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What happens after arrest for Domestic Abuse: A Prospective Longitudinal Analysis of over 2,200 Cases

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Abstract

The prevention of domestic abuse has traditionally been a challenge for policy makers. The differing behaviours which constitute abuse create complexities which, arguably, the United Kingdom (UK) criminal justice system (CJS) is neither designed to recognise nor able to accommodate. Additionally the volume of cases which receive no sanction post arrest, known as attrition, add to the challenges with which agencies are faced. Despite, or maybe because of this problematic context, there is a lack of thorough, CJS wide, descriptive analysis which is capable of defining the points of attrition and identifying the common characteristics of the cases that are most likely to fail within the system.

This thesis details a descriptive study which seeks to undertake such analysis, through describing the characteristics and legal outcomes of a whole population sample encompassing 2244 domestic abuse cases. As the first report within a prospective longitudinal study, the findings show the full scale of attrition within the sample and provide early data on subsequent offending. The data reveals that despite well-intentioned efforts to increase prosecutions for abuse, there is no evidence to suggest that prosecution is either a majority outcome or that, when it is achieved, it reduces reoffending.

The findings of this study demonstrate that the pro-prosecution approach to domestic abuse may need reconsidering, and it highlights the need for further research. Rather than continuing to assume that an increase in prosecutions is both feasible and effective, it may be appropriate to question whether there are alternatives or additions to prosecution which are more capable of providing both

redress to the victims for harm suffered, and insight into the behavioural causes of offending. Such alternatives may be suitable as additions to or replacements for prosecution, and may reduce the prevalence to reoffend which, based on this study, is higher for those offenders who are prosecuted within the criminal court.

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Table of Contents

	Page
Abstract	i
Acknowledgements	iii
Table of Contents	iv
List of Tables	vi
List of Figures	vii
Introduction	1
A research opportunity.....	3
Aims and objectives.....	4
Chapter One: Literature Review	6
The role of the CJS and domestic abuse.....	7
The CJS and the offender.....	9
The CJS and the victim.....	10
The definition of domestic abuse.....	12
The evidence versus policy.....	13
Growth of domestic abuse policy.....	14
The requirement to prosecute.....	16
Attrition and alternatives.....	16
Restorative justice.....	18
Use of perpetrator programmes.....	19
A successful CJS?	21
Limitations of the CJS.....	21
Next steps for the CJS.....	22
Chapter Two: Research Methods	24
The research proposal.....	25
The origins of the data sample.....	26
The scope of information within the sample.....	27
The data content.....	30
The research method.....	37
A longitudinal study design.....	38
Limitations of the study.....	40
Cleansing the data.....	41
Management of the data and data protection.....	41
Chapter Three: Results	43
Part One: Whole population analysis.....	44
Overview of the findings.....	44
Age of offenders.....	45
Gender.....	46
Previous arrests and charges.....	48
Previous domestic abuse offending.....	49
Types of offending.....	51
Progression through the CJS.....	53
Decision making authority.....	54
Pleas and verdicts.....	55
Sentencing.....	56
Part Two: Analysis of no further action (NFA) outcomes.....	59
Offender characteristics and NFA outcomes.....	59
NFA outcomes and offence types.....	60

NFA outcomes and previous offending.....	62
Part Three: Subsequent reoffending.....	65
Reoffending by gender.....	65
Reoffending by offence type.....	66
Chapter Four: Discussion and Conclusion.....	70
Policy implications.....	74
Conclusion.....	78
Glossary.....	80
Appendices.....	82
Appendix A	82
Appendix B.....	85
References.....	88

List of Tables

	Page
Table 1: Ranges and means of previous offending.....	51
Table 2: Disposals of domestic abuse cases.....	53

List of Figures

	Page
Figure 1: Map of Hampshire Constabulary's Policing Areas.....	28
Figure 2: Attrition from the point of further action being authorised.....	45
Figure 3: Age distribution across the sample.....	46
Figure 4: Total domestic abuse offenders by gender of offender.....	47
Figure 5: No Further Action decision by gender of offender.....	48
Figure 6: Mean number of previous arrests, charges & convictions (5 years prior only).....	49
Figure 7: Number in sample with recorded previous domestic abuse arrests, charges & convictions (5 years prior only).....	50
Figure 8: Percentage of population by offence category.....	52
Figure 9: Percentage of total cases reviewed by each authority which resulted in NFA/Charge/Other.....	55
Figure 10: Court outcomes.....	56
Figure 11: Sentencing summary.....	57
Figure 12: Percentage outcome by gender.....	58
Figure 13: NFA decisions according to age of offender.....	60
Figure 14: NFA Rates for different offence types at instant arrest.....	61
Figure 15: NFAs according to prevalence of previous arrests for domestic abuse and all crime compared	63
Figure 16: NFAs according to previous convictions for domestic abuse and all crime	64
Figure 17: Reoffending by gender.....	66

Figure 18: % who reoffended separated by the type of crime at original
arrest..... 67

Figure 19: % rearrested with no previous convictions compared to those
with previous convictions 68

Figure 20: 6 months follow up re-offending since original arrest..... 69

Introduction

As demonstrated by a growing body of related literature, the issue of domestic abuse has been subject to increasing attention, both academically and politically, for several decades. This literature focuses, almost invariably, on particular aspects of the criminal justice system, the police response for example, or post-court interventions. Consequently there remains a scarcity of research-based empirical evidence related specifically to the effectiveness, in preventing or deterring domestic abuse, of the CJS as a whole. The limited amount of evidence available reveals a system beset by attrition, and encumbered by a structural design that is unable to address satisfactorily the specific characteristics of domestic abuse. Until the evidence base increases, there is a risk that assumptive and populist responses will drive policy growth, and so it becomes imperative that this evidence is made available, in order to inform the decision making process around building a CJS approach that is effective in ensuring that the system adds benefit and does not exacerbate the issues.

Government literature defines the role of intervention by the CJS in domestic abuse situations; it is the delivery of punishment for the criminal offence, and the prevention of further offences by the perpetrator. Evidence exists, albeit not in the field of domestic abuse, which shows that the system is actually ineffective in securing desistance, the process through which people cease and refrain from offending, and may even increase prevalence (Petrosino *et al*, 2004). The criminological theory of desistance provides insight into why the CJS may be ineffective at securing desistance in its current form. The lack of certainty in the system, caused by significant attrition, may undermine confidence, and therefore erode the deterrent impact. Detailed, longitudinal research conducted by Sherman

and Harris (2013) sheds further light on the effects of CJS intervention, suggesting that it may not be in the long term interests of the victim. It is for this reason that research into the subsequent impact of the CJS is so necessary, in order to understand the full consequences of both successful and failed attempts at prosecution.

Despite the attrition that sees many cases failing to reach successful prosecution, UK policy has been steadfast in its commitment to the court based prosecution of domestic abuse for several decades, and the use of out of court disposals and discretion based outcomes is therefore restricted. This approach can be interpreted as the intention, through policy, to reassure the public that the issue is being treated with a robust commitment that was desperately lacking in the past. The unintended consequence of this policy decision, however, is that it leaves a large quantity of cases, and therefore victims, without any intervention at all, due to the rigorous evidential standards applied by the criminal courts. With some academics arguing that adherence to this policy has led, inadvertently, to the CJS acting as the primary response to domestic abuse, policy makers, victims and the public need to fully understand the consequences of intervention by the system.

This reliance on prosecution may place the health of victims at risk, exposing them to further recidivism and stopping them from reporting further instances, consequently leaving them unprotected. Additionally, the continued assumption that this is the correct approach stops many perpetrators from getting rehabilitative support, as the access to such programmes requires a court conviction with a rehabilitative order.

Based on the evidence of attrition within the system, it is hypothesised that in its current form, the CJS is no more effective at preventing repeat incidents of

domestic abuse than a simple approach of arrest with no further action. It may be further hypothesised from this that the pro-prosecution policy renders the CJS incapable of providing the primary response to domestic abuse, as its rigorous evidential requirements cannot be met in a great many cases.

A research opportunity

The research database cited in this thesis has been collected as part of a domestic abuse related criminological experiment named Project CARA, a randomised controlled trial which seeks to test the use of both out of court disposals and small scale perpetrator programmes for minor offences. The experiment applies a conditional caution in all cases as an alternative to a simple caution, with the control group receiving a condition of not reoffending, and the experimental group receiving the same condition, plus the added intervention of a condition requiring attendance at a workshop. The conclusion and analysis of this project is expected in 2014.

The experiment has built a substantial database, which has in turn provided a unique opportunity to explore the above hypotheses by allowing the complete tracking of a year of domestic abuse arrests within a policing area. By conducting a longitudinal research study, cases are tracked through the system from the point of arrest through to conclusion. Offenders are then tracked, and will continue to be so in order to provide evidence about the patterns and relationships between outcomes and reoffending.

The CARA data encompasses every arrest of a familial or domestic nature that took place within the Western Hampshire policing area between 13th March 2012 and 12th March 2013, thus giving a whole population sample. These samples allow researchers to state, empirically, that the findings are true to that

population for that period of study, as opposed to a sample which may not be wholly representative (Hinton 1995). Whole population studies are therefore capable of providing reliable findings, provided that the management and analysis of data is conducted with appropriate accuracy, and case attrition or misidentification is prevented.

Tracking a year of cases within a large policing area such as Western Hampshire affords the opportunity to obtain empirical evidence about the path of domestic violence cases post arrest. Extending this research opportunity into a longitudinal study can also provide an unprecedented insight into the reoffending statistics of the domestic abuse offender population within the study sample, and therefore the chance to track whether certain outcomes, sentences or individual characteristics are associated with higher reoffending rates post arrest. Such data may be capable either of supporting or undermining current policy assumptions regarding the most appropriate response to domestic abuse by the CJS.

The CARA data has been broadened for the purposes of this study, although the finite financial resources of the host police force limited the scope of this additional research. This financial restriction, together with the confines of a master's thesis, limits the study to one of overarching descriptive analysis, rather than regression analysis of data. The thesis does, therefore, suggest significant scope for further research, which is now feasible due both to the presence of the database, and to the receptive encouragement for research within policing at this time.

Aims and objectives

The aim of this study is to critically examine the effectiveness of the Criminal Justice System (CJS) in dealing with domestic abuse. The thesis will

focus on the pathway that cases take when entering the system upon arrest, and subsequently track cases to ascertain the ultimate outcome and any subsequent reoffending.

The study will review the available literature and policy documentation to examine what an effective CJS could do in response to domestic abuse. By using a large data sample of domestic abuse cases, it will then track whether the current system provides an effective response. The study will consist of the following chapters:

- Chapter 1 details a review of the available literature and policy documentation to ascertain both the characteristics of a successful CJS and the current UK policy intentions
- Chapter 2 outlines the available data and the methodology for the research study
- Chapter 3 presents the findings of the study in table and graph form
- Chapter 4 discusses the findings and undertakes a critique of the current system in the context of the results found within this study

Chapter 1: Literature Review

Literature Review

The role of the CJS and domestic abuse

The presence of a hierarchical criminal justice system underpins many democratic societies. It is the means by which a society demonstrates the intention and the ability to deal with those who undertake to breach societal norms. By necessity it is a broad approach, covering prevention through deterrence and rehabilitation, and punishment through measures such as incarceration. It is this very multi-faceted role that can cause a system to appear fragmented and opaque from the perspective of victims and witnesses and in turn, can often generate dissatisfaction amongst those that the system is specifically designed to assist. Sherman (2001) additionally proposed that, as society becomes increasingly egalitarian, there is an increased public expectation and requirement of a CJS, which may lead to it having to be so multi-faceted.

Several theoretical models attempt to explain the purpose of a CJS. King (1981) described it as the social requirement for justice, punishment, rehabilitation, crime management and degradation, whilst Buzawa and Buzawa (2003) argued that the purpose of a CJS is much broader, agreeing that the act of punishment is important but also acknowledging its role in preventing further acts. They also proposed that from the perspective of domestic abuse, the very presence of, and intervention by, a system can assist and empower the victims of such offences.

The social requirement for punishment is drawn from the classical theory that the threat of punishment acts as a social deterrent to crime. Becker (1997) was one of the first academics to shape the modern theory of deterrence, advocating the need for certainty and severity of punishment in order for the

deterrent effect to be present, whilst Nagin (1998) emphasised the importance both for society and the individual to have the perception that crime does not pay, a concept which is central to deterrence. Tyler (2006), however, warned that an unjust degree of severity in the response to a criminal act, or a degree that is perceived as unjust, can cause an adverse impact if the offender believes it to be procedurally unfair. In such instances the authority may lose its legitimacy to sanction, resulting in less social control over the offender in the future. Furthermore, Sherman (1993) suggested that punishment perceived as unjust will cause offenders to distance themselves from the sanction in 'defiant pride'; as a result they will not feel shamed by the act, which could have particularly concerning consequence in the context of domestic offenders.

Durlauf and Nagin (2011) contended that the system should strive to deliver certainty of punishment rather than severity, whilst Sherman and Neyroud (2012) suggested that it is the very threat and capability to punish that is the effective deterrent, not necessarily the punishment itself. Hence a system seen to be incapable of, or ineffective at, punishment may not have the deterrent effect desired. Whilst criminological theory regarding the role of a CJS is both vast and contradictory, the suggestion that the system should be capable of preventing further offending is a common theme. To achieve this, a system must be expedient, fair, and above all reliable; once an individual has had just cause to enter the system, the process must be unfaltering in its ability to deliver an appropriate outcome.

The CJS and the offender

If the aims of a CJS are deemed to be deterrence, punishment and rehabilitation, it then becomes important to understand its impact on offenders. The key question is not only one of how the system achieves these aims, but whether the achievement delivers the required impact on offenders?

There is strong evidence to suggest that offending naturally desists during a life course, based on environmental or individual factors. Developmental and Life Course theories (DLC) hypothesise that variations in the propensity to offend are due to within-individual changes, rather than the impact of a CJS (DeLisi, 2005). The 'Cambridge Study on Delinquent Development' (Farrington, 2003a), a longitudinal experiment, evidenced a correlation between age and delinquency, describing risk factors which can cause an individual to gravitate towards criminality. These include the childhood experience of familial domestic abuse, and factors which prevent an individual from developing social norms, for example unemployment or addiction. Consequently a justice system which neither addresses past experiences nor seeks to address risks in the young may be ineffective. Both Farrington (2003b) and Moffit (2006) assert that the presence of a criminal record is a particular risk to developing social norms, as supported by labelling theory (Becker 1973 cited by Morgenstern 2011). Maruna (2011) additionally states that the presence of judicial ritual, designed to rehabilitate, truly secures desistence, rather than arbitrary sanction alone.

It can be argued, therefore, that for domestic abuse, as for all crimes, the role of a CJS is not simply punishment, but also to understand the interaction between the event of punishment and the opportunity for transformation within the offender. Such transformation often requires structured support, and given that

attrition is endemic within domestic abuse cases, it may be further argued that such transformational support should be offered not only to those convicted, but also to those for whom prosecution is not viable despite there being a reasonable suspicion of guilt.

The CJS and the victim

Up to this point the CJS has been discussed as a tool for society, but the domestic abuse victim also has an indisputable role in, and requirement of, the system, although it is only recently that this role has come to prominence in both research and policy. Shapland (1984) argued that the role of the victim is twofold in terms of their interaction with the CJS. The first role is practical, as the instigator of the criminal justice response to the call made by them, in contrast to proceedings instigated by a pro-active police response. This presents a dichotomy for the victim, whose initial call may have been motivated more by the need for emergency assistance than any conscious decision to commence a prosecution against the perpetrator. The second role is purely evidential, with the victim being responsible for providing evidence in court. This victim testimony is key evidence, particularly in domestic offences, and is of such importance that a victim may be summonsed to give evidence in the interests of justice.

There is a growing body of research into the impact of the CJS on victims, especially within domestic abuse where victim retraction of testimony is endemic. Researchers and practitioners within the field remain divided, however, over the role and rights of a victim in the system. One view is that as it is the state, rather than the individual, who brings prosecution for criminal matters, the role of the victim is relegated to one of mere function. Christie (1977) argued that the state disempowers the individual of their right to resolve their own private conflicts,

resulting in a less satisfactory outcome, whilst Hart (1992) suggested that victims, whose requirement is for an end to violence and for losses to be compensated, find themselves unwilling participants in court proceedings. Cretney and Davis (1997), meanwhile, contend that the high victim withdrawal rate late in the trial process is attributable to the discovery, by the victim, that the court process has no one who is specifically responsible for his or her interests. The common theme of these theories, however, is the suggestion that dissatisfaction with the CJS may cause a victim to avoid it in the future, leading to the non-reporting of subsequent abuse.

It is a recognised fact that the police are not made aware of a vast proportion of crime that may transpire (Farrington, 2007). In domestic abuse, the prevalence of non-reporting by victims to the police, and therefore the levels of hidden crime, is thought to be far greater (Hotaling and Buzawa 2003). One hypothesis is that this is due to previous experience of the CJS leaving victims dissatisfied and less confident, so it could be asserted that in its current form, the CJS is not only failing to secure the desistence of offenders through appropriate deterrence, but is also discouraging victims from further reporting (Hickman and Simpson 2003). In the course of a randomised controlled trial designed to test the use of personal alarms issued to victims, Davies and Taylor (1997) discovered that post event intervention, rather than judicial outcome, increased the likelihood of a victim reporting further instances. This could indicate that, in cases of 'no further action', where there is no post event activity, victims may be less likely to report further abuse.

The definition of domestic abuse

‘Domestic abuse’ is the current term used by the UK Home Office to describe offences between family members or intimate partners. There has been debate over the terminology and definition, arising mainly from the development in understanding of the different natures and forms that abuse can take. Dobash and Dobash (2004) argue that it is essential to isolate a single definition of domestic abuse, but warn that if it is too broad, the definition could present such diversity in the recorded details of the causes and the severity and frequency of offending that no policy could possibly begin to address the problem.

Despite this risk, the UK Government definition of domestic abuse was recently widened (Home Office 2013), largely in response to lobbying from women’s organisations such as Respect, who advocated that coercive, non-violent behaviours should be added. This was due to a growing understanding of the nature of domestic abuse, which indicated that a common characteristic within cases which led to homicide or attempted homicide was that violence is only part of the wider oppression and control to which the victim is subjected by the perpetrator (Home Office, 2012).

The risk, however, is that ‘domestic abuse’ is now just a generic term for a variety of behaviours which have, in turn, a variety of causes. Such heterogeneity in composition requires a similar variety of responses and resolutions from the CJS, in stark contrast to the move towards the more prescriptive pro-prosecution policy that now underpins the CJS response. Much more research is required into the individual traits of domestic abuse rather than into the generic subject matter, in order to evidence the best criminal justice approaches for the different, singular, types of domestic abuse.

The evidence versus policy

A growing recognition of its prevalence and harm, coupled with the shift of feminist/equality issues into the mainstream of UK politics, has seen domestic abuse move high up the political agenda in the past 40 years: in 2000/01, 42% of all female homicide victims were killed by a former or current partner, compared with 4% of males (Women's Aid 2013). Policy and legislation have endeavoured to address this issue by attempting to drive cases through the court prosecution route, to increase the number of successful convictions, yet Buzawa and Buzawa (2003) suggest that this approach may have increased the role of agencies within the CJS to such a degree that it has had the unintended consequence of giving them total supremacy in the overall response to domestic abuse.

Although domestic abuse policy has been directly informed by research, it may simply be the ease of access to the system that has afforded this CJS approach such importance, rather than its ability to deliver certainty of sanction. The 24/7 nature of policing, combined with the victim's immediate requirement for help, arguably makes policing the appropriate point of access. Whilst the immediate requirement for help may justify police response, there is a need to consider the most appropriate course of action after that initial police response, in order to test the assumption that it is most appropriate simply to progress through the CJS rather than to divert cases to social intervention at an earlier stage.

It is unlikely to be coincidence that the development of UK policy has followed a similar path to that of the US, which has seen the introduction of prosecution initiatives such as pro-arrest and 'No-Drop' policies. UK based research into the CJS response to domestic abuse overall remains limited, so

evaluation of UK policy and legislation inevitably requires an appreciation of wider evidence, which is available primarily from US research.

Growth of domestic abuse policy

As the use of coercive legal powers in response to the problem of domestic abuse has been prevalent for decades in the UK, the power of arrest has been used as a means of proactive prosecution and management. Coker (1999) argued that this response was necessary to ensure that the male dominated agencies within the system gave domestic abuse the required prominence, as the response prior to this had been to label such incidents as a private matter between victim and perpetrator. This approach was certainly demonstrated in UK policing throughout the 1980s, and can be seen in the example of the Metropolitan Police publically advocating that domestic abuse incidents were a matter for Social Services (Hague and Malos, 2005).

At the same time, domestic abuse was being forced onto the political agenda as women's groups fought to gain recognition of both the harm and the scale of abuse, and the lack of police response (Hanmer and Saunders, 1984). The CJS still took some decades to consolidate and implement a new policy approach, with early attempts, such as Home Office Circular 69/1986 (Home Office 1986), which called for more proactive action from all Chief Constables, failing to bring consistency or direction. Much of the emerging policy was informed by the limited evidence base being provided by the research studies cited. Sherman and Berk (1984) used a randomised controlled trial in Minneapolis to evidence the positive impact an arrest may have in preventing reoffending by domestic abuse perpetrators, which led to a pro-arrest policy being promoted in the UK via a Home Office Circular (Home office, 60/1990). This is a particularly

clear example of the disconnect between policy and evidence; by the time the circular was issued to police forces in 1990, Sherman had conducted further replications of the study and found that arrest was effective only for certain demographics, and was not universally effective as the policy interpretation had originally stated (Sherman, 1992). Despite the publication of this new evidence, the mandatory arrest policy remained for many years and, arguably, the culture it engendered still drives unnecessary cases, and therefore attrition, down the CJS prosecution route.

Tolman and Edleson (2005) highlighted that caution should be applied when using such evidence to inform policy, especially if it is not placed within the wider context of the CJS. For example a case subject to arrest, that is then subject to successful prosecution, may have a different deterrent affect than a case subject to arrest without a successful prosecution. Taking that concept further, policy makers need to be wary of the long term impact of policy, considering the heterogeneity introduced by the wider definition. Sherman and Harris (2013) recently reported a 23 year follow up study of the cohort within an original 1987 Milwaukee experiment. In this, offenders were randomly assigned to an experimental group subject to arrest, or a control group which was not. The follow up has shown that the longer term effects of perpetrator arrest on the victims were highly detrimental in terms of health and mortality. This longitudinal follow up displayed the hidden and often unmeasured hazards which a policy intervention, such as positive arrest for domestic abuse, could have.

Whilst the body of evidence regarding the impact of arrest is growing, as is the evidence around other court interventions such as perpetrator programmes and 'no-drop' policies, there remains little in the way of evidence about the impact

of the CJS as a complete system when compared to arrest alone. Such evidence could better inform policy around prosecution and the use of out of court disposals.

The requirement to prosecute

Many calls for service to domestic abuse incidents provide no obvious evidence of a crime having being committed and so are not recorded as a crime. Risk assessments are undertaken, but it is arguable that police and CJS jurisdiction ends at the point when it is judged that no crime has been committed. This judgement, however, is a subjective assessment based on the evidence available to the attending officer or, if it passes that stage, a later reviewing supervisor and prosecutor. It has been argued that the scale of such incidents, when set in the context of the limited scope to prosecute (as discussed later in this chapter), encourages officers and prosecutors to be overly selective in the degree to which they investigate and prosecute, leading them to construct cases 'with a view to discontinuance' (Burton, 2008).

Whilst the volume of post arrest attrition is undisputed, the degree to which this is due to police or CPS decision making is unclear. Likewise it is unclear whether it is evidence of an attitudinal bias on behalf of CJS agencies, or due to the characteristics of domestic abuse which can render it unsuitable for prosecution.

Attrition and alternatives

Pro-prosecution policies appear to assume that the issue of attrition is due to the attitude of CJS agencies, and so continue to drive prosecutions. This ignores the fact that prosecution is viable only in those cases which attain the high evidential standards required by the criminal courts. Even if such evidential

standards are met at the investigation stage, many cases do not make it to successful prosecution for reasons such as the victim being deemed an unreliable witness, or the withdrawal of victim support for prosecution (Hester, 2005). Victims are often blamed for the attrition of cases after the point of charge, for example Hester's study in Northumbria (2005), which reported that only 52% of charged cases resulted in conviction, representing 14% of all arrested cases, and asserting that the primary reported reason for the attrition was the loss of victim support for the case.

The decision to prosecute is directed by a legislative document known as the Code for Crown Prosecutors (Crown Prosecution Service, 2013), which requires a prosecutor to decide whether there is a realistic prospect of conviction based on the evidence supplied by the investigator. The decision regarding sufficient evidence is entirely subjective, made by one of two organisations, each with opposing cultural drivers. CPS decision makers are measured on success in court, which may cause the evidential test to be applied more strictly by prosecutors than by police decision makers, who are measured on charges secured. It has also been suggested that the CPS is permitted, arguably encouraged, to trivialise charges for the sake of expediency (Cretney and Davies, 1997). Curran (2010) praises the development in pro-prosecution policy and the rigour with which it is applied, but attributes much of the attrition to the overzealousness of the police, who use arrest as the response to domestic abuse. This may be because arrest is often made based on a perceived need to protect the victim, rather than on the available evidence, and this in turn causes attrition later in the process.

Despite the low proportion of cases receiving an official outcome, the policy preference expressed for a prescriptive rather than a discretionary system continues to restrict the use of alternative disposals for domestic abuse cases, such as community resolutions or restorative justice. It could be argued that this is driven by the assumption, albeit unsubstantiated, that prosecution is more capable of addressing the problem, and is therefore the most appropriate outcome. This remains despite a fundamental lack of understanding about the path that a case takes post arrest, and the causation behind the attrition in the system (Hester, 2005). The argument that there is a moral and social obligation to pursue matters through the court system (International Association of the Chief of Police, 2000) has even led, aberrantly, to other out of court justice options, which are usually available to non-domestic crimes, being prohibited or restricted for domestic abuse cases. Conditional cautions cannot be used in the UK for any domestic abuse cases (CPS, 2010a), and the Association of Chief Police Officers (personal communication, 01 November 2011) has issued internal instructions restricting the use of community resolutions (informal warnings). Project CARA, the randomised controlled trial previously referenced, is the only exception to this within the UK at the current time, and is the only major research project capable of providing evidence about the efficacy of broader approaches to domestic abuse offences.

Restorative justice

Research has shown that the primary requirement of domestic abuse victims from the CJS is twofold: an end to the abuse, and reparation for the harm suffered. Within other crime types, there is a growing body of evidence in support of restorative justice (RJ) as a means of delivering desistance and managing the impact of the crime on both the offender and the victim (Braithwaite, 2002).

Perhaps most importantly, research by Sherman (2000) showed that for general crime, restorative justice not only assists desistance, based on reintegrative shaming theory (Braithwaite, 1989), but also increases the likelihood of the victim receiving an apology and a satisfactory conclusion to the incident.

Opinion on the use of RJ for domestic abuse is deeply divided. In addition to the concern that the process of reliving the incident can re-victimise the victim, there is also some scepticism that RJ can work with the power imbalance established within abusive relationships. Sherman (2000) outlined the benefits of RJ as a response to domestic abuse and concluded that, despite the limited empirical evidence, RJ can be effective. An evaluation of the Family Group Decision Making Project (FGDM) in Eastern Canada by Pennell and Burford (2000) showed a decrease in domestic abuse events compared to families that did not receive an RJ intervention, and RJ usually has far less of an impact on the public cost of criminal justice (Shapland, 2008). Such evidence could influence policy changes in relation to the suitability of cases for restorative justice, and thus offer a method for delivering more 'certain' outcomes. The take-up of RJ for conventional crimes has been slow in the UK, however, and even with the growing evidence in support of this option, its use for domestic abuse is still not being considered. It is likely that this is related to the high risk assumed with domestic abuse, which acts as a constraint to policy makers bringing in widespread change.

Use of perpetrator programmes

The UK CJS has access to a number of intervention programmes designed to coach offenders to face their criminal and abusive behaviour, all of which are available post-conviction only (House of Commons, 2008). Cases of a lower harm category, based either on the criminal act or the DASH risk (Domestic Abuse,

Stalking and Harassment and Honour model (CAADA, 2012), which grades cases in terms of the risk to the victim or of potential reoffending by the perpetrator), are not eligible for these interventions, but it is perhaps of more concern that cases of a high risk category which fail at prosecution are also excluded. Evidence demonstrates that on an individual level, such programmes have a small, but positive, effect on reoffending (Babcock *et al*, 2004) yet access is limited to conviction at court and to voluntary attendance by the perpetrator. Considering the scale of attrition within the system, and the volume of cases which are never charged to court, it is a reasonable hypothesis that access via an out of court disposal would allow more cases to benefit.

The impenetrability of the system could be overcome if policy embraced the use of out of court disposals as a vehicle for adequate access to such programmes (Jarman, 2011). Whilst many out of court disposals have an evidential standard as rigorous as the criminal court, community resolutions are entirely informal, leaving no criminal record but delivering a warning to offenders, so they may offer a solution to some domestic abuse cases. No rigorous testing of effectiveness has been undertaken, however, and this would be required to address concerns that their quasi-judicial statute is neither sufficiently transparent nor regulated.

An alternative approach is for interventions to be targeted at society as a whole. A Home Office Research Study by Hester and Westmarland (2005) suggested that adding preventative education to school curriculums could successfully combat the issue of domestic abuse, educating the young about the consequences and making it increasingly socially unacceptable. UK policy has started to accept this as evidenced by recent campaigns in schools and the media.

A successful CJS?

Acknowledging that the victim's primary requirement of the system is for an end to the abuse, it is appropriate to ask whether the UK CJS succeeds in this regard. There is little evidence about the frequency or prevalence of reoffending post CJS intervention, as research has been confined to individual outcomes such as perpetrator programmes, rather than addressing the efficacy of the system as a whole. Klien (1996) conducted a study in the US which indicated that 50% of offenders with court-issued restraining orders re-abused the same victim within 2 years of the order, and 95% became subject to a repeat order of some degree, indicating new incidents.

It is reasonable to conclude, therefore, that the CJS, whilst being the socially recognised and trusted response to domestic abuse, is unable in its present form to address all but a few cases. Even in these cases there is no evidence of a lower likelihood to reoffend, or of a greater future safety for the victim, which is why academics such as Farrell and Buckley (1999) argue that performance and success should be determined by repeat victimisation statistics rather than by individual case outcomes. Nonetheless, the assumed risk around domestic abuse issues causes policy makers to shy away from exploring alternatives to the degree that may be necessary.

Limitations of the CJS

As discussed, a major limitation of the court-based CJS approach is that it functions as a means of access to social support services, despite the strict evidential criteria filtering out many cases which may require them. The CJS brings a threat of sanction that can only be applied once criteria is met, and cases

which fall below this can only ever be referred for social interventions with the voluntary permission of the offender or victim. There is, however, a principle of inducing an offender, which could operate effectively outside the CJS and which is known as a nudge principle (Thaler and Sunstein, 2009). The suggestion of being able to 'nudge' populations into changing their behaviour offers great potential for policy makers generally, and has led to a 'nudge' unit being set up within the UK Government. This principle could be an ethical alternative, able to fill the void between court mandated and voluntary rehabilitation.

The risk in domestic abuse is assessed via the much criticised DASH model, which has never been subject to full testing or evaluation. The lack of evidence was borne out by Thornton (2011), who reported little linkage between the risk assessment level and later instances of domestic homicide. Even with a proven method of risk assessment, there is no evidence to suggest that high risk cases have any primacy of access to the CJS, as the evidential criteria still needs to be met. The harm caused to victims, and the potential risk of future harm to them or others, is therefore a matter that requires alternatives to the court- based criminal justice intervention.

Next steps for the CJS

The UK CJS has progressed significantly in accepting domestic abuse as a criminal issue, but it is arguable that this progress has now reached a tipping point, with an over reliance in policy on prosecution as the solution. Case attrition is a natural consequence of a system that requires the highest standards of evidence. Consequently, it is perhaps appropriate for the system to be viewed as one of a number of responses to the issue of domestic abuse, rather than the primary response. Additionally, it is clear that a risk based approach to wider interventions

is necessary, which accepts that the police response is likely to remain as the gateway to such interventions, and which maintains the requirement for the appropriate positive attitudes to be present in the attending officers.

Chapter 2: Research Methods

Data and the Research Method

This chapter provides a detailed account of the original randomised controlled trial (RCT), Project CARA, and its resultant data, which led to the research proposal for this broad, longitudinal descriptive study. It begins by setting out the research proposal, the design of the study and the methods employed to analyse the data. The origin and measurement of the data sample, both in terms of the data made available from the RCT and the new data collected to enhance this study, are then explained in full.

The research proposal

The research proposal outlined the intention to conduct a study of all domestic abuse arrests that took place within Western Hampshire, a policing area in southern England, over the course of a year. The research method proposed was a quantitative descriptive research method, which requires information to be collected with nothing manipulated, no change made to the environment and no interventions added. It should be noted, however, that the randomised controlled trial, Project CARA (Cautioning against Relationship Abuse), the source of much of the data, remained active in the policing area at the time the data was collected, the effects of which are noted in the results but not examined. The research period proposed was to be over the course of the proceeding five years, therefore taking a longitudinal approach, in order to ascertain the longer term deterrent effect of the different outcomes possible.

The origins of the data sample

RCTs are a research design which allows the collation of evidence through the comparison of two randomly allocated cohorts from the same community sample (Sherman *et al*, 1998). This design requires one cohort to receive an experimental intervention, whilst the second cohort, the control group, mirrors the experimental group in every way possible except for the absence of the intervention applied to the experimental group.

In the context of Project CARA, a conditional caution is being used for all cases as an alternative to simple caution. The control group receives the condition not to reoffend, whilst the experimental group receives the same condition, but also receives the added intervention of a condition to attend a workshop. The purpose of this experiment is to test whether workshops can reduce reoffending rather than the use of conditional cautioning *per se* (Jarman, 2011), and the conclusion and analysis are expected in 2014.

Chilton (2012) described how the CARA data achieved a high degree of accuracy and integrity in order that the experiment could be accurately evaluated. He also stated that the experiment required consistent and systematic data collection to be recorded contemporaneously rather than retrospectively. This method of data collation allowed the team to monitor closely the progress of the experiment, as well as to use daily multi-system searches to ensure that all eligible cases were being captured, and whilst the experiment was focused on conditional cautioning, the data for all domestic abuse incidents was captured for the duration of the experiment. The data collection methodology and process was critically reviewed by University of Cambridge before and during the project, with weekly data updates being provided to the CARA team. Should the project team not have

placed this rigour on the data collation, the internal validity of the experiment could have been compromised. To maximise the number of cases in the experiment the CARA research manager ensured every domestic abuse case was identified and tracked, which in turn has enabled this whole population study. Of that whole population, only 7% were eligible for and included in the CARA experiment. By using the CARA data as the basis of this research, this study is reassured that the data sample is both fully comprehensive and systematically collated and, as a result, highly reliable for study.

The scope of information within the sample

Date range: The CARA experiment is still live and continues to collate data, providing a large potential data sample upon which research can be based. This research study has been based on the first full year of data collected within CARA, which was from 13th March 2012 to 12th March 2013. As the data was captured contemporaneously from the start of the experiment, dates for this sample encompass the earliest data that could be retrieved.

There was limited opportunity for research into the longer term outcomes after arrest as insufficient time elapsed between this study and the original incident subject to study. It was recognised, therefore, that the research would benefit from tracking the cases beyond the timescales of this initial sample period in order to capture the longer term deterrent effect of various outcomes. Due to the short period available to analyse reoffending, it was decided that the research would benefit from taking a longitudinal approach, tracking the sample for several years beyond the preliminary study.

A study of this kind can consider using retrospective data collation in order to track cases over a longer period, but this method was not feasible as the data

set collation dates had been set by Project CARA. Longitudinal research designs are relatively uncommon, even though they carry great benefit by eliminating ambiguity when interpreting whether findings are sustained rather than temporary effects (Farrington, 2003). Such studies should, therefore, be encouraged, in order to monitor the progression of offenders that have been through the system (Farrington 1989). It must be recognised, however, that they are not without challenges, and these challenges are discussed later.

Population: As the CARA experiment was conducted in Western Hampshire, this pre-determined the population upon which this study is based. The Western Hampshire Policing area is within the jurisdiction of Hampshire Constabulary, which covers a large, non-metropolitan county in southern England, and a small island of rural and suburban nature. The constabulary's policing structure is divided into eleven districts, with the Western Hampshire policing area encompassing 3 of the eleven districts; Southampton City, the New Forest, Eastleigh and Romsey.



Figure 1: Map of Hampshire Constabulary's Policing Areas.

Western Hampshire contains 0.7 million of Hampshire and Isle of Wight's 1.66m population (Office for National Statistics, 2012), of which the Southampton

city demographic displays a greater ethnic mix than the New Forest or Eastleigh/Romsey districts. The policing area has approximately 32% of Hampshire's reported domestic incidents (Chilton, 2012). Whilst the research is an empirical account of the population of Western Hampshire, wider cross-population generalisation should be undertaken with caution, and the detail of the study, its sample and its approach should be understood before assessing wider generalizability (Bachman and Schutt, 2011).

Case eligibility: Although the CARA data details all incidents of a familial or domestic nature, the scope for this sample covers only those arrests defined as related to domestic abuse. It is therefore important to have a reliable measure to differentiate a domestic abuse incident from other crimes, to allow this research to be clearly interpreted. As highlighted earlier within this thesis, the definition of domestic abuse differs greatly and has been much debated. Research studies within this field should always commence by deciding which of the several definitions and terminologies to use. For the purposes of this study, the sample has been constructed only of cases which meet the 2013 Home Office definition of domestic abuse, namely;

“Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality”
(Home Office, 2013).

The experienced practitioner or researcher in this field will recognise that this is the more recent of Home Office definitions, which includes the 16-17 years age bracket that was previously excluded, and which also encompasses a variety of behaviours, not solely violent behaviour. An incident is not necessarily evidence of abuse which is why this definition is required. Arrest, rather than dispatch, was

chosen as the trigger for eligibility, as incidents or calls for service were not considered to be reliable indicators of actual behaviour. Incident types are coded by initial information collected by call takers and often subject to later reclassification by the attending officer.

The data content

The data collected within Project CARA is comprehensive, but does not include some key variables required for this research study. Consequently, further manual data extraction was undertaken and the full set of variables is detailed in this chapter.

The method of collection and instrumentation of the variables required detailed review before the research could proceed to analysis. Understanding the complexity of criminal records and crime recording was essential in order that the approach to instrumentation could be considered before the additional data was extracted. For the data recorded contemporaneously throughout the CARA experiment, the instrumentation was already set, and it was therefore necessary to understand that methodology before proceeding to analysis.

The initial decision required was whether to undertake this latest research study from the perspective of the case or the person. An individual may be arrested once but charged with multiple offences whilst, conversely, a single case may have multiple defendants. Due to the decision to take reoffending prevalence as the researcher's primary focus within the longitudinal study, it was decided that the person would be used as the unit of analysis. The analysis conducted on the offence types, therefore, is only for those offences related to that individual arrest, and not to linked cases. Whilst co-arrests could have been indicated within the sample, they were tracked as separate arrests. The impact of this is considered

minimal when taking into account the characteristics of domestic abuse, in that offences are largely committed by a single perpetrator within a home environment.

Adopting this approach resulted in the possibility that an individual could feature more than once in the sample, if they happened to have been rearrested for domestic abuse within the period of study. As this research will track all subsequent arrests, such instances of reoffending will be tracked within the analysis. If the re-arrest of individuals previously arrested during the period of study was to be excluded, on the basis they were already being tracked via the initial arrest, the study could give a false representation of the scale of arrests and court volumes within the study period, or mis-record the prevalence of subsequent reoffending. It is for this reason that subsequent offending, within the period of the sample, will be tracked both as reoffending against the initial arrest and also as a new eligible case in the sample.

The databases from which the data is drawn were the local force's own Records Management System (RMS) and the National Criminal Records database known as the Police National Computer (PNC). Both databases are subject to regular data quality audits. Unlike RMS, the PNC is national and therefore capable of detailing all arrests, charges and convictions across England, Scotland and Wales. Arrest records are input into both databases within 24 hours of the event. Having made this key decision, each variable was then considered in turn to understand the most appropriate approach to instrumentation, recording and research. In summary the key points regarding recording are;

- 1. Arrest date:** This data was not recorded within the CARA data records but was deemed a requirement of the study, as arrest is a fundamental aspect of the eligibility criteria. Arrest records were taken from custody records, which are legal documents within the RMS system.

2. Date of birth: This information was collected by CARA and has been used to calculate age upon arrest, both as a variable for analysis and to ensure eligibility for the sample.

3. Outcome of the police investigation: This data is again drawn from the local RMS system. It is straightforward for cases in which arrest is for a singular offence but is more complex for those where arrest is for multiple offences, as this can lead to multiple outcomes. As the study is person-focussed, a decision was made to take only a record of the highest outcome received for any of the offences subject to arrest in that instance. The term 'highest' is based on severity and the categories of outcome that it encompasses, in severity order, are; No Further Action (NFA), Community Resolution, Penalty Notice for Disorder, Reprimands/ Final Warnings, Caution, Conditional Caution, Summons/ Charge.

4. Offence for which arrest is made: The CARA information contained the offence but did not track any changes made to charges at court. It is extremely labour intensive to retrieve this latter information, as it often takes significant interrogation of police and court systems to track the changes. As this study is primarily focussed on outcomes, attrition and reoffending, this further court data was not extracted. There were, in the first data set, over 100 combinations of offences for which an arrest was made, so it became clear that a simplified approach to categorisation was required. It was decided, therefore, to adopt the Home Office categorisation in order to narrow down the offences (Home Office, 2012). It is acknowledged that the Home Office categories are based on crime type and pay little regard to harm or gravity of offence, consequently it is an inherent limitation of this study that outcome by harm cannot be tracked, even though this would be possible had there been capacity to apply a crime harm index to the classification of offences instead (Sherman 2007).

When analysing the crime types in instances where multiple offences are charged, this research study reports only on the most serious charge as determined by the sentencing guidelines of England and Wales. The number of crime types will therefore be the same as total cases in the sample, despite multiple offences possibly applying to one case. The only Home Office category that required further division was for cases termed 'Violence with less serious injury'. This category encompassed almost 70% of the total sample, as the definition includes non-violent conduct such as threats to kill and harassment. This research has, therefore, further dissected that category to show those offences, which involved direct violence, and those offences, such as harassment, which did not.

5. Risk assessment level: Officers within the Western Hampshire Policing Area routinely complete a Domestic Abuse, Stalking and Honour Based Violence checklist (CAADA, 2012) when attending a domestic incident. This form is a common checklist for identifying and assessing the level of risk a victim may be exposed to. Although a victim based assessment, the content of the DASH form contributes to the decision of a Crown Prosecutor when considering whether it is in the public interest to prosecute (CPS, 2010 b). Due to this, it may be expected that high-risk cases (categories available being Standard, Medium and High Risk) are charged more frequently.

6. Decision making: The Director of Public Prosecutions requires that all charging decisions and decisions to conditionally caution are made by the CPS. The police forces in England and Wales only have the power to make "No Further Action" decisions and to use the remaining out of court disposals, namely; Penalty Notice for Disorder, Reprimands/Final Warnings, and Caution. Community

resolutions, which are an informal, non-criminal sanction, do not constitute conviction.

7. Previous offending: It was deemed of sufficient criminological interest to this study to invest in the retrieval of prior offending information. To ensure a comprehensive understanding of prior offending the data retrieval included all arrests and charges, not just convictions, in recognition of the fact that attrition within the CJS could mask some interesting relationships between outcomes and previous offending. Furthermore, it was agreed to record this into three categories; 'generic violence', 'domestic abuse' and 'all crime'.

The method of retrieval needed careful consideration, as statistically it may be feasible to have two cases both displaying a statistic of one previous arrest. In one case the previous arrest may be a recent domestic incident, whilst the other could be a minor disorder which occurred several years ago. These are obviously very different, although statistically identical when looking at previous offending as a basic count. For that purpose it was decided only to research previous offending histories for up to five years prior to the arrest date, all of which were to be retrieved from the PNC so as to capture national, rather than local, information. It is important to note the method of collecting this data, as previous and subsequent offending can be recorded and extracted in several ways. For example one arrest can lead to several charges and convictions. It is also possible that an arrest has been recorded in the previous five year period which has not yet reached a conviction or charge. For this study the data has been recorded as follows;

1. Arrests:

- a. Total arrests: The number of times the offender has been arrested.

This relates to arrests, not offences. If an individual was arrested once for 10 offences in one instance, this is one arrest.

- b. Violence arrest: The number of time the offender has been arrested for a violent offence (domestic or otherwise). If, in one incident, an offender is arrested for 4 offences and 3 are non-violent, this would still be the same as one arrest for 4 violent offences – one arrest
- c. Domestic abuse: the number of times the individual has been arrested for a domestic abuse offence as defined by the current Home Office definition and using the recorded modus operandi. If an individual is arrested in the same incident for a non-domestic offence, a domestic violent offence and a domestic non-violent offence such as harassment, this would be one arrest.

2. Charges:

- a. Total charges: This is the number of offences with which the individual has been charged, and therefore excludes NFA and Out of Court disposals. It may be a higher number than arrests.
- b. Violent offences: The number of times the offender has been charged with an offence of violence
- c. Domestic charges: The number of charges for domestic abuse offences (same definition as before), regardless of whether they are for violence or not. This is why the figures for domestic violence charges may be higher than those for violence, as they encompass the wider definition of domestic abuse.

3. Convictions

- a. Total convictions: The total number of offences for which the individual has been convicted at court. No breaches are included other than breaches of non-molestation orders and of restraining orders, as breaches of these construe a separate criminal offence in their own right. Again this number can exceed arrest.
- b. Violence: The number of offences of violence for which the offender has been convicted at court.
- c. Domestic: The number of domestic offences, as per the current definition, for which the offender has been convicted at court.

8. Subsequent offending: As with previous offending, careful consideration was required regarding the tracking of subsequent offending. It was decided to analyse reoffending for a consistent period of six months following the individual date of arrest, as this allowed every case in the study to have a standard follow up, rather than the cases recorded earlier having a longer follow up than those recorded later. This offending was again recorded for arrest, charges and convictions and further categorised into 'violence', 'domestic abuse' and 'all crime'. It was retrieved using the PNC and the arrest/charge and conviction count was recorded using the same method as described in the section on previous offending above. It is acknowledged that a 6 months follow up study is necessarily limited; this will be addressed by the subsequent longitudinal studies.

9. Court plea / court verdict: Further manual data extraction was necessary, as CARA had no initial requirement for this information. It was considered interesting to take both plea and verdict information as a variable, and the data

was drawn from RMS for the domestic abuse arrest in the sample rather than for any previous or subsequent arrest.

10. Gender / ethnicity: This was recorded as standard for every individual and cross-referenced against custody records for accuracy.

11. Court sentence: This section was the most complex area to categorise due to the fact that a court can make multiple sentencing orders - for example a fine order and a community order are often given together. There was also a concern that many cases would not have reached sentence, although this was only the case in 1.6% of all charged cases. The sentence data was categorised into 3 broad groups by the type of outcome, namely;

Custodial = prison sentence or suspended sentence

Court Order = In order to undertake an activity for the benefit of the public or community. This can also encompass punitive or restrictive orders such as restraining orders

Financial = a fine or (most commonly for criminal damage) victim compensation

The research method

The primary objective of this descriptive research study is to track the points of attrition within the system and to monitor, as part of a longitudinal study, the prevalence of reoffending across the sample. The research approach is designed to analyse the data at three distinct levels:-

1. A descriptive analysis of the whole sample to provide an overarching description of the events post arrest.
2. A further descriptive bivariate analysis seeking relationships between 'no further action' outcomes.

3. An analysis of previous offending to explore relationships which may exist between variables and whether the CJS is more robust with such cases.
4. An analysis of subsequent offending to explore relationships that may exist between variables, and more specifically the outcome of the original arrest.

Robson (2011) argues that there is no necessity to undertake overly complex statistical analysis, and that the simple display of numerical charts and tables are sufficient for most research studies. Taking this into account, the most common tests used in this analysis are frequency calculations and cross-tabulations. There is also the calculation of mean scores between two or more variables using T-Tests or ANOVA tests conducted to illustrate the differences between variables. All tests performed are reflected in tables or charts with a discussion of the observed results.

A longitudinal study design

As previously discussed, this research will continue, after the initial analysis within this thesis, as a longitudinal study. Longitudinal studies collect data on the same cases at a series of points over a given time period of study, and are able to track the impact and duration of any effects or patterns observed. In this instance it is of interest to track whether any particular outcomes link to higher rates of reoffending than others. Longitudinal research designs can be labour-intensive and expensive due to the repetition of data extraction at several intervals, and whilst this study is taking a longitudinal approach, it is only planned to re-examine the offending variable, although the whole history will be reviewed on each occasion. Other life course changes, such as subsequent relationship breakdowns, or the birth of children, will not be encompassed, as they are not

available within the data sets routinely held by policing systems. Whilst using this data would enhance this research, these variables are both costly and resource intensive to obtain.

Utilising the research manager already employed for Project CARA allows the follow up extraction and analysis to be undertaken once a year for the subsequent five years, with the expectation that this will take two weeks each year upon the anniversary of the last cases in the sample. By assessing the resource requirement in advance, and by ensuring the follow up research is of a manageable quantity, the risk of high resource requirements normally attached to longitudinal studies has been minimised, although it is accepted that the study scope has been necessarily narrowed.

The second important challenge attached to a longitudinal study design is that of case attrition or missing data. It is difficult for a prospective study to predict and capture all the data variables that may become of research interest as patterns emerge, consequently it is important that the data encompasses as many variables as are afforded by the police databases in the first instance, and that the study design is clear in its scope. It is for this reason that the additional data extraction was undertaken, in order to provide as many variables within the data set as possible. As time passes, case papers and records are often mislaid or deleted, making it difficult for researchers to maintain follow up. As this research data is drawn from the police computerised systems, for which continuity is a legal necessity, cases have to be retained in accordance with the Management of Police Information framework (MOPI). MOPI encompasses a statutory code of practice under the Police Act 1996, and requires conviction records to be retained for a minimum of six years depending on the offence type. Whilst more serious offences are retained for longer, the minimum retention period affords this

research a guaranteed data base for at least six years, explaining why a five year follow up was deemed an appropriate duration of study. The PNC rarely has records deleted, and is therefore a reliable resource for this subsequent research.

Due to these factors it is anticipated that this study approach is robust, durable and manageable, despite the recorded problems of such research noted in previous criminological longitudinal studies.

Limitations of the study

The data analysis has provided descriptive analysis of the research materials but this, and indeed the longitudinal analysis which will follow, will not be capable of providing any evidence about the causation factors that may have led to any given finding or outcome. Such empirical assertions of causation may only be made after a clinical test has been applied, such as the aforementioned RCT.

It is important also to understand the artificial impact of Project CARA, and the false result that may have applied to a small number of cases in this study. Conditional cautioning is not currently permitted as an outcome for domestic cases, so Project CARA had to seek explicit permission from the Home Secretary and the Director of Public Prosecutions to allow its temporary use for the purposes of the experiment. The data analysis within this study shows 7% of cases receiving a conditional caution, and the tracking of those cases could show an outcome that is directly caused by the CARA intervention, so caution should be applied when attempting to generalise to other populations within which a CARA conditional caution is not available. The gender and ethnicity restrictions within Project CARA may impact on the gender and ethnicity aspects of the results, although the low numbers of conditional cautions given would make this impact slight. When researching the reoffending of those cases that received a conditional

caution, it must be noted that this study will not be tracking which received the CARA intervention of a workshop and which did not. Analysis of that distinct nature will be conducted by the CARA team.

Other limitations of the study have already been discussed; the longitudinal research will be on the single reoffending variable, and the crime classification is a simple application of Home Office counting rules rather than a crime harm index approach. Perhaps the most important limitation of the study is the degree to which it may be generalised to wider populations. Whilst the results are empirical within the population of Western Hampshire for the duration of the sample, wider replication of this study may be necessary to assert the findings more generally.

Cleansing the data

The data has been 'cleansed' to ensure duplicate entries are eradicated and that any free text areas, such as offences types, have been provided with a corresponding category in order to allow manageable analysis of the data. The research manager completed daily system searches so missing data was not an issue that required addressing. An approach described as cross-tabulation (Robson, 2011) was then conducted, which is a process of ensuring that incompatible categories do not exist, for example a 'No Further Action' case could not have a court verdict attached.

Management of the data and data protection

Finally, it is important to recognise that the data set underpinning this study will be subject to data protection laws. Schedule 1.2 of the Data Protection Act 1998 requires that "personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner

incompatible with that purpose or those purposes". The British Society of Criminology published a code of ethics (2006) for researchers which advises that subsequent reporting of collected data must be completed anonymously and must ensure that individuals are in no way identifiable. The reporting in this study must, therefore, follow this guidance.

Chapter 3: Results

Results

Part 1: Whole Population Analysis

The results of the study are presented within this chapter firstly by describing the characteristics of the population in terms of age and gender. The chapter continues by describing the previous offending statistics in single and bivariate form, before focussing in on the reoffending prevalence since the instant arrest which triggered the inclusion in the study.

Overview of the findings

The most significant finding of this study relates to the scale of attrition within the system. Despite a policy intention to promote prosecution as a preferred outcome for domestic abuse cases, only 22.7% of the sample resulted in conviction, of which only 5.4% (122 cases) received a custodial sentence, suspended or otherwise. Figure 2, below, displays this attrition from the point that further action, such as caution or charge, is authorised by the police or CPS (33.5%), through to those convicted (22.7%) and finally those to whom an imprisonment sentence, rather than a community sentence, is passed. Given the low number of cases that actually result in a successful conviction, it could be surmised that the system is acting counterproductively, with the attrition potentially leading to offenders knowing the weaknesses of the process, and to victims believing that there is no benefit to be gained from supporting a prosecution.

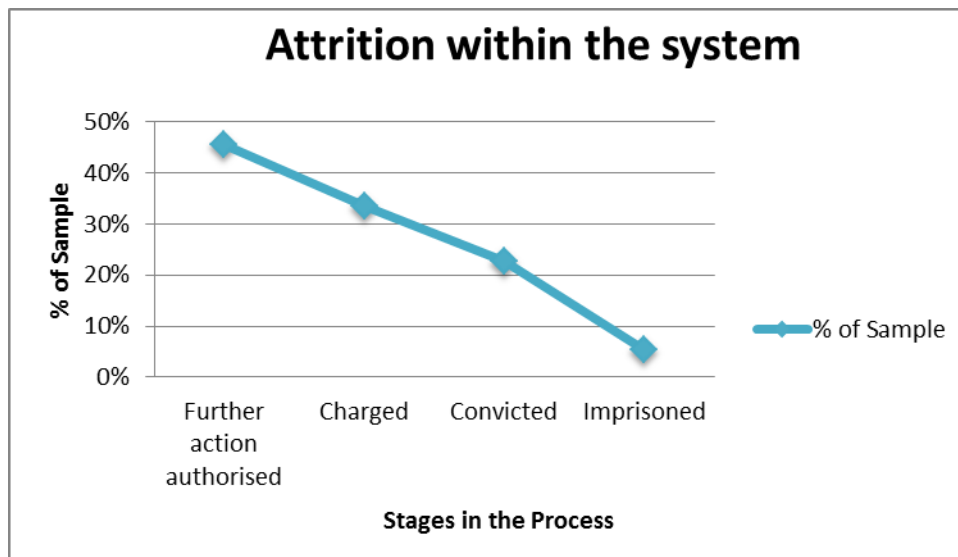


Figure 2: Attrition from the point of further action being authorised

Age of offenders

The median age for the sample is 32, ranging from a minimum of 16 (as set by the Home Office definition of domestic abuse) to a maximum of 76. The mean age of domestic abuse offenders is 34 years old. The number of individual offenders remains in decline through the ages of 30 to 50, and it declines even after this age. There are a number of reasons why this may occur, for example a report by Women's Aid (2007) suggests that as younger individuals tend to have more partners, younger victims are more likely to encounter a violent individual, and younger perpetrators are more likely to offend.

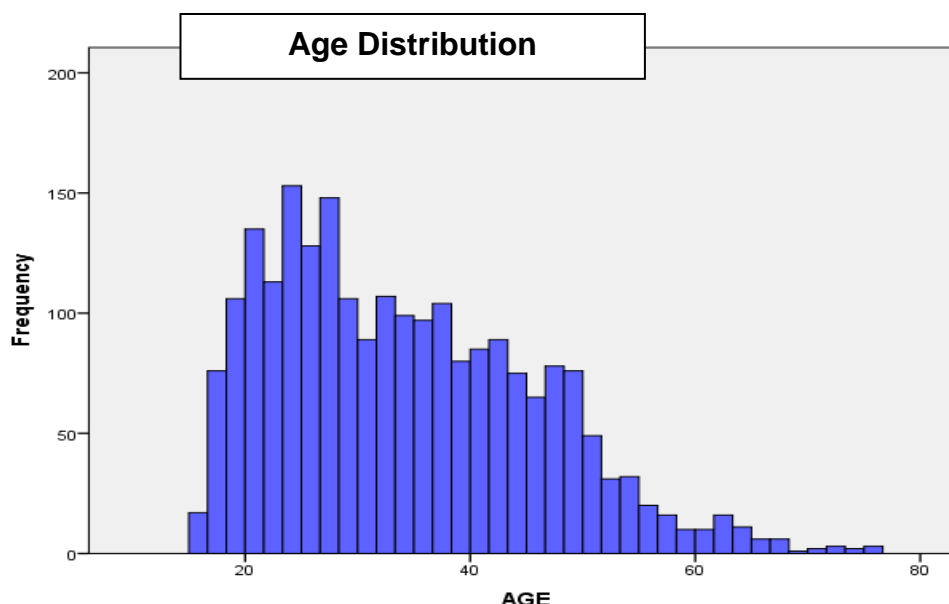


Figure 3: Age distribution across the sample ($n=2244$).

There is no significant difference in the mean age of male and female offenders (discussed below) or in the types of offences committed across the age spectrum, although it is worth noting that 12.7% of the youngest quartile of offenders were arrested for criminal damage in a domestic setting, compared to 6.2% of the oldest quartile.

Gender

As figure 4 (below) shows, the overwhelming majority of offenders arrested for domestic abuse offences within Western Hampshire during the period of this analysis were male. By comparison to the 13.6% of female offenders encompassed within this sample, the Ministry of Justice (MOJ) statistics (personal communication with MOJ 21 October 2013) give a statistic of 16% for arrests for all offences related to female suspects. It may be that this small decrease compared to the general average relates to the likelihood that the majority of victims of female domestic abuse offenders are male victims of spousal domestic

abuse, who are less likely to report such offences, although this study did not record victim gender and so this cannot be asserted empirically. Previous research by Mankind (2010) suggests that 34% of domestic abuse involves a male victim, but under-reporting of offences is far greater than for female victims.

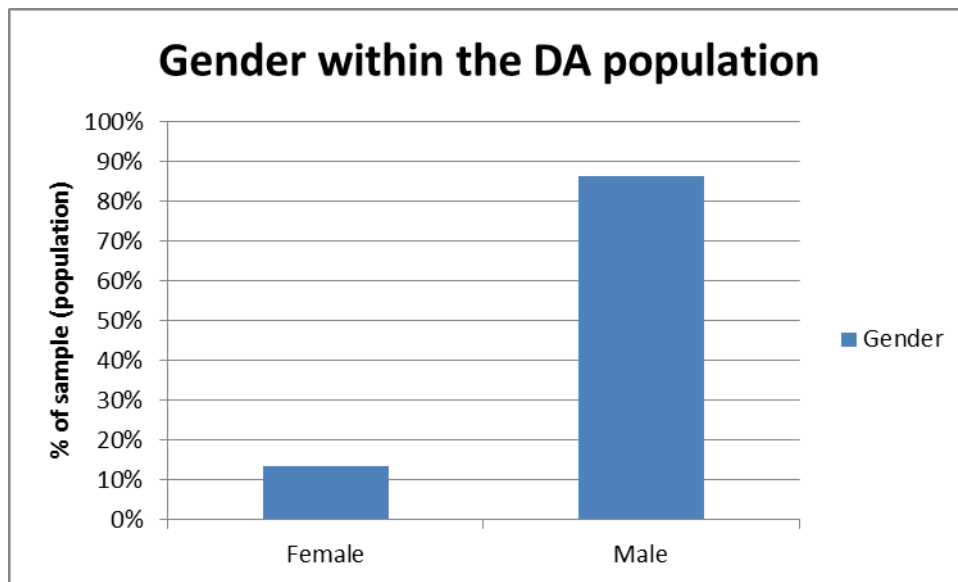


Figure 4: Total domestic abuse offenders by gender of offender

Conversely, anecdotal reports from frontline officers indicate that the complexity of some domestic abuse scenes necessitates the arrest of both parties in order that the facts of a case can be ascertained in the safe and controlled environment of a police station. This may account for the significant difference in No Further Action (NFA) decisions for arrested females, which at 66.2% compared to males at 52.8% is significant at $\chi^2 (12, N=2244) = 99.500, p<0.001$ (figure 5). Hester (2009) suggests that this higher NFA rate in females is due to male victims being less likely to support charges or to give an account to police.

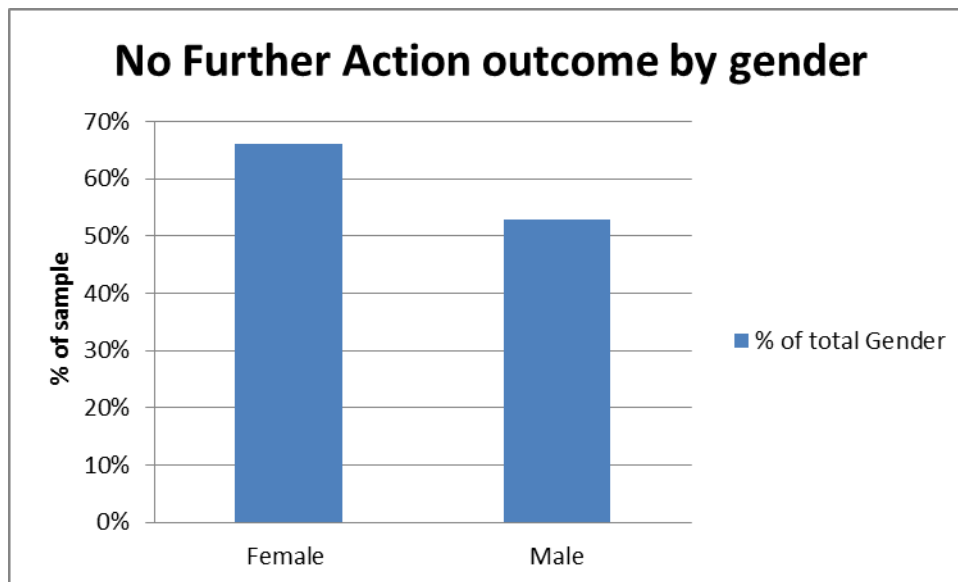


Figure 5: No Further Action decision by gender of offender

Previous arrests and charges

Data was collected for all individuals arrested for a domestic abuse offence within the time period specified, and analysed to understand whether these individuals had offended on a previous occasion. Figure 6 details previous offending in relation to all offence types, violence offences and domestic abuse offences, showing the mean number within the sample of previous arrests (regardless of the number of offences arrested for), previous charges and previous convictions, for these offence types.

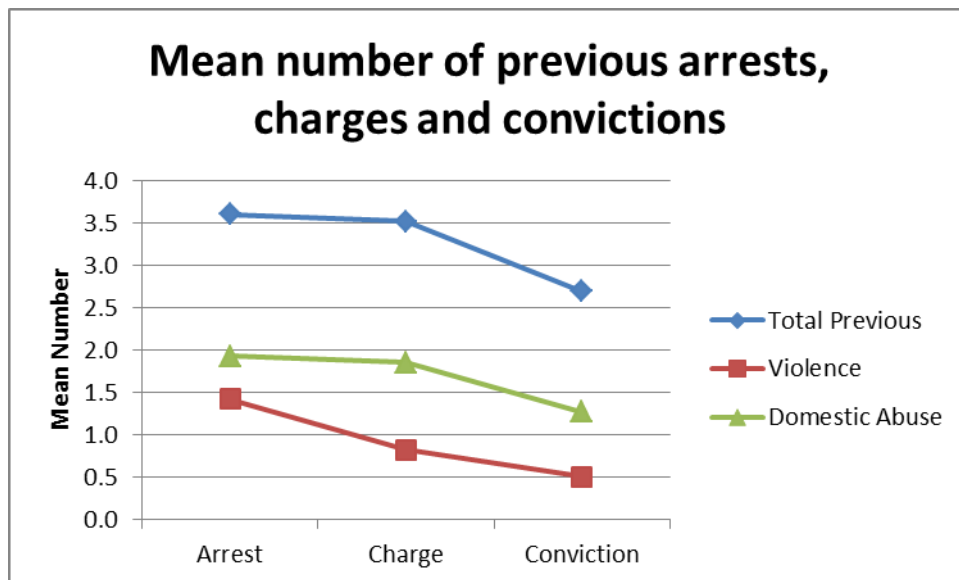


Figure 6: Mean number of previous arrests, charges and convictions (5 years prior only)

For reasons already discussed within chapter 2, this data covers the 5 years prior to the arrest for domestic abuse. 29.3% of offenders had not been previously arrested for any offence, whilst almost half (48.4%) had not been previously charged. Just over a quarter of offenders (27.9%) had been charged with four offences or fewer, with the remaining 23.7% having been charged with 5 or more offences prior to the domestic abuse offence through which they became eligible for this study. The mean numbers of previous arrests and charges within the sample are 3.52 and 3.61 respectively. Conviction rates were also monitored as part of this study, with the same distribution of frequency being observed through the population and a mean number of 2.69 previous convictions being recorded.

Previous domestic abuse offending

Figure 7 concentrates specifically on previous domestic abuse offending by those within the study sample. More than half of the sample (52.3%) had not been

previously arrested for such an offence, but there is a significant difference between the number of previous arrests for domestic abuse and the number of previous convictions, with 77.3% having no previous conviction history for domestic abuse, $\chi^2 (156, N=2242) = 2910.602, p<0.001$. This suggests that in many cases, an individual has been arrested and charged with a domestic abuse offence but a conviction has not resulted, as only 22.7% of the study sample has a previous conviction relating to this offence. This is of interest, as the same percentage, 22.7%, is replicated in this study sample, as the number who went on to be convicted as a result of the domestic abuse arrest which triggered their inclusion, showing that conviction rates are consistently low. The theme of attrition between charging and conviction is of importance for the purposes of this study, and will be expanded upon later.

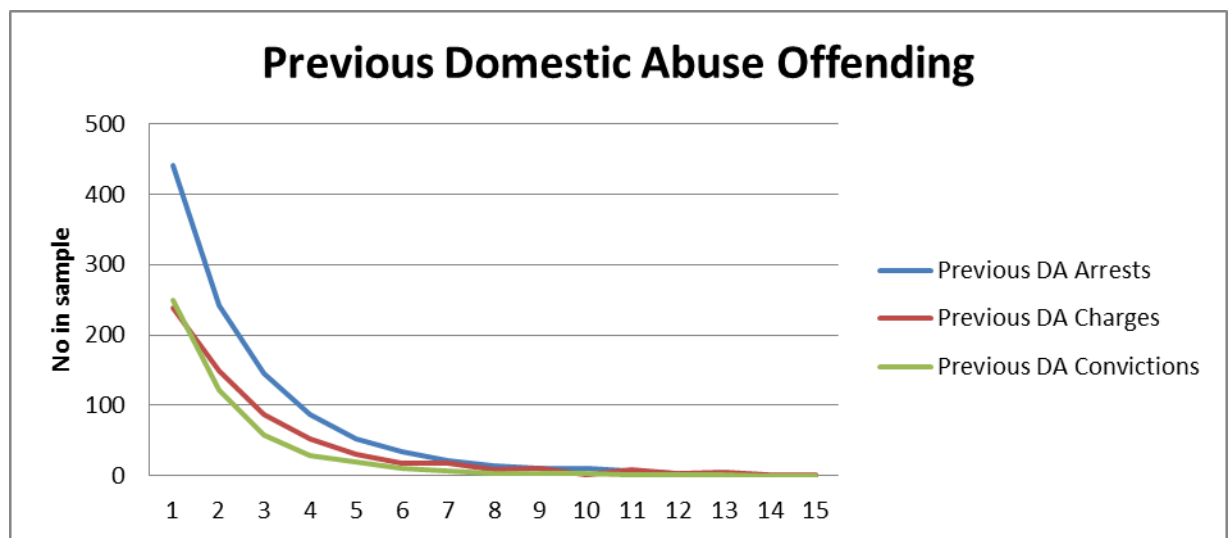


Figure 7: Number in sample with recorded previous domestic abuse arrests, charges and convictions (5 years prior only)

It is worth noting, however, that a similar trend was observed when previous offending for violence (rather than domestic abuse violence) was analysed within this population. Table 1, below, details the range and mean number of arrests, charges and convictions for the study sample for all offences, and then specifically for violence and for domestic abuse. It reveals that whilst for all offences there are approximately 3 convictions for every 4 arrests, for domestic abuse and general violence the rate is only 1.5 convictions for every 4 arrests. When viewing this it is important to recognise that one arrest can achieve multiple convictions, which make this statistic even more concerning. Evidence detailed later in this chapter shows that the majority of domestic abuse is violent crime, which could indicate that it is this crime type which is the challenge to prosecution, rather than domestic abuse specifically.

Table showing descriptive statistics for previous offending				
	N	Range	Mean	Std. Deviation
Total previous arrests for violence	2244	13	1.43	2.050
Total previous charges for violence	2244	13	.82	1.615
Total previous convictions for violence	2243	9	.51	1.138
Total previous arrests for domestic abuse	2243	12	1.23	1.930
Total previous charges for domestic abuse	2243	15	.80	1.852
Total previous convictions for domestic abuse	2243	13	.50	1.270
Total Previous arrests	2244	37	3.61	4.909
Total previous offences charged	2244	55	3.52	6.383
Total Previous Convictions	2243	53	2.69	5.027

Table 1: Ranges and means of previous offending

NB: Sample decrease of one missing data value in convictions data due to ambiguous record (so data excluded)

Types of offending

Domestic abuse is a category that encompasses a very wide range of different behaviours. The majority of offences committed by individuals that are

classified as domestic abuse relate to violence with minor or no injury. Figure 8 shows that over 57.7% of reported domestic abuse offences that result in arrest are minor offences of violence, with all violent offences comprising 71.7% of arrests. As discussed above, this suggests that either the majority of domestic crime is violent in nature, or that victims are more likely to report domestic abuse offences which involve violence than those which do not. The proportion of violent offences in the sample is higher than in previous research carried out by the House of Commons in 2010, which showed that 59% of a sample of 3100 domestic abuse cases was either common assault or actual bodily harm, compared to 71.7% in this study.

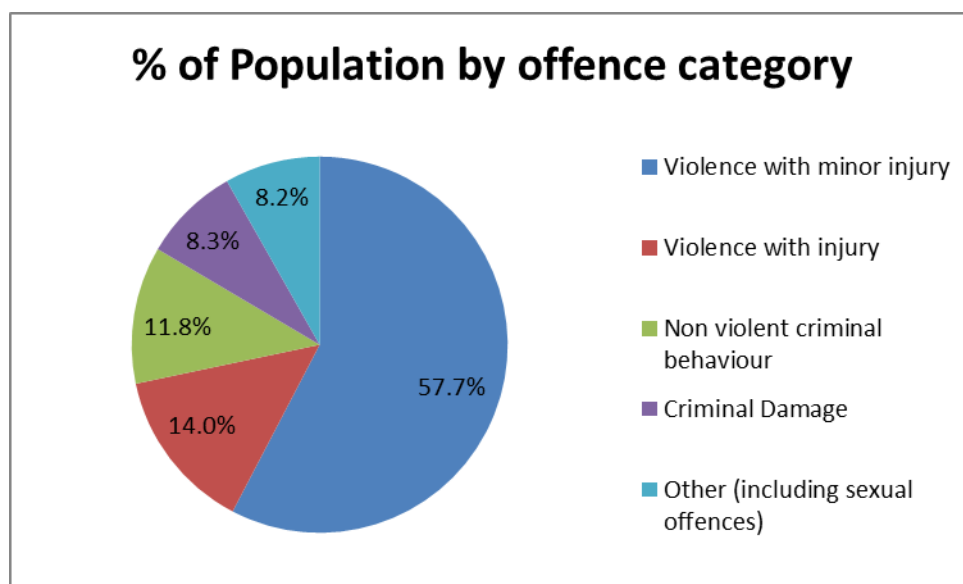


Figure 8: Percentage of population by offence category

As detailed within the chapter on methods, the classification of offences has broadly followed the Home office classification. The only difference has been to separate the generic Home Office category of 'less serious violence' into 'directly violent' and 'non-violent' sub categories, with non-violent offences including harassment and threats to kill. It is worth noting that in crime classification it is the

harm caused, rather than the harm intended that determines the offence type. Any assumption, therefore, that the minor category is in any way of lesser importance or impact to the victim is inherently hazardous, as the intention of the perpetrator could have been more serious.

Progression through the CJS

Of the 2244 domestic abuse cases that resulted in arrest between the 13th March 2012 and the 12th March 2013, only 45.4% resulted in a disposal other than NFA. Of that, 4.5% received an out of court police disposal and 7% were assigned to the CARA experiment, receiving a conditional caution. The remaining 33.5% of offenders had formal charges brought against them.

Outcome	Frequency	Percent
NFA	1226	54.6
Charge/Summons	752	33.5
Other Out of Court Disposal	109	4.8
Conditional Caution (CARA experiment)	157	7.0
Total	2244	100.0

Table 2: Disposals of domestic abuse cases

Of the cases that resulted in formal charges, the majority were dealt with in the Magistrate's court, a lower court for summary offences, with only 10% (75) being sent to the Crown Court, a court for indictable offences. When looking at the number sent to Crown Court as a percentage of the whole sample, rather than as a percentage of those arrested, this equalled 3.3%. Results already discussed have shown that the majority of domestic abuse offences involve minor or no injury, and are therefore classified as 'summary only' offences.

Decision making authority

Charging decisions for domestic abuse cases currently require CPS advice unless, following police assessment, it is clear there is insufficient evidence to proceed. In these instances, the police make the decision to terminate the case, and record it as 'No Further Action' (NFA). All cases that proceed to charge should have authority from the CPS to do so, but it remains incumbent on the police to ensure that the initial assessment is robust, in order to avoid inundating the system with inappropriate cases and causing inefficiencies within the pre-charge advice process. The CPS, therefore, review only those cases which have been assessed by the police as suitable and sufficient for prosecution. Of the 2244 cases studied, the police were the decision making decision making authority in 40.2% of cases. 1342 (59.8%) were referred to the CPS for a decision and so were, in the view of the police, prosecutable. It is anecdotally reported by CPS lawyers, however, that the police often refer deficient cases.

In terms of decision-making by the two organisations, only a small percentage of decisions to charge were made by the police. Of the decisions made by the police, 83.4% of cases were assessed as NFA, with this high figure indicating general compliance with the present process. Figure 9 shows that despite this initial assessment by the police filtering out a number of defective cases, there are still a high percentage of NFA outcomes being authorised by the CPS, with NFA accounting for 36% of all their decisions, or more than 1 in 3 of the cases referred to them by the police. This equals 21.8% of the whole sample resulting in an NFA decision from the CPS, and 32.8% resulting in the same decision by the police.

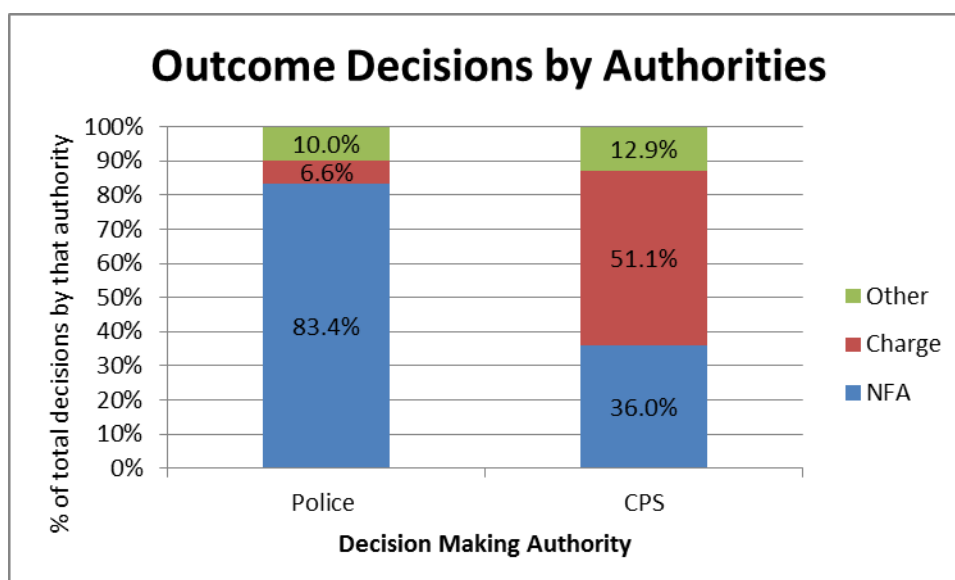


Figure 9: Percentage of total cases reviewed by each authority which resulted in NFA/Charge/Other

Pleas & verdicts

Of the 33.5% of cases that reached court, 49.5% resulted in a guilty plea by the defendant, with the remaining cases either involving a not guilty plea, or a plea not being stated. 67.8% of the cases that went to court resulted in the defendant being found guilty of the offence charged, 24.3% were dismissed or discontinued, 5.8% were found not guilty and 2.0% were not concluded at the time of completing this thesis. The volume that were dismissed or discontinued, known as 'not stated', is notable. Whilst there can be procedural reasons for this, it is more commonly due to the prosecution offering no evidence, an outcome that is typical of cases where there is non-attendance by witnesses or victims, resulting in there being insufficient evidence to prosecute the case. Cases charged to court that received a 'Not Stated' outcome were those where the prosecution withdrew at or before trial or the trial was dismissed, often because of witness attendance issues. Clearly victim and witness care and management is crucial to domestic abuse cases, otherwise prosecution is dependent on offender admission or other

supporting evidence proving guilt beyond reasonable doubt. Robinson and Cook (2006) contend that this is a fundamental barrier to justice which is still largely misunderstood and under researched. Figure 10 details the court outcome of the whole study sample, demonstrating that 8.2% of the total domestic abuse population received a 'not stated' outcome.

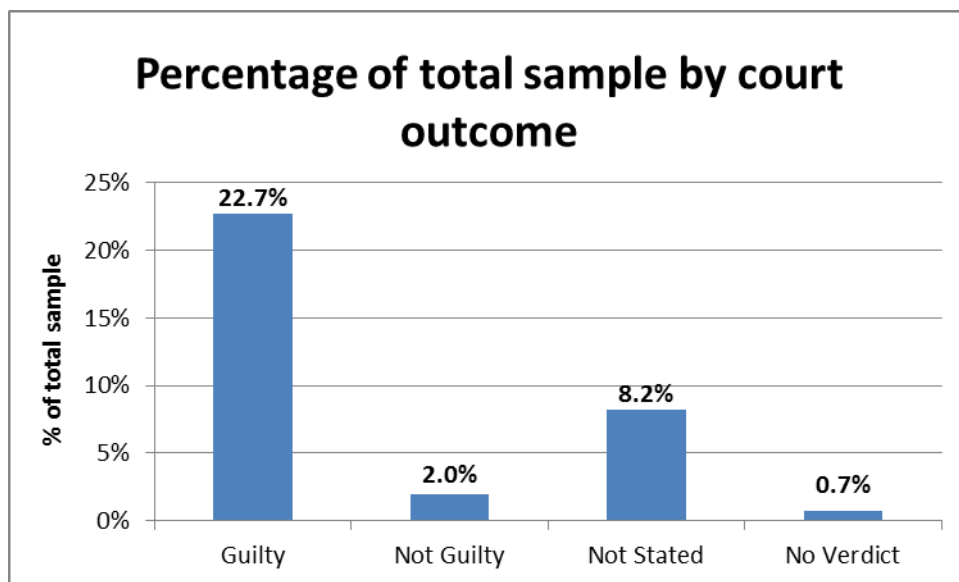


Figure 10: Court outcomes

Sentencing

For the purposes of this study, court sentences have been subdivided into three main categories; custodial penalties, which are sentences of imprisonment or suspended sentences; financial penalties, which relate to fines or compensation; and court orders, which covers any order including supervision orders, community punishment orders and programme orders.

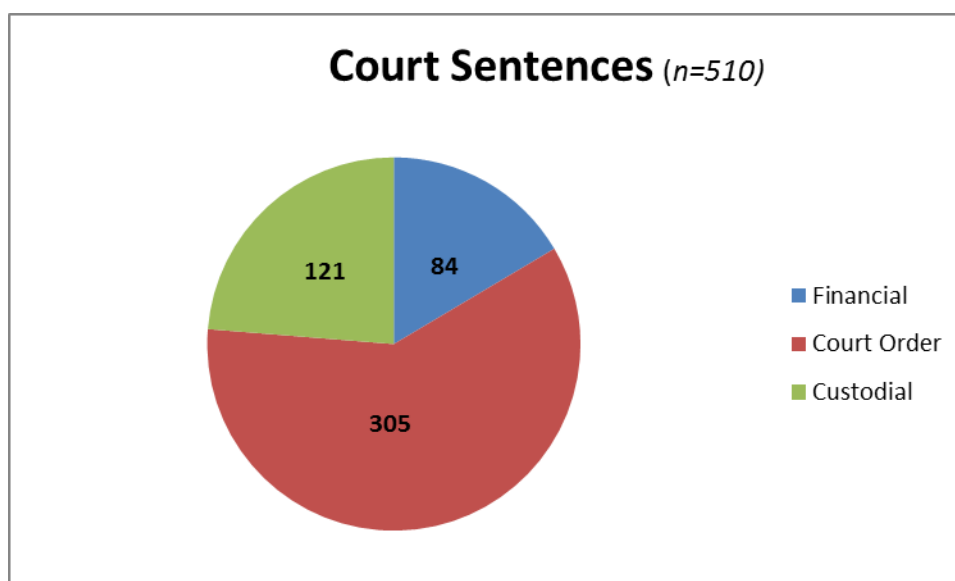


Figure 11: Sentencing summary

As figure 11 shows, 59.8% of all sentencing passed a court order. As lower level violence is more often dealt with by this sentence type, and the sample consists of a majority of low level violence cases, this appears to be largely appropriate. This sentence type can, but does not always, include an element of treatment or education to address underlying issues in relation to domestic abuse offending. As a percentage of the whole domestic abuse population, 13.6% received a court order, and with it the most likely chance of access to rehabilitative or preventative programmes. These statistics highlight that up to 86.4% of domestic abuse cases may not be accessing such treatment, however sentencing is complex and multiple orders could have been imposed.

The composition of sentences is different when viewed from the gender perspective, as illustrated by figure 12. The initial finding is related to the 752 cases processed by the court system, with a total of 693 male offenders being dealt with in court for offences committed between 13th March 2012 and 12th March 2013, compared to 43 female offenders. These figures exclude the 15

cases that have not reached verdict and 1 case that has not reached sentence at the time of writing this thesis. Any comparison made between male and female offenders must take into account the small number of females dealt with by the courts. A comparison between the genders shows that 30% of female cases resulted in a not guilty verdict compared to 40% of male offenders, and a greater proportion of males received a financial penalty rather than a court order.

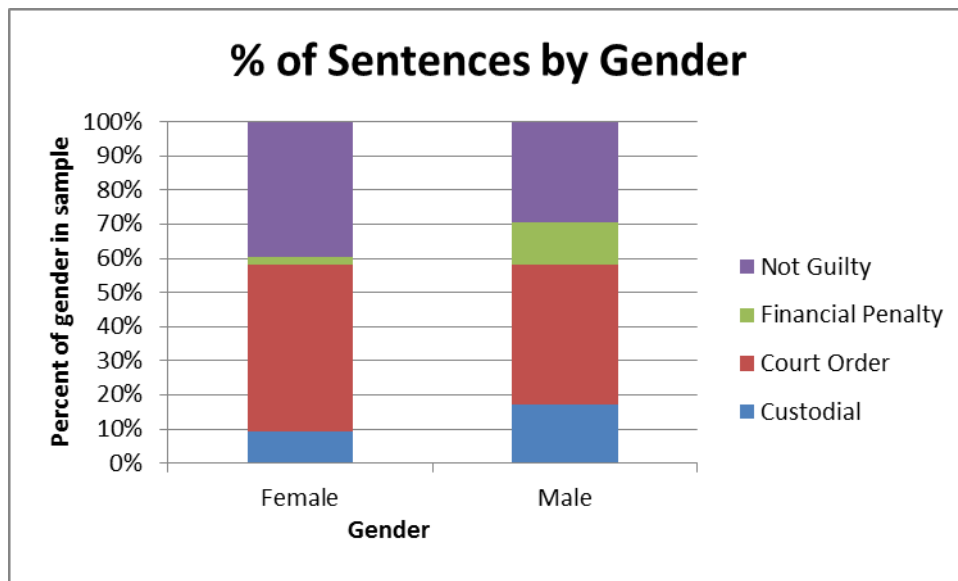


Figure 12: % outcome by gender (*Female n= 43 / Male n=693*)

In addition, the proportion of female offenders who received a court order is greater than for male offenders, and the financial penalties outcome for females is correspondingly lower. It is also notable that there is a significant lack of offender programmes for female offenders in terms of solutions to domestic abuse, making it unlikely that any court order imposed will be directly related to tackling the causes of these offence types.

Part 2: Analysis of No Further Action (NFA) outcomes

This study reveals the extent to which domestic abuse cases elude prosecution, despite the policy intention to bring such offences to justice via this route. This section analyses the relationship between the decision to terminate a case through a 'No Further Action' decision and other factors such as offender characteristics, offence type and previous offending

Offender characteristics and NFA outcomes

It has already been detailed that NFA decisions are far higher for females than males (66.2% and 52.8% respectively) and figure 13 shows that the likelihood of a NFA outcome is also highest for the oldest offenders. This may be due to a number of factors, foremost of which is that victim consent and agreement to a prosecution is harder to obtain in longer term relationships. It can often be the case that older victims are less likely to consent to a prosecution or make a statement, as they have a greater investment in a relationship than younger victims (Women's Aid, 2007). This would result in fewer offences being reported for those falling into these age groups (as demonstrated by figure 3), plus a greater NFA rate for those offences that are reported, as indicated by figure 13.

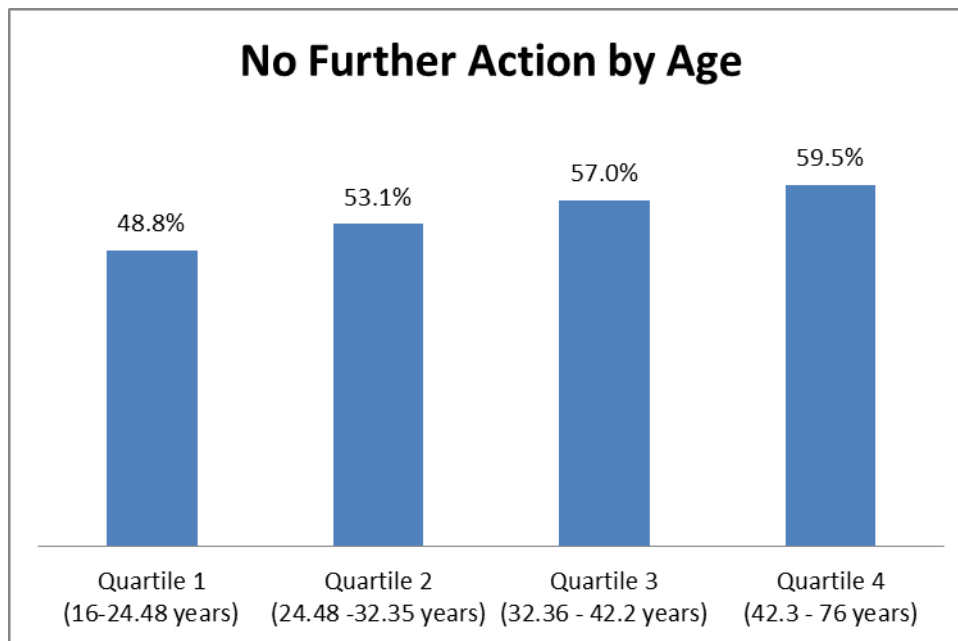


Figure 13: NFA decisions according to age of offender

NFA outcomes and offences types

Charging standards in the UK result in the NFA rate for different domestic abuse offences being dependent on whether there is sufficient independent evidence available for prosecution. The results of this study reveal a large variation in NFA rates according to the offence type for which the offender is arrested.

Figure 14 demonstrates that violence with injury is more likely to result in NFA than the other offence types, yet these are the very cases which involve significant harm to a victim and which are flagged as being at higher risk of domestic homicide (Webdale and Chesney-Lind, 1994). It is surprising that the highest NFA rates are observed for these offences, although there is often observed to be reluctance on the part of the victim to see these cases prosecuted, possibly due to the emotional nature of this crime type. This is coupled with a greater unwillingness on the part of CPS to prosecute due to the deficiency in

evidence that a lack of victim testimony creates, and a lack of independent verification with regard to the statement made to the police by the victim. As it is frequently the victim who acts as the primary evidence for prosecution, this responsibility, together with the accompanying inference that it is they, rather than the Crown, who is directly prosecuting the offender, could deter many from supporting this course of action. Victims may also fear reprisal, or believe that prosecution lessens any chance of reconciliation with an offender to whom they still have an emotional attachment.

The lowest NFA rate relates to criminal damage, and this is most likely to be due to the physical evidence of the offence present at the scene, namely the damage caused. Furthermore, the victim may be financially disadvantaged by the damage; consequently there could be a degree of motivation on their part to ensure that the case is dealt with appropriately.

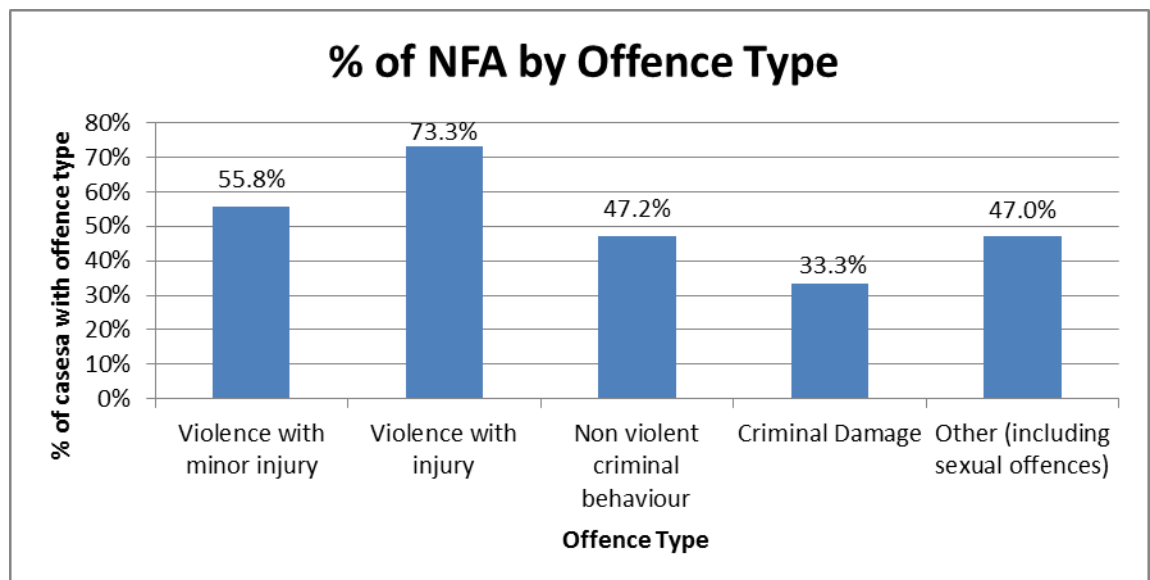


Figure 14: NFA rates for different offence types at instant arrest

NFA outcomes and previous offending

Bivariate analysis between instances of previous arrest for domestic abuse and the outcome of NFA for the instant arrest does not indicate any obvious relationship. When put into the context of the difficulty in securing convictions for violence, it is potentially concerning that an individual's history of previous arrest without conviction has little influence on later prosecutions of that individual.

Without sufficient evidence, however, a case will be dealt with by NFA, regardless of the other factors that may suggest that a prosecution is desirable, which is consistent with the 'innocent until proven guilty beyond all reasonable doubt' principle that underpins the United Kingdom's democratic justice system. Arrest rate history for previous domestic abuse related offences also shows little relationship to the outcome of the instant arrest, as such information is rarely suitable for submission as evidence in cases. Figure 15 shows the proportion of the NFA population with previous arrest records and those with previous arrests specifically for domestic abuse.

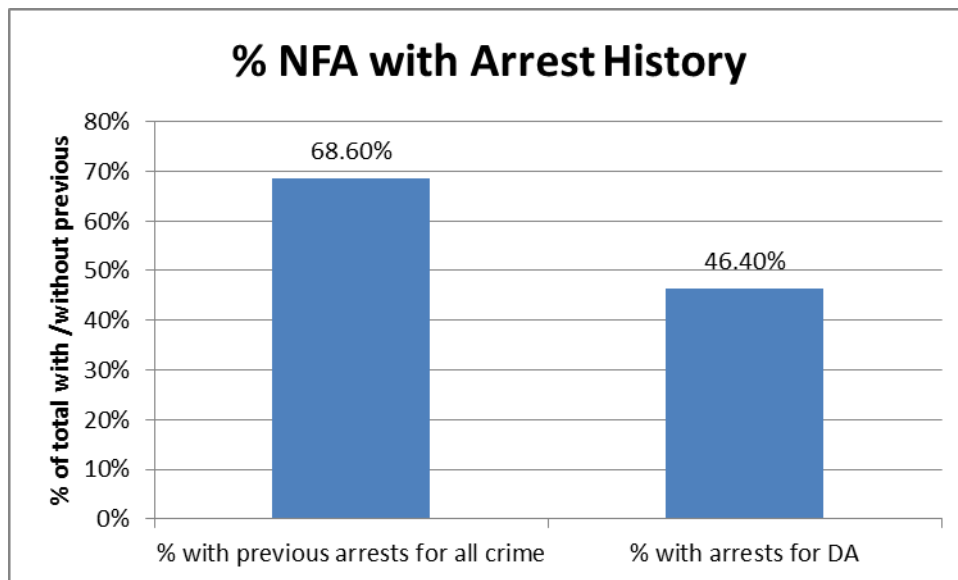


Figure 15: NFAs according to prevalence of previous arrests for domestic abuse and all crime

Further analysis was done to examine whether the above findings differed when looking at previous convictions, rather than arrests, for both 'all crime' and for domestic abuse. Figure 16 clearly demonstrates that cases with a prior record of domestic abuse conviction are significantly less likely to be subject to NFA, suggesting that the system recognises the relevance of previous convictions. Deeper multivariate analysis of the data may reveal that this is due to the prosecutor's willingness to enforce 'proactive' prosecution through enforced victim testimony in these instances, despite the risk that this could drive greater post charge attrition.

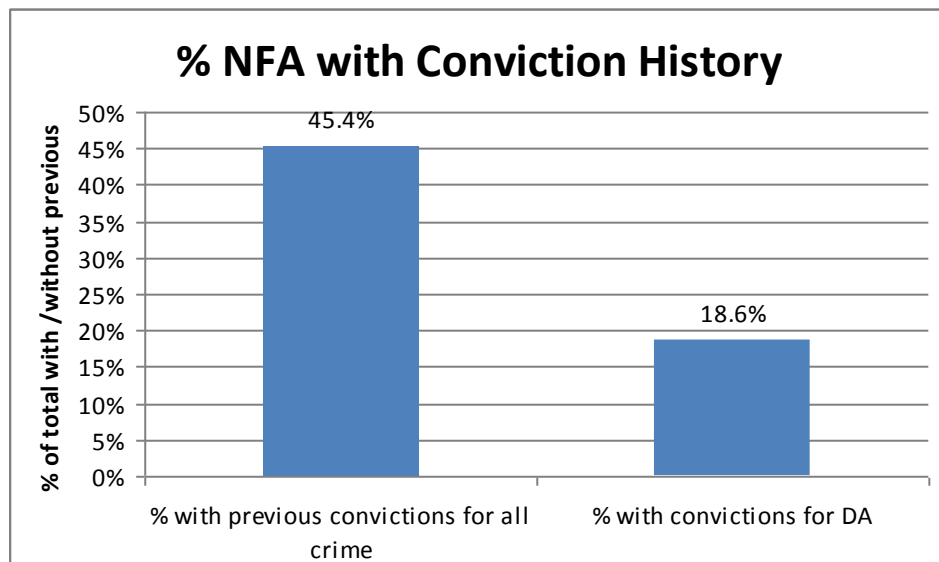


Figure 16: NFAs according to previous convictions for domestic abuse and for all crime

Part 3: Subsequent reoffending

In this section the reoffending prevalence is examined against the offender and offence types. As discussed within chapter 2, there are strong limitations on this data due to the short period of follow up that was available. The data presented is, therefore, only 6 months from the date of the original instant arrest.

It must also be noted that the term reoffending, for the purposes of this study, relates to reported offences for which an arrest was made, and there will be a considerable number of cases that go unreported, due to the nature of domestic abuse and the complexities of the interpersonal relationships involved.

Reoffending by gender

Analysis of reoffending by gender shows a disparity between those cases that are arrested and those charged (figure 17). Male offenders are more likely to be rearrested than females, and both groups show a higher propensity to commit general offences than offences of a domestic nature. Figure 17 also indicates that males are more likely to be rearrested for a further domestic abuse offence, but in reality, the interpretation should be that males are more likely to come to the notice of the police than females, either because they are more likely to commit further offences, or because female victims are more likely than male victims to report further offences. This aspect of domestic abuse offending is of substantial importance to policymakers, and makes the process of understanding the issues surrounding these offences incredibly difficult to interpret.

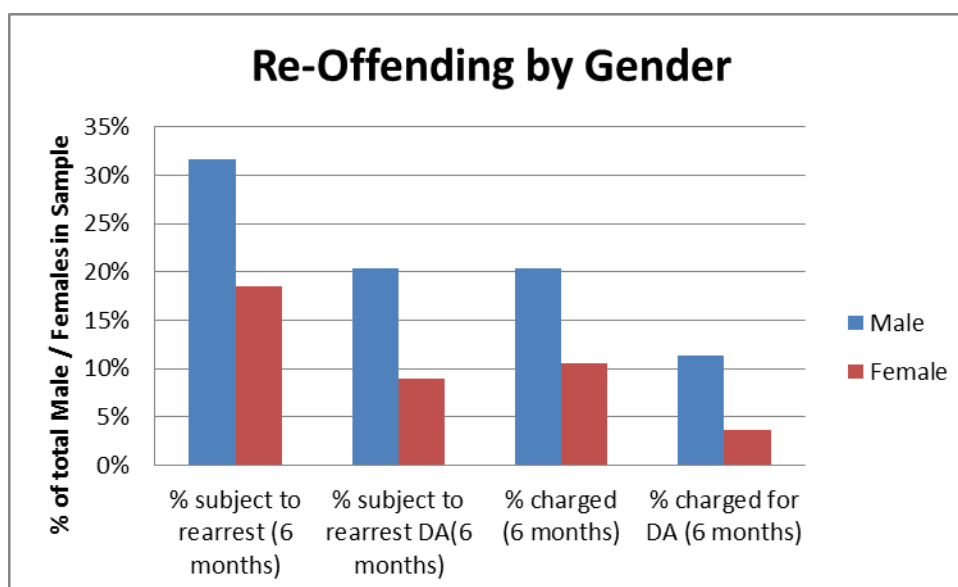


Figure 17: Reoffending by gender

Reoffending by offence type

Figure 18 displays the prevalence of arrest for reoffending according to the type of original offence committed, with other criminal behaviour and criminal damage showing slightly higher rates of reoffending than the violent domestic abuse offence types. For criminal damage, this may be explained by the average age of the offender, as the age distribution across the offence types is broadly even except in the case of criminal damage, where 38.2% is committed by the youngest age quartile. The highest proportion of re-arrest was also observed for this quartile, which is consistent with life course research into offending which indicates 18-24 as the peak offending age. In cases where the instant offence was 'violence with minor injury', there is a lower prevalence of both domestic abuse and non-domestic abuse reoffending. The resulting harm of this crime type is generally less serious and, although the intention of harm cannot be quantified, there is evidence that these offenders are less likely to have been previously arrested, potentially flagging them as low risk offenders (31% had no priors in

previous 5 years compared to 22.3% for those who committed a non-violent criminal behaviour offence).

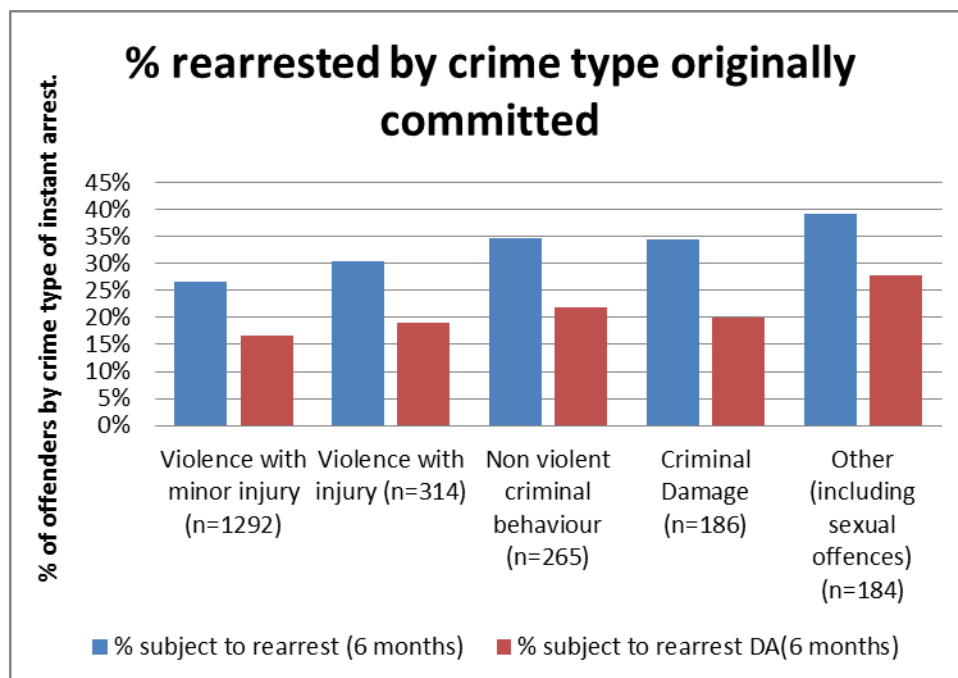


Figure 18: % who reoffended separated by the type of crime committed at original arrest.

It has also been previously established that those with previous domestic abuse convictions are more likely to be charged to court and receive further conviction. Figure 19 demonstrates that those with prior convictions are also more likely to be rearrested. There is much research asserting that the presence of a criminal record is harmful to desistence, for example Farrington (2003), who states that a criminal record may ensnare an individual into a lifestyle of offending due to the social exclusion it can bring.

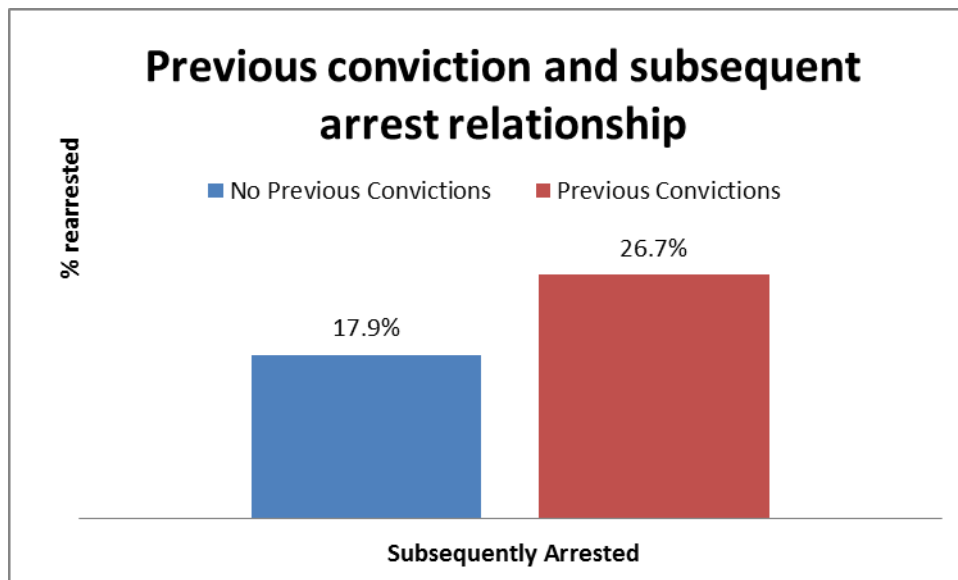


Figure 19: % rearrested with no previous convictions compared to those with previous convictions.

A differing prevalence of reoffending is observed across the original offence type categories. It could be hypothesised that individuals who previously received a NFA outcome for a domestic abuse offence are more likely to commit further offences, due to the lack of sanction imposed, and the missed opportunity to address the underlying issues that lead to these offences and therefore encourage desistance. In this, and other studies such as Petrosino *et al* (2010), the opposite trend is revealed, with reoffending for NFA cases lower than that of charged cases, although as with all data in this study, the short period of follow-up must be noted. Moreover, reoffending is least prevalent for cases which received a conditional caution, an outcome which is barred in the UK with the exception of Project CARA. It may be argued that the higher rate of reoffending observed within charged cases is due to those offenders that are charged having more previous convictions, or it could be the conviction itself that triggers further offending as discussed above. Figure 20 details the relationship between outcome of the instant offence and subsequent offending (measured by arrest).

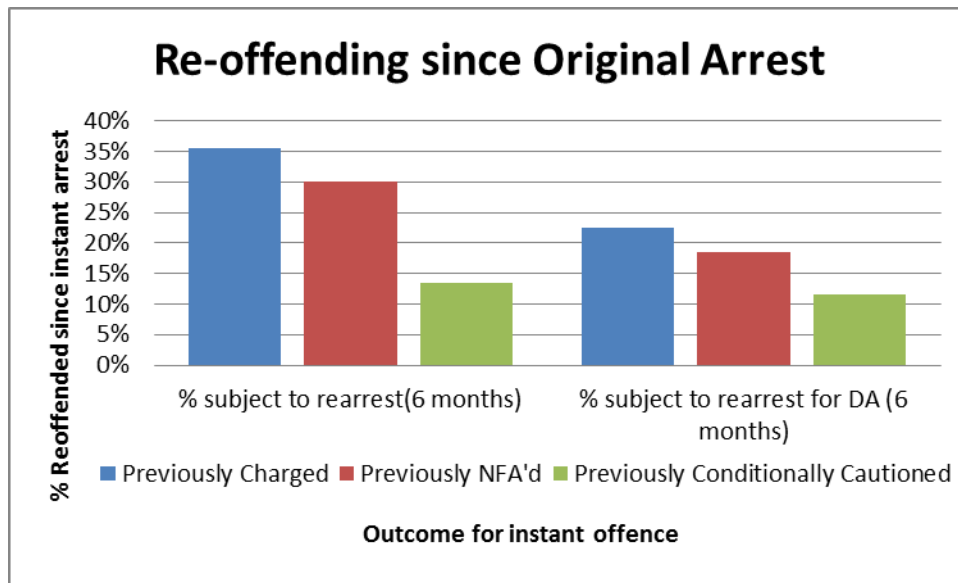


Figure 20: % Rearrested by outcome of original instant offence

The data collected in the course of this study demonstrates the diverse nature of domestic abuse and the inherent risk in making assumptions that domestic abuse cases should all receive the same response from the criminal justice system. The attrition noted throughout the data seems more prevalent in violent offences, which is likely to contribute to a policy view that the CJS does not do enough to prosecute domestic abuse. An NFA may not, however, necessarily be a poor outcome as arrest may be capable securing desistance as reported by Sherman (1992). Sherman reported that offenders with stakes in social conformity, such as employment, may see arrest as more of a shock, and may therefore be less likely to reoffend.

Chapter 4: Discussion and Conclusion

Discussion of Results

It is clear from the evidence in this study, and the research cited within it, that the prosecution of domestic abuse is neither simple nor certain. It is equally clear that there is little evidence to show that the criminal justice system, in its current form, is successfully deterring reoffending and driving desistance with any degree of certainty, consistency, severity or celerity. A criminal justice system is primarily designed as a societal response to breaches of social rules by an individual, and as such usually concerns itself with retribution for a singular event rather than for behavioural patterns. Consequently, it is already at a disadvantage when dealing with the complex nature of domestic abuse. Furthermore, because the intervention of the system can result in the loss of liberty and the placing of a permanent marker on an individual, it places a rigorous emphasis on the achievement of high standards of evidence as a pre-requisite to the exercise of its powers and authority.

The characteristics of domestic abuse are commonly held to be different from those of most other crimes. Its private nature provides little opportunity for evidence beyond victim testimony or offender admission, yet the court prosecution based approach that has primacy in the UK CJS response requires the strictest evidential standards. In many cases this leaves the CJS unable to address the offending without placing the victim in the potentially distressing position of providing the primary evidence for prosecution. Civil orders are still underutilised within this field, and do not offer the same powers of incarceration as criminal courts, but they do however, accept evidence to the standard of 'a balance of probability', which is the standard of proof within civil courts. This is in contrast to the standard of 'beyond all reasonable doubt' within the criminal courts. When

considering that only 121 offenders within this sample, or 5.4%, received a custodial sentence, the civil courts may provide a legitimate and more certain option for sanction, especially the 54.6% of this sample for which a NFA decision was taken after arrest.

This study reveals a system that is plagued with attrition, whereby cases are discontinued post charge, with only 33.5% of the sample reaching court and only 22.7% achieving a conviction. Consequently it is reasonable to assert that legacy policies such as 'pro arrest' may be pushing too many cases into the system in the first instance, driving the attrition that is later observed. Furthermore, as few safeguarding alternatives exist, the practice of arresting suspects as a means of safeguarding the victims is, at least anecdotally, commonplace.

Faced with this volume of arrests in the system, the heavily governed UK Crown Prosecution Service applies highly stringent charging criteria, driven possibly by a strict focus on their post charge attrition performance. The success of the CPS is measured not on arrests which reach successful conclusion or on reducing reoffending, but instead on charge to court only. The impact of this refusal to prosecute is seen in the 21.5% of the overall sample, or 483 cases, that receive a 'No Further Action' decision even though they have enough potential evidence, in the view of the police, to warrant charge or caution.

Those cases that do make it past the point of charge are no less immune to the threat of attrition. Domestic abuse attrition post charge remains high, due most probably to victim retraction, and much more research is required to obtain empirical evidence as to why cases, which have sufficient evidence at charge, are failing post charge, and how performance cultures across the CJS may be contributing to this.

UK Policy makers are not ignorant of this issue, although it could be argued that their response is inadequate, with its basic focus on more robust prosecution. Given the insight afforded by this, and other research, policy makers need to be cautious in attempting to address attrition in this way without first questioning the role the CJS has to play in the overall response to the issue. In the interests of social order, it is clear that cases with strong evidence of a criminal act should be subject to a criminal justice sanction, but it is also a reasonable hypothesis that the CJS should be only part of a wider social response, rather than the primary response that it appears to be. Evidence from the 23 year follow up of the Milwaukee experiment (Sherman and Harris 2013) showed that CJS intervention into domestic abuse can have significant ramifications, not just for the offender but also, surprisingly, for the victim. Whilst this research focussed on arrest, similar evidence of the impact of the wider CJS is urgently required in order to understand whether pro-prosecution policies are beneficial for the victim and offender or whether they have hidden, and possibly harmful, consequences.

The results of this study bring into question whether the CJS, through its prosecution-led approach, is fulfilling its purpose within the context of domestic abuse. Whilst most general research into the purpose of the CJS asserts its core roles to be protecting the victim and deterring the offender, with only 33.3% of offenders within this study being charged into the system post arrest and only 22.7% receiving a conviction, the system is clearly responding capably in only a minority of cases. Together with growing evidence of victim dissatisfaction such as Cretney and Davis (1997), this raises doubts as to whether the CJS is the right response to domestic abuse at all, and whether it should be used only to bring justice for the crime, and not be relied upon to provide deterrence to the perpetrator.

Perhaps the most concerning side effect of the attrition is the lack of records left for those cases which are unsuccessful within the CJS process. The data results demonstrate that 46.4% of offenders were subject to NFA despite having a previous history of arrest for domestic abuse, compared to 18.6% when there is a history of previous conviction. Whilst reasons such as the characteristics of offenders may influence this, it does show that previous arrest history is rarely taken into account, hence conviction is even more vital, and the lack of convictions even more critical. With such a degree of attrition in the system, there are potentially a number of prolific offenders whose shrewd understanding of the system allows them to escape conviction continuously, and this in turn increases their chance of an NFA outcome when next arrested. Further research into those with multiple arrests but low convictions could reveal the scale and characteristics of such offenders, and also provide predictive indicators to help identify them in the future.

Reassuringly, the risk assessment process conducted by the police is cognisant of all previous arrests and calls for service, although the assessment process itself is untested and unproven. A crime and harm index of some kind is a difficult but potentially necessary requirement (Neyroud, 2011), because a full understanding of domestic abuse requires an understanding of the harm intended by the offender and the risk to the victim. The risk should arguably determine the level of social response, with a separate consideration of the appropriate criminal justice retribution required.

Policy implications

Domestic abuse policy growth has been significant over the last few decades but, as discussed, it has emphasised the role of prosecution through the

CJS as a primary response. Attrition, the consequence of which is the absence of a conviction record, may act as a barrier to offenders receiving rehabilitation and support, and whilst there is growing appreciation of the requirement for a wider social response, a predicament remains in that conviction appears to be a crucial pre requisite for access to the wider system. Unless a court order is made at the time of conviction, rehabilitation options are not mandatory and rely on the offender having the self-motivation to access help. Although perpetrator programmes are accessible on a voluntary basis, and so a court mandate is not a pre-requisite, voluntary access is only of value for those offenders willing to engage and to acknowledge their harm.

A gap exists, therefore, between mandate through conviction and voluntary attendance. There are few opportunities for society to place an expectation on the offender of, or persuade them toward, rehabilitation. Likewise, mandated attendance through the civil courts, in which there is a higher prospect of success, is unusual, as civil orders usually relate only to restrictive or protective orders.

There is a practical explanation for why the CJS prosecution route may have become the primary response, and that is its ease of access and availability. When an incident takes place, the victim has an immediate need for intervention, and this will be provided by the police, who are charged with the duty to protect the public 24/7. Setting aside the separate and heavily researched debate on whether arrest is appropriate or not, it is a clear and undisputed duty of the police to be the immediate response to most incidents. On the evidence of this thesis, however, it is around post-attendance where the debate should lie. It is questionable whether the most appropriate action post-arrest is submission to the CJS, or the triggering of an alternative social response. Policy makers should consider whether there is

a requirement for bespoke 24/7 assistance for domestic abuse, over and above the police contact available.

An example of an alternative response is the use of out of court disposals. These are being used with apparent success, albeit untested, for other crime types, yet with all but simple cautions barred from use in domestic abuse, cases of this type are denied access to a criminal justice solution that is both pragmatic and immediate. The recent addition of community resolutions, which can be used even where criminal evidence standards are not fully met, provides an expeditious and simplified process which requires only the admission of harm, rather than the full evidential criteria of a criminal court. Using these could allow many domestic abuse cases, which are otherwise unsuitable for prosecution, to access interventions and victim services.

Controlled research on the use of out of court disposals is urgently required in order to further this debate. Whilst Project CARA is successfully testing the use of conditional cautions, its standards of evidence are no different to those of the criminal court system; both require proof beyond a reasonable doubt. To truly test an alternative for cases of a lower evidentiary standard, a controlled study of the use of community resolutions is required. Should this study provide positive evidence, a community resolution for domestic abuse could potentially overcome the lack of certainty that is known to lower the deterrent effect of the system (Paternoster, 1987).

The introduction of a community resolution is, however, not without its challenges. The lower evidential threshold used for these disposals does not provide sufficient evidence for prosecution in the event of a breach of a resolution, and it would therefore take a principle such as that of 'nudge', described by Thaler and Sunstein (2008), to provide the right motivation for an offender to attend and

comply. The principle of 'nudge' has proved to be more persuasive than simply relying on an individual's voluntary commitment, and testing may also show that community resolutions give a better sense of outcome and justice for victims, thus instilling in them more confidence in the system.

Policy must recognise the growing evidence about quasi-judicial outcomes and their effect in general crime. Restorative justice, for example, could be applied to cases regardless of their evidential basis, subject to the necessary safeguards and procedures. Whilst such innovations are fiercely controversial in the context of domestic abuse, based on the perceived risk to a minority of victims, appropriate testing and tracking is required in order to support balanced, evidence based consideration of their use.

Finally, the greatest need for further research is around the prevalence of reoffending. This study has demonstrated, with just six months of follow up research, a higher prevalence of reoffending for those cases which were charged compared to those which were not. It may be that offenders who are charged are deeper into a life style of criminality, and therefore further from the social norms of society and the chance of rehabilitation. Conversely, the very nature of their interaction with the system may not be having the assumed deterrent effect.

What is clear is that domestic abuse is diverse. The latest iteration of the Home Office definition is necessarily broad, and recognises a much wider range of behaviours that can constitute abuse and control than previously. It is this same diversity, however, that necessitates the urgent understanding of domestic abuse in its micro form rather than as an all-encompassing term, because the characteristics of a case of long term systematic controlling abuse are very different to those of a case of 'one-off' violence. This study has shown a significant variation in outcomes depending on different variables such as crime

type or previous offending, and regression analysis would be necessary in order to start understanding how the presence of certain variables may pre-dispose a case to a particular outcome. More significantly, the same analysis may reveal that a successful intervention for one 'type' of domestic abuse may be less successful or indeed may even be harmful for another type.

There is potential for this regression analysis through the longitudinal research already planned as part of this study. Furthermore, the relationship between attrition in violence offences generally and in domestic abuse with violence should not be ignored. The vast majority of domestic abuse attrition sits within the 'violence' offence category, and it may be that this issue is due more to the characteristics of that offence type than to the domestic nature of the offence.

Whilst the broad categorisation of domestic abuse is useful in order to mobilise a priority response from the CJS, from a policy perspective it must be treated with caution, as what may be a successful intervention for one type of offence or offender may not be so for another. Consequently a generic domestic abuse-wide policy is both unrealistic and potentially detrimental when considering the heterogeneity within the domestic abuse population itself.

Conclusion

The UK criminal justice system is a vital part of society, and its role in the response to domestic abuse is undisputed. Progress has been made over the past few decades which has seen domestic abuse move to the centre of the political agenda, in line with changing attitudes to gender and equality, and which has also seen an accompanying shift in attitude and perception from the issue being treated as purely a social one to it being treated as a criminal matter. The focus and effort that the CJS has put into driving this change must not be lost, but

it must recognise that prosecution cannot be the only solution given the restrictions that accompany that approach. The diverse nature of domestic abuse requires an equally broad range of outcomes which can be applied according to the individual requirements of a case, and at all times the primary aim of these approaches, and consequently the measurements by which the CJS agencies are judged, must be the safety of victims and the deterrence of reoffending.

To use court based prosecution as the primary response is to apply strict evidential criteria that many domestic abuse cases simply cannot reach. This leaves the majority of cases unprosecuted, and severely restricts the access to further interventions. Evidence from intervention programmes, although not tracked in this study, does show a lower prevalence of reoffending than the court prosecution approach alone, and this is highly relevant, as the results of this study demonstrate that there is a relationship between higher recidivism and those cases that are charged into the court system.

The longitudinal study which is planned for the five years following this study will continue to draw out further relationships, and will be capable of tracking which variables are showing a continued deterrence from further offending. Within the safe confines of experimental criminology, evidence can be gathered which will enable policy makers to become more informed, allowing them to make educated decisions about the use of alternatives to court, such as community resolutions or civil court remedies. In this way victims could see more certainty, and perpetrators could be given much better access to the interventions which could curb their offending.

Glossary

Attrition	The gradual reduction of cases between charge and prosecution due to charges being dropped. Examples of reasons for attrition are procedural technicalities or a lack of evidence.
Chief Constable	The rank of the chief police officer of every territorial police force in the United Kingdom
CJS	The Criminal Justice System, which includes the Police Service, the Crown Prosecution Service, and Her Majesty's Courts and Tribunal Service
CPS	The Crown Prosecution Service. A non-ministerial department responsible for public prosecutions of people charged with criminal offences in England and Wales.
Crime Type	The generic categorisation of specific offences e.g. Violent offence types encompass bodily harm, assault etc.
Crown Court	The higher court able to deal with more serious criminal offences
DA	Domestic abuse, which includes both violent and non-violent offences
DASH	Domestic Abuse, Stalking and 'Honour'-based Violence risk identification checklist completed by police upon attendance at a domestic incident in order to assess the safeguarding support which may be necessary.
DPP	Director of Public Prosecutions (DPP), the most senior public prosecutor in England and Wales
Home Office	The Home Office is a ministerial department of the Government of the United Kingdom, responsible for immigration, security and law & order
Magistrates' Court	A lower court where all criminal proceedings start. The Magistrates who preside within the court have limited sentencing powers which enable them to deal with smaller crimes.
No Drop	'No-Drop' or 'Non-Drop' is a proactive approach by prosecutors in which all lawful efforts are made to ensure charges are not dropped. This can include summoning a witness to attend court.
Summons	Where an individual is charged with an offence and their presence is requested at court. Summonses are issued administratively, by post, rather than through arrest and charge at a police station.

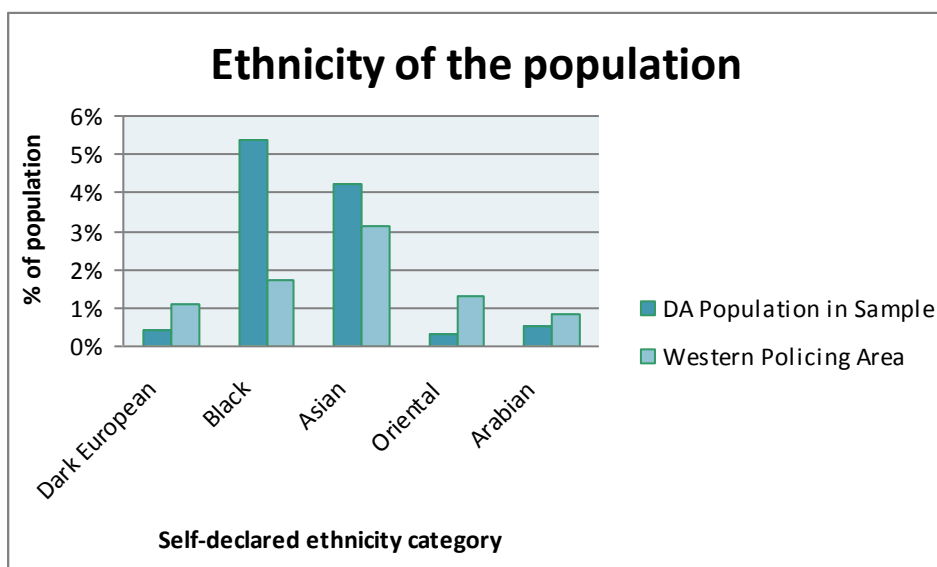
Appendix A

Appendix B

Additional Demographic charts

Ethnicity

At a macro level there is little difference between the domestic abuse offender population and the whole policing area population and therefore results were not of significance to the study, with 89.1% of the former self-declared as White European compared to 91.2% of the latter, suggesting that the ethnicity split of individuals arrested for domestic abuse is broadly representative of the total population. The figure below presents only the minority groups, and shows a comparatively high level of offending by individuals who self-declared as Black or Asian as a proportion of the total ethnic composition of the study area.



(Minority) ethnicity comparison of offenders.

Previous Offending and risk

According to the data analysis, only 2.5 % of cases were recorded as high risk, where repeat victimisation is very likely, and whilst this figure is treated with a degree of caution due to it being manually retrieved from DASH forms and

therefore subject to the accuracy of officer recording, it remains surprisingly low.
The data recording ambiguities resulted in this data not forming part of this study.

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