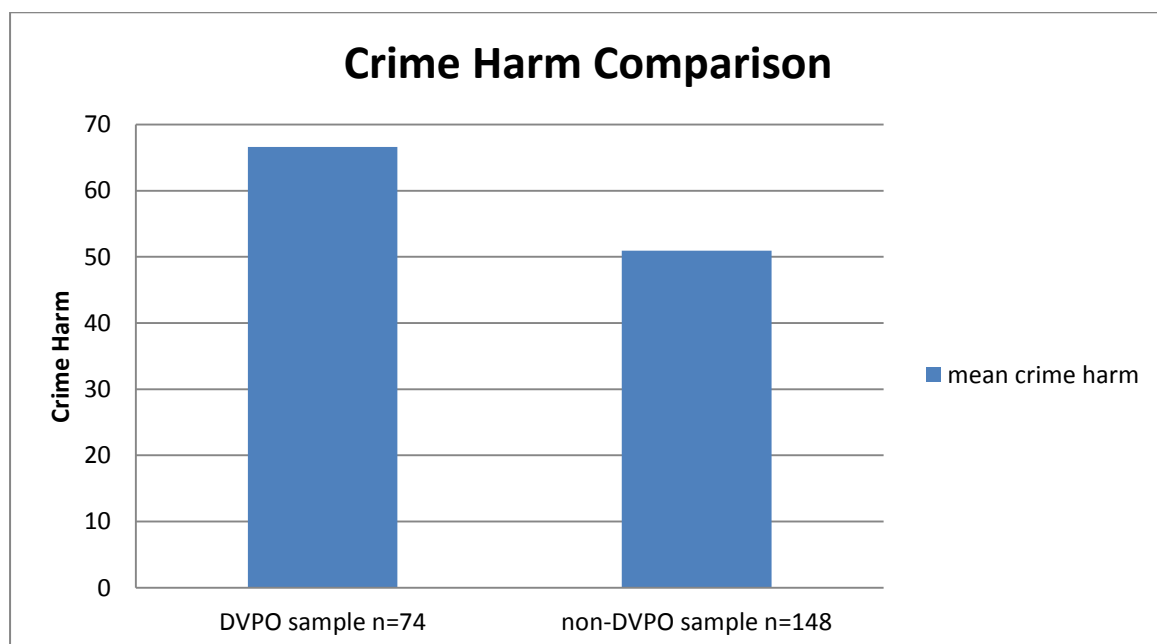
Once again the results indicated there was a difference in crime harm and that the DVPO sample had greater harm. Once again an independent sample t-test confirmed that the difference

was not statistically significant (p= 0.665) and the effect size was medium (d=0.613). Therefore while the DVPO offenders were more likely to offend, and commit significantly more offences than the non-DVPO offenders; there was no reliable difference in their levels of post-DVPO crime harm.

However, in order to fully address the research question regarding the difference in crime harm following the issuance of a DVPO, a further examination of the crime harm of the samples in comparison to one another was undertaken and the results can be seen in figure 11 (below).   In the DVPO sample 20% of its offenders were responsible for 93.7% of the crime. In the non-DVPO sample 20% of its offenders were responsible for 99.1% of its crime harm. This analysis indicates once again that the non-DVPO group had slightly higher disproportionality in the distribution of their prior crime harm. Although the non-DVPO sample had less harm overall, a greater proportion of harm was attributable to a smaller minority of the non–DVPO offenders than was true for the DVPO group.

Figure 11: DVPO and non-DVPO sample post Incident Crime Harm
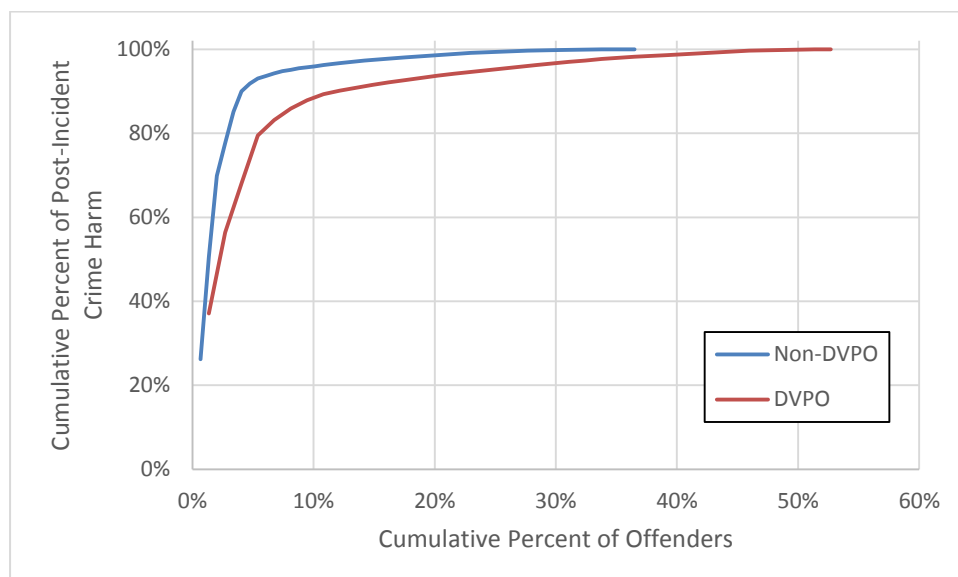
Summary

It was hypothesized within this research that the national DVPN/DVPO policy was not being implemented appropriately in the Hertfordshire Constabulary. A thorough examination of the DVPOs secured, particularly the circumstances in which those DVPOs were obtained (in comparison to national guidance), show some support for this hypothesis. This research had a further hypothesis, namely that a domestic abuse offender's prior criminal history influenced the issuance of a DVPO. Through the application of several independent sample t-tests, the findings revealed that the offenders in the DVPO sample had a greater number of prior arrests than the offenders in the non-DVPO sample, a difference that is statistically significant at the (0.05) level.

However, the differences in terms of the amount of prior and presenting harm that were highlighted between the DVPO sample and the non-DVPO sample were found not to be statistically significant. Nor were there any noticeable differences in the number of "Power Few" offenders that were present in both groups, (albeit the non-DVPO had marginally higher disproportionality in the distribution of their prior offences).

The final focus of this study was to establish if there was association between the issuance of DVPOs and the prevalence, frequency and harm of domestic abuse. The analysis indicated that not only were more offenders from the DVPO group arrested than in the non-DVPO group, post DVPO issuance or non-DVPO date, but they were arrested more often. The application of several independent t- tests established that these differences were both statistically significant. The application of the Cambridge CHI (Sherman et al. 2014) was used to measure the crime harm of both samples post DVPO issuance and non-DVPO date incident, and it indicated that the DVPO sample were more harmful than the offenders in the non-DVPO group. However statistical tests once again indicated that the difference in crime harm was not statistically significant.

The results and analysis suggest that in Hertfordshire, DVPOs are not being used as national guidance intended (Kelly et al. 2013). In fact, the findings indicate that they were in the aggregate 'reserved for' those offenders who present with a more severe criminal history, with severity being measured by the volume of prior offending and not how harmful the offending was. Given the DVPO sample had greater prior offending than the non-DVPO sample, then one would expect that the offending would continue into the future. These results indicated that the re-offending continued raising questions around the deterrent effect of DVPOs. As discussed in the literature review previously, this research sought to establish if the DVPO is an example of a "Sword of Damocles" (Sherman 2011). The results on prevalence and frequency from the DVPO sample would indicate that it is not. This judgement however is premature, and any conclusion on the impact of DVPOs or any of the research questions, should only be reached once these results are understood in the wider context of what is known about protection orders. For this one should now move to the discussion section in the next chapter.

Chapter 5 – Discussion

Summary of Findings

This work sought to gain an understanding of the journey taken across Hertfordshire Constabulary to secure a DVPO through its analysis of the following research questions:

1. **Is the National DVPN/DVPO policy being implemented appropriately for Hertfordshire's domestic abuse cases?**

2. **Do offenders in cases in which a DVPO has been issued have a different prior criminal history, when compared to a sample of similar cases in which a DVPO has not been issued?**

3. **Is there an association between the issuance of a DVPO and a subsequent difference in the prevalence, frequency and harm of domestic abuse, when compared to a sample of similar cases in which a DVPO has not been issued?**

This knowledge would provide evidence to support the view of the HO that "DVPNs/DVPOs fill a gap in protecting victim-survivors of domestic violence" (Kelly et al. 2013 p.55) and increase Hertfordshire's confidence in the positive impact of DVPOs. Or it would provide further evidence that protection orders do not, in fact, protect, reinforcing the perception they are a 'soft' approach in stopping violence (Finn 1989), and are nothing more than a "piece of paper" (Logan et al. 2006).

The results and accompanying analysis indicate that Hertfordshire has failed to implement the National DVPN/DVPO policy appropriately. The evidence for this finding can be seen in the relatively small numbers and in specific circumstances of the domestic abuse cases that the Constabulary applied for DVPOs for. The results have also demonstrated that, offenders from the DVPO cases in Hertfordshire do have a statistically significant greater mean number of prior arrests when compared to a sample of similar non DVPO cases. However following the application of the

CHI, the differences in the two groups, in terms of how harmful their prior offending was, was found not to be statistically significant. This result suggests that DVPOs are being used for those who present with a more severe criminal history.

But what was the impact of the DVPOs in Hertfordshire? The original hypothesis also proposed that the issuance of the DVPO would provide a reduction in prevalence, frequency and harm of offending when compared to a similar group who had not received a DVPO. Findings in this research indicated that there were statistically significant differences in the prevalence and frequency of reoffending. But the balance of reoffending was not in the sample that one would anticipate there would be, if the theories regarding deterrence and desistence were in play. Not only were more offenders from the DVPO sample arrested post DVPO issuance, but they were arrested more often when compared to offenders from the non-DVPO group. Following an application of the CHI, the analysis failed to identify any significant difference in harm between the two groups following the DVPO issuance.

Detailed Review of the Results

The starting point for this research was the hypothesis that the DVPO legislation was not being adequately implemented in Hertfordshire. The rationale for that was the low numbers of their use. Even before the data cleanse to produce the DVPO sample was undertaken, Hertfordshire had only recorded 112 cases over the course of the 25 month research period. While this research focused on a more narrow DVPO sample (n=74), if one compared the total pre cleansed sample (n=112) with the numbers of DVPOs secured from the pilot sites over 15 months, Hertfordshire Constabulary would still only have a mean monthly use of DVPOs of 3.8 per 1m of population. This is compared the monthly mean use of 5.5, 14.2, and 2.0 per 1m population undertaken by the police forces of Greater Manchester, Wiltshire and West Mercia respectively.

It is difficult to ascertain how this DVPO use compares nationally, when one considers the figures of DVPOs reported in the HO one year DVPO assessment (HO 2015). For this publication, the individual numbers of DVPNs and DVPOs secured by each force since their individual adoption of the DVPO legislation was published. The data return did not include any supporting information on the orders other than the numbers secured (HO 2015). If one discounts data from Hertfordshire and the pilot sites, that already been discussed in this research, the combined number of DVPOs secured by 40 police force areas between 8th March 2014 and 31st December 2014, was 1,549 (HO 2015). Any attempt to produce a national mean monthly use of the DVPO for comparison in this research is futile, given the variances in both population sizes and the implementation dates. However if one considers that the matching exercise to produce the non-DVPO sample for Hertfordshire identified 2,656 matched cases which could have employed DVPOs, the national figure of 1,549 is low by comparison.

The research into Hertfordshire benefited from the development of a methodology that employed a rigorous matching technique to ensure that the two groups had similar levels of crime harm at the time of the presenting domestic abuse offence. This sample identification process produced 2,656 cases, which were all cases that potentially could have received a DVPO. However, Hertfordshire Constabulary applied for DVPOs in just 74 (2.7%) of those matched cases. As discussed in the methodology chapter, although the research started with a DVPO sample of 112, 24 of the 112 cases (although compliant with the DVPO policy) were removed to improve the homogeneity of the DVPO sample. Putting these legitimate applications to one side, a further 14 cases were identified and removed from the sample as they either contained errors or they had been applied for in inappropriate circumstances. The removal of the 14 cases out of the initial 112 cases, points to a 12.5% cases loss and highlights the fact that Hertfordshire Constabulary incorrectly applied the DVPO legislation in a staggering one out of every eight DVPOs. This finding

lends support to the hypothesis regarding Hertfordshire's inappropriate use of the DVPN/DVPO

policy and suggests the Constabulary has a lack of understanding of the DVPO process.

The most likely scenario that the HO envisaged a DVPN/DVPO would be used were

"circumstances where the police deem that there are no enforceable restrictions that can be

placed upon a perpetrator" (Kelly 2013 p.10). Again, if one reflects on the cases that were

specifically referenced in the methodology (e.g. the charge and caution cases), one can find further

evidence to support the suggestion that Hertfordshire Constabulary are misinterpreting the policy.

If one considers the charge case, the enforceable restrictions should have come from bail

conditions not a DVPO, as they provide a greater penalty for breaching. In the four cases that

received cautions along with a DVPO, given the stance of the CPS regarding cautions being

inappropriate for all but a minority of domestic abuse cases, the cases within Hertfordshire should

never have been cautioned. The cases that received a charge or a caution in conjunction with a

DVPO have received duplicated efforts. This 'double hatting' further evidences an inappropriate

use of DVPOs and, interestingly, was a feature of the HO evaluation that found in the pilot forces

there were "inconsistencies in individuals' understanding or application of processes" (Kelly et al.

2013 p.42).

Prior Offending

In response to Research Question 2, the analysis and findings demonstrated that the

offenders in the DVPO sample had almost double the number of prior arrests than the non DVPO

sample, a difference that was statistically significant at the (0.05) level. It echoes some of the

earlier findings regarding the effectiveness of protection orders. For example Klein (1996) in a

study of (n=663) restraining order cases, found those offenders with prior active criminal histories

were re-arrested more, than those with less active histories. The findings suggest, DVPOs in

Hertfordshire are in the aggregate 'reserved for' those who present with a more severe criminal history.

But when one considers severe criminal prior history it is important to note the difference between count of prior arrests and the severity of prior harm. As discussed previously, Sherman et al. (2014) challenged the notion that a single count of crime was a strong measure of harm, as it was misleading because all crimes are not equal, preferring to multiply the number of days of imprisonment. In this research, the application of the CHI to the HO codes of the crimes of both samples confirmed the DVPO sample and the non-DVPO sample had marginally different amounts of crime harm. However, the statistical analysis revealed that the difference in prior crime harm between the two samples was not statistically significant. This is interesting as Strand (2012) and Ko (2002) who, although ten years apart in their review of studies on protection orders, found that protection orders were predominantly given in the highest risk cases. This can be contrasted with Hertfordshire as the findings of the data for Hertfordshire indicate there is no significant difference in the harm of the two groups.

If, as demonstrated in the analysis, offenders in the DVPO sample had been subject of more prior arrests than the non-DVPO sample, yet were no more harmful than those in the non-DVPO sample, it was essential that this research explored whether within the DVPO group there were a group of offenders that were the most prolific and harmful, i.e. a "Power Few" (Sherman 2007) and if so what their impact was. The analysis successfully established the presence of a "Power Few" in both groups and interestingly the "Power Few" in the non-DVPO had marginally higher disproportionality of the distribution of their prior offences. The overall pattern of a small number of offenders accounting for the majority of all offending, however, was plainly apparent in both groups.

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Prevalence, Frequency & Harm

The final part of the research sought to answer Question 3, and establish if there was an association between the issuance of a DVPO and subsequent reoffending with a comparison of the post-DVPO prevalence, frequency and harm of the two samples. The analysis considered the percentage of offenders that were rearrested during the research period and revealed that in the DVPO group, 41 offenders (55.4%) were rearrested (following the DVPO issuance) for any new offences (including non-domestic crimes) that occurred within the entire time frame of this research period. A total of 57 offenders (38.5%) from the non-DVPO group were also rearrested during the research period. This difference in prevalence of reoffending was statistically significant, and echoes the re victimization rate of 40-60% that was found in most of the US (Benitez et al. 2010) and Europe (Strand 2012) studies on protection orders.

Given that the offenders from the DVPO sample can be subject of up to five prohibitions that restriction their behaviour:

- Non molestation of the victim-survivor;

- Preventing the perpetrator from evicting/excluding the victim survivor from the premises;

- Restricting the perpetrator from a premises;

- Requiring the perpetrator to leave a premises;

- Preventing the perpetrator from coming within a set distance of the victim-survivor (i.e. non-contact) Home Office (2013).

It is important to revisit what is known about the discourse on desistence, deterrence and defiance theory, and discuss the impact of the prohibitions on reoffending. This understanding might then offer an explanation for the DVPO offenders apparent disregard for the law and their consequent reoffending.

As discussed in the literature review, this research set out to explore whether the DVPO was an example of what Sampson and Laub (2003) defined as a 'turning point' that was pivotal in the desistence process. The HO evaluation found that, in the pilot forces, DVPOs were associated with 1.0 fewer arrests (Kelly et al. 2013). The analyses of Hertfordshire's data revealed the offenders within DVPO group were arrested more post DVPO issuance and more often, than the non-DVPO group, differences that were statistically significant at the (0.05 level). This finding may be in the opposite direction than the Constabulary would have wanted but the DVPO group had a higher prevalence in the prior period and it would be expected they would have a higher prevalence in the post period. This supports the hypothesis that there is an association between the issuance of DVPO and the prevalence of post-DVPO abuse. This finding also supports the work of Benitez et al. who noted that "available research supports the conclusion that there is a substantial chance that a protection order will be violated and the risk is greatest soon after its initiation" (2010 p.384).

The findings from academics such as Benitez et al. (2010) oppose the views of the academics who argue that the threat of punishment or "Sword of Damocles" hangs over an offenders head (Sherman 2011) and acts as a deterrent for reoffending. This research into Hertfordshire was keen to explore whether there was an association between the issuance of the DVPO and reoffending. Were the threat of punishment to be a major factor in reducing reoffending, then one would expect to see significantly more reoffending in the non-DVPO sample, which as demonstrated in the results, there was not. It is however worth remembering that any comparison of protection order violation rates is difficult given the differences in how revictimisation is measured. For Hertfordshire there was an added complexity given the data extraction issues. This meant Hertfordshire's non-domestic crime data was included in the post-DVPO offence data and it is unclear how this has affected the records of the amount of reoffending.

If one was to disregard the prevalence and frequency re offending as indicators of the impact of the DVPO, then an alternative measure that could be focused on to indicate the effect, would be a noticeable reduction or increase in harm following the DVPO issuance. However, as previously indicated in the results chapter, the difference in crime harm between the two samples post DVPO issuance was found not to be statistically significant. Any conclusion on the impact of the DVPO on harm in Hertfordshire at least cannot be ascertained.

This research has highlighted statistically significant differences between the DVPO sample and the non-DVPO sample in the prior criminal history and the prevalence and frequency of domestic abuse, which was captured by post-incident reoffending. Explanations as to why that might be can be drawn by a further re visit to the criminological theories on deterrence, defiance and desistence, first discussed in the literature review. Both Braithwaite's (1989) stigmatic shaming theory and Farringdon's (2005) labelling theory support the view that a punishment that sets an offender apart by labelling them as something different, invariably something bad, can have a negative stigmatizing effect. Other academics, such as McNeill (2013), were keen to point out that most people stop offending at some time, and drew attention to the concept of assisted deterrence. Could the introduction of the DVPO be interpreted as shameful and/or does it have a labelling effect on the domestic abuse offender?

As discussed in the Introduction, this research reported that the DVPOs had up to five restrictions that could be attached to the offender the order was issued against. The DVPOs could be viewed as a punitive measure, which could include an element of labelling, as to be labelled a domestic abuse offender would come with a considerable degree of social stigma. We also already know from discussion in the literature review that the potential effect of this labelling is further law breaking. If we concur with Braithwaite's (1989) and/or Farringdon's (2005) theories, then the continued reoffending post DVPO issuance in Hertfordshire, evidences the negative impact of a

protection order. If this view were to be accepted in relation to Hertfordshire's DVPO data then one would expect to see a continued re-offending post DVPO issuance, which this research indicates there was. However Sherman (1998) is quick to point out there is insufficient data to support this in its entirety.

An alternative explanation for this reoffending can be found from Sherman himself in the aptly entitled 'defiance' theory which is described as the "net increase in the prevalence, incidence, or seriousness of future offending against a sanctioning community caused by a proud, shameless reaction to the administration of a criminal sanction"(Sherman 1993 p.459). With this theory, Sherman (1993) presupposed there were several reactions to perceived unfair punishment. They were irrelevance or possible deterrence or a possible increase in offending as the offender shows a disregard for the law (1993). One could argue that this could also apply to the offenders who are subject of the DVPO, especially when one considers that they are largely issued following a decision to NFA an offender. The decision not to bring a prosecution against a subject is likely to be as a result of insufficient evidence which invariably includes a lack of admission from the subject. If a domestic abuse offender fails to admit the domestic abuse offence for which they are arrested it is highly unlikely that they will go on to agree to adhere to the conditions of the DVPO. However the findings from Hertfordshire's data alone are not enough to support the presence of this theory in the DVPO offenders.

Study Limitations

This research promised an objective approach to measure the impact of DVPOs from the levels of reoffending in post DVPO issuance or matched incident. However the analysis and results were hampered by the flaws in Hertfordshire's domestic abuse data recording system, which resulted in a number of cases being incorrectly flagged as domestic abuse and vice versa. As a result, unlike the majority of previous studies on protection orders, data on prior and post

offending could not be separated into pure domestic abuse and non-domestic abuse cases. As a compromise this study chose to look at how harmful those arrested for domestic abuse had been and continued to be regardless of crime type.

In this research offending post DVPO issuance was used to measure the efficacy of the DVPO. This method fails to take into account extraneous variables that might influence the results, for example the offender could have continued to reoffend, but be arrested outside of Hertfordshire's jurisdiction. The research also suffers from a short follow up time (as some offenders would only have received a DVPO towards the end of the research period). As such the analysis fails to capture whether this is a genuine reduction or a change in the pattern of offending (i.e., are victims continuing to be abused but are they now failing to call police). Conversely offenders could have moved on to other victims as we know victims won't often call the police incidents could have been reported to other third party reporting centres or national helplines.

This research was innovative in its use of the Cambridge Crime Harm index (Sherman 2007; Sherman et al. 2014) to produce the non-DVPO sample. The development of the matching protocol was difficult, but it was useful as it equalized the severity of the presenting offence and consequently this match may also have been crucial in equalizing the prior crime-harm between the two groups. It was however limiting as it wasn't enough to form a solid match to controls for all of the prior offending. Hertfordshire's results indicated the DVPO group had statistically significant higher values in prevalence and frequency of prior offending, a finding that was experienced in the HO pilot evaluation and resulted in them adapting their methodology (Kelly et al. 2013). The similarities between the HO's identification of higher prior offending in the DVPO group and Hertfordshire's identification suggests that Hertfordshire's matching may not have been good enough, and an alternative method for matching two groups should have be considered. One suggestion is Propensity Score Matching (PSM). PSM can be effectively used to estimate the causal

effect of a treatment providing it has reliable data entry and large sample sizes. However the numbers of DVPOs that Hertfordshire have secured coupled with the previously highlighted data issues make PSM an unlikely alternative.

Concluding Discussion Comments

This research into Hertfordshire DVPO cases has revealed that DVPOs are not firmly embedded into organisational practice. The analysis has also revealed there is no systematic reason why DVPOs were used in certain cases and not others. The relatively small sample size of the two groups means there is a possibility of a type II error and a matching process can never eliminate all the many differences between those who get and those who do not get DVPO. It is therefore recommended that further research is undertaken but the research is undertaken by conducting a RCT. Under a RCT identified suitable cases would be randomly allocated to either a control group (who are arrested then NFA'd) or a treatment group (who are arrested then NFA'd and DVPO issued). Whilst this may present a moral dilemma in relation to who received the order it would improve the causal inference of the protection order (Ko 2002).

It would be useful for the RCT to include a mixed methods approach that captures qualitative and quantitative elements, specifically the views of victim-survivors, perpetrators and practitioners. Not only would this allow better understanding the association of the DVPOs and their impact on prevalence, frequency and harm, but follow up surveys and questionnaires could measure victim satisfaction. This is important as the psychological benefits provided by the order (albeit temporarily in some cases) should not be underestimated (Ko 2002). Domestic abuse victims' efficacy and beliefs on the impact of DVPOs was not considered in this research into Hertfordshire's data, however it is still interesting and it is something that should be considered in future studies.

This research focused solely on an examination of quantitative data as a result it is not known what motivated the selection of the DVPOs. Going forward, it is also recommended that a flagging system is introduced to ensure DVPOs are considered in all eligible cases. Moreover the Constabulary should replace the current DVPO recording system with a tracking system that monitors not just introduction of the DVPO, but the life of the order. There is also a need for further training/guidance for staff to encourage the use and standardise the quality of applications.

As highlighted previously the DVPO allows for up to five different possible prohibitions designed to keep victims safe. This means that there are 31 possible combinations of prohibitions that could be applied to an order. It is possible that some of these prohibitions may be stronger and more effectual than others. This research has not considered what the effective combinations are, but the results are important as they could have direct operational benefit as certain prohibitions could be applied to offenders based on their impact. However to establish the impact of the possible combination there would need to be a large number of cases. The final recommendation in this research is the further research in DVPOs that has already been suggested to be conducted, should be undertaken using data from larger forces that use DVPOs more extensively to allow for the specific area regarding prohibitions to be explored.

Chapter 6 – Conclusion

This research set out to understand the journey taken to secure a DVPO in Hertfordshire, and to better comprehend the efficacy of protection orders as a domestic abuse crime reduction tool. The literature review has demonstrated that, although much has been written on the effectiveness of protection orders generally, there is a lack of discourse on the effectiveness of DVPN/DVPOs in a UK legal context. This is not a surprise, given that the DVPN/DVPO legislation was first piloted in 2011/2012. This research can therefore only add value to an under-evaluated area in need of much further analysis.

This research benefited from the inclusion of a matched control group for comparison, which was feature that has been lacking in a number of other reviews of protection orders (Ko 2002). More importantly, this work pioneered the use of Cambridge Crime Harm Index (Sherman 2007; Sherman et al. 2014) as both a means of identifying the matched control cases and a measurement of the impact of harm. This research can only add even more to the debate regarding protection orders (specifically DVPNs/DVPOs) ability to protect.

This work comprised a retrospective and prospective study that was built around the analysis of a sample of domestic abuse cases that received a DVPO (n=74), in comparison to a sample of similar matched cases (n=148), to address three research questions. The analysis and results demonstrate that Hertfordshire Constabulary have been slow to fully embrace the DVPN/DVPO legislation. This was reflected in the extremely low numbers of DVPOs that were secured over the length of the research period, particularly when one considers the numbers of potential matched domestic abuse cases that were eligible for a DVPO at the same time. There is also support for the hypothesis that the DVPN/DVPO legislation has been inappropriately used in Hertfordshire. This became apparent when a DVPO data cleanse was undertaken. This data cleanse highlighted a plethora of recording errors, which suggested that, in at least 12.5% of Hertfordshire's DVPO cases,

an application should not have been made. When national guidance was taken into consideration (Kelly et al. 2013; CPS 2016), Hertfordshire were found to have used DVPOs incorrectly in one out of eight occasions. Given the small numbers of DVPOs that Hertfordshire had obtained, this represented a considerable error rate.

Research Question 2 sought to address the hypothesis that an offender's prior criminal history influenced the issuance of a DVPO. The analysis has demonstrated that the offenders in the DVPO sample have a greater number of prior arrests when compared to the matched non-DVPO sample. The findings also indicate that both the DVPO and the non-DVPO sample have, within them, the presence of "Power Few" offenders (Sherman 2007) in both prior offence count and prior crime harm (albeit the ones in the non DVPO sample had marginally higher disproportionality in the distribution of their prior offences). However, through the application of several independent sample t-tests, the results have shown that it is only the difference in prior offence count that is statistically significant at the (0.05) level.

These findings on prior harm suggest that DVPOs in Hertfordshire are in the aggregate 'reserved for' those who present with a more severe criminal history. So it is plausible that prior criminal history could have influenced the issuance of the DVPO. This is interesting, as a number of studies (Kelly et al. 2013; Klein 1996) noted that protection orders were more effective against more active offenders. Applying this understanding of the impact of protection orders to Hertfordshire's DVPO data, then one might expect this research to have evidenced a reduction in reoffending in the DVPO sample post DVPO issuance. The findings in relation to Question 3, which are summarised (overleaf), did address that issue of reoffending, but the results for Hertfordshire alone are surprising given the subsequent national roll out and HO support for DVPOs.

Research Question 3 sought to address the hypothesis that offenders with DVPOs had less prevalence, frequency and harm after the presenting incident than those without a DVPO. In the

study of Hertfordshire's offenders, it was discovered that 55.4% of the DVPO group and 38.5% of the non-DVPO group were rearrested at some point during the post incident period. This indicates that those in the DVPO group had greater prevalence to offend, which opposes the aim of the protection order, which was to reduce reoffending. The alternative explanation of the DVPO group's greater prevalence to reoffend is increased victim empowerment resulting in more victims being willing to notify the police and cause the offender to be arrested. These two views have been argued at length by professionals in the domestic abuse arena and it is difficult to separate but whatever view is accepted, it is interesting to note that the result from Hertfordshire's data does echo the results of studies in the US and Europe, that quoted re victimisation rates of 40-60% (Benitez et al. 2010; Strand 2012).

The analysis indicated that not only were more offenders from the DVPO group arrested than in the non-DVPO group, post DVPO issuance or non-DVPO date, but they were arrested more often. The application of several independent sample t-tests established that the differences in prevalence and frequency were also both statistically significant at the (0.05) level. The application of the Cambridge CHI (Sherman et al. 2014) was used to measure the crime harm of both samples post DVPO issuance and non-DVPO date, it indicated that the DVPO sample were more harmful than the offenders in the non-DVPO group, but statistical tests indicated that the difference in crime harm was not statistically significant.

By examining the prevalence, frequency and harm of the DVPO group after the presenting incident in comparison with the non-DVPO group, this research was keen to establish the impact of the issuance of a DVPO on offending. In particular, it sought to establish whether the threat of arrest for breaching the order had a desistence or deterrent effect, or whether it was in fact capable of increasing offending. As the results have shown, the significantly increased amount of reoffending in the DVPO group when compared to the non-DVPO group negates the argument

that, in Hertfordshire, a threat of punishment reduces offending. This suggests there is insufficient

evidence to indicate that the DVPO provides a "Sword of Damocles" effect to deter offending

(Sherman 2011) nor acts as a "turning point" (Sampson & Laub 2003) as was discussed in the

literature review.

This research has demonstrated despite the raft of discourse on offending, the paucity of

data on the national introduction of DVPNs/DVPOs, the lack of recent reference material and the

complexities surrounding the conflicting findings from international studies, all make it difficult to

reach a conclusion on the efficacy of protection orders. These difficulties support the need for

further understanding on the topic, which this research from Hertfordshire sought to contribute to.

The data from Hertfordshire Constabulary has added to the debate by revealing an inappropriate

use of DVPN/DVPO legislation and its application to offenders who have severe criminal histories

but who are not necessarily the most harmful. The data has also highlighted significant differences

in the prevalence and frequency of reoffending with the offenders in the DVPO sample being

identified as those who not only reoffend more but reoffend more often.

This research did establish an association between the DVPO and a difference in

reoffending in Hertfordshire, but not in the way that would be conducive to DVPNs/DVPOs

maintaining their use as domestic abuse crime reduction tool. However, before one jumps to the

conclusion they should be seen as having failed in Hertfordshire, further research needs to be

undertaken. The research into Hertfordshire's use of the DVPN/DVPO legislation was based on a

small sample size and there were issues regarding its methodology, particularly the matching

protocol. The DVPN/DVPO legislation has now been implemented nationally, which provides the

opportunity for larger, although still workable, data to be captured and examined. Aside from the

opportunity to capture a wider perspective of their use, it is important that any examination of the

efficacy of DVPNs/DVPOs moves away from prospective and retrospective research studies and

into the arena of RCTs. Any trial that randomly allocates a response (in this case a protection

order) to one domestic abuse victim and not another is not without challenge. However, taking

Hertfordshire's data into consideration, 2,656 victims failed to receive an order during the research

period alone, without any negative consequences. In the interest of establishing what really works

in the arena of domestic abuse protection, this is a challenge worth overcoming.

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