Constrained, Compromised and Disconnected:
Experiences of women in contact with the Magistrates’ Court following violence and intimidation from male partners

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Abstract

The thesis explores the experiences of women who had contact with the Magistrates' Court process as a result of violence and intimidation from men in past and existing relationships. Drawing on understandings and appropriations of feminist standpoint theory (Harding: 1987; 2004), an interpretive variation of grounded theory (Charmaz: 2007) and features of structuration theory (Giddens: 1984), the empirical study aimed to provide space for women to speak and be heard, in order to provide a more in-depth portrayal and understanding of women's experiences of their interface with the criminal court system, addressing a specific under-researched area in criminological and socio-legal discourses. Areas of convergence and divergence between the views of the women and professionals are also identified and a thematic discussion considers how the women's experiences of the law are structured and reproduced.

The study found that most women wanted contact with some aspect of the criminal justice system, if not necessarily the court process, but on their terms: their experience assessed by their own notion of appropriateness. Women were shown to be knowledgeable agents strategising and attending to their more immediate priorities, which were not limited to judicial concerns. Women's agency was compromised and constrained throughout their experience, with their own legitimate victim status being questioned. The women reported a disconnection with the court process, and an absence of a sense of ownership, while the structural demands of the system and pressures brought by involvement were shown to bring additional complications in women's lives. The experience was deemed isolating, resulting largely from a dissonance between the women's frameworks of meaning, and those of the court professionals they came into contact with. The thesis concludes by identifying
implications for addressing the normative gendered processes and culture of the criminal legal system, proposing an alternative approach centred on the needs and rights of abused women.
Part One: The Study
Chapter One  Introduction

Context of the study

This thesis explores the experiences and personal perceptions of women who had contact with the Magistrates’ Court process following violence and intimidation from men in past and existing relationships. The study attempts to address the recognised absence of women’s perspectives of the judicial experience in relation to domestic violence1 in the feminist, criminological, victimological and socio-legal discourses (Ptacek:1999; Fleury:2002; Jordon:2004), and therefore is consciously centred on their accounts.

The approach taken is required not least as a counter-balance to the dominant official or ‘expert’ discourses in the socio-legal and political field. Indeed, it is intended to make an important contribution to the limited knowledge-base about women’s perceptions of the criminal legal process more generally (Lewis, Dobash, Dobash, Cavanagh:2001; MacKinnon:2005). It is hoped that by acknowledging, capturing and reflecting the women’s real life experiences in this way, their voices can be heard by policymakers, practitioners and academics in order to inform and “transform discourses, debates, policies and processes...in a meaningful way” (Walklate:2008:51).

Innovations and evaluations: the dominant research context

The expansion of policy interest addressed here should be seen as both the result of previous and continuing feminist-academic work. Although far from a policy evaluation, this thesis emerges at a point in time when the dominant paradigm is based on an evaluative framework: by placing women’s accounts at the centre of the research, the thesis retains a critical distance from this prevailing discourse.
Criminal justice research on domestic violence has centred largely on “how the system ought to handle these cases” (Fleury:2002:181). The focus on practice response in this country emerged primarily from the policy interest in changes that have taken place since the 1990s (Home Office Circular:1990; Grace:1995), when central government and statutory services began to play a more explicit role. The development of an evaluative research programme (Griffiths and Hanmer:2005), has focused on the effectiveness of innovations which aimed to reduce or respond to domestic violence (Taylor-Browne:2001). Notwithstanding the ESRC Violence Research Programme (see Lee and Stanko:2003) which intended to fill some of the “theory gap” (Skinner, Hester, Malos:2005:8), whilst still informing policy and practice, the government research programme was part of a wider drive of evaluated interventions in the 1990s which focused largely on an 'evidence-based practice' approach (Chapman and Hough:1998).

Innovations specifically aimed at responding to domestic violence (and other areas of violence towards women) have included an emphasis on prevention and links with multi-agency approaches (Lloyd, Farrell and Pease:1994; Dobash and Dobash:1998; Kelly:1999; Hanmer and Griffiths:2001; Hanmer:2003; Hester and Westmarland:2005). Feminists involved with this approach have been concerned not to lose sight of the feminist project and the need to deliver in meaningful ways to women and not purely in performance target terms (Skinner, Hester and Malos:2005). In the last decade, evaluations of innovations in selected court settings, which have drawn on aspects of North American models (see literature review), have also taken place. To date the focus has been primarily on the extent to which targets and programme aims are met, and secondly with the accounts of professionals (legal and involved support agencies) as the predominant ‘voices’ of process experience. Evaluations have only given a marginal place to, and limited exploration of, women’s

Legislative and policy context

The symbolic and constitutive changes in legislation and policy which have addressed domestic violence are ultimately the result of both political pressure and developments in practice over the last three decades, primarily from feminist activists and volunteers working at a grassroots level with women to combat men’s violence (Wilson:1983; Kelly: 2007; Walklate:2008), and informed by academics who developed theoretical perspectives which draw on the experience of women’s lives (Bunch:1983; Kelly:1988; 1994; MacKinnon:1991).

Politically, this feminist pressure has resulted in the criminal legal process taking violence against women in the private and public sphere more seriously (Edwards: 1986; 1989; Stark:1993). This is a lengthy journey historically starting from a largely reluctant response from the criminal justice process, to the emergence of domestic violence as a social problem (Home Office Circular 69/1986; Home Office Circular 60/1990; CPS:1993; Grace:1995; Walby and Allen:2004), ² and then to one which outwardly acknowledges the wrongfulness of men’s violence towards women (Madden Dempsey:2007).

Notwithstanding these achievements, it is recognised that for the most part, women continue to eschew the court and wider justice process (Kelly 1999; 2007; Stanko:2007; Coy, Lovett and Kelly:2008). Disengagement may result from women’s views that the criminal justice process is still not considered to be an appropriate, credible or safe way of controlling or stopping violence by ex/partners (Hoyle:1998; Hester and Westmarland:2005; Robinson:2006; Walklate:2008). Whilst it might appear that criminal justice professionals and abused women at times may have “different ideas” (Robinson:2007:367) of how to
enhance their safety, sceptical reformers maintain the criminal justice system, albeit imperfect, needs to be the arena where prevention, protection for victims, and where (if appropriate) punitive justice functions are performed (Kelly:1999; Walby:2002; Dobash and Dobash:2004; Madden Dempsey:2007; Burman:2010).3

Since the mid-1990s there has been a renewed political concern for victims and their place in the justice process. This concern has been considered to be both for political gain (Crawford and Goodey:2000), and in response to demands placed on the legal system by collective action (Miers:2000). The climate of change has resulted in a number of purportedly ‘pro-victim’ reforms with changes in the law, policies and practices4 in this country, which have aimed or pledged to place the victims needs more centrally (Straw:1999; Home Office:2005) in criminal and civil justice system.5 There is debate within the socio-legal, criminological and victimological literature as to whether this emphasis has been the start (or not) of an attempt to redefine the relationship between the victim, accused and the state and makes for a more inclusive model of criminal justice approach (Doak:2005), or simply an attempt to complement (with victim oriented measures) existing adversarial features of the criminal legal system rather than change them (Sanders:2002).

To consider the specific case of domestic violence within this period of legislative, policy and practice developments, it is necessary to give a brief overview. Initially, the main legislative change was the implementation of the Family Law Act 1996, which attempted to combine most all previous legislation under the auspices of the single Act. This legislation was significant because it replaced the previous “unclear and inadequate” (Musgrove and Groves:2007:234) civil and criminal legislation of the 1970s, namely the Domestic Violence and Matrimonial Proceedings Act and the Domestic Proceedings and Magistrates’ Court Act 1978.6 Importantly, this new legislation also gave the court of law a wider definition and
interpretation of domestic violence to include “physical, sexual or psychological molestation or harassment” (Bird:1997:2). A gap exposed in the Family Law Act 1996 was that it did not apply to those who have ever co-habited or same sex couples. The Protection from Harassment Act 1997 which followed (although not specifically aimed at victims of domestic violence) allowed for a more progressive possibility of a civil/criminal interface. 7

Several key policy documents and proposed changes over this time directly impacted on victims of domestic violence. The time it took for a domestic violence case to come to (and be processed through) court was viewed as a particular problem, identified by the Government Policy Report on Domestic Violence (1998) as presenting “barriers to effective justice” (para.13). This was recognised as a period of increased risk for assault or intimidation of the women involved, which could result in withdrawal of cases without the right kind of support and information (Dobash and Dobash:1998). The problem was addressed directly through the government’s Women’s Unit Living without Fear policy document (1999), and the subsequent Break the Chain campaign (1999).

The Crime and Disorder Act 1998 also tackled the issue of time taken in the court process more generally. 8 However, specifically in relation to domestic violence, simply hastening the judicial process as a response to this problem, rather than increasing support for the women involved, may have left insufficient time for the preparation of an effective prosecution case (Grundy:2000). Also at this time, the Crime and Disorder Act 1998 put a statutory responsibility on Crime and Reduction Partnerships (CDRP) to develop a response to domestic violence issues, however, it was not until the framework paper, Narrowing the Justice Gap (2002), that there was a renewed emphasis on inter-agency engagement and effective practice specifically with victims and witnesses at local levels.
Arguably the most significant legislative reform thus far for the victims of domestic violence is the Domestic Violence, Crime and Victims Act 2004. This legislation made common assault an arrestable offence; breach of Non-molestation Orders a criminal offence (see Burton:2009), and Restraining Orders became applicable in a wider range of circumstances. Restraining Orders were enabled in a criminal court, at the end of a trial. Other reforms and initiatives are forthcoming or proposed alongside this. The implementation of related procedural changes and the short-medium-term effects (scope and effectiveness) of the Domestic Violence, Crime and Victims Act 2004 are being appraised on an on-going basis (Musgrove and Groves:2007; Home Office:2008-9; Burton:2008).

Outside of legislative change, innovation has occurred which is bracketed under the auspices of the National Domestic Violence Delivery Plan (2008), in the organisation of a Magistrates’ Court response to domestic violence and in the shape of the Specialist Domestic Violence Court (SDVC) programme in areas in England and Wales. The programme requires that certain components now have to be in place before an SDVC programme in a Local Justice Area can be accredited by the government.

The closely linked Independent Domestic Violence Advisers (IDVAs) work with women who are considered to be at a high risk of harm, dealing with issues of safety and helping women to manage risk. The role of the IDVA is seen to be a “pivotal component” of the SDVC (National Domestic Violence Delivery Plan/Annual Progress Report:2008-9). Part of the IDVA role is to attend a further innovation, namely the Multi-Agency Risk Assessment Conference (MARAC). MARAC is a multi-agency meeting which focuses on the safety of high-risk victims, involving statutory and voluntary agencies in delivering a response to the needs of individual victims.
A number of issues continue to potentially undermine the impact of these two services: there is still some concern over the efficacy of risk assessment, and what constitutes the "shared understanding of risk" between agencies (CPS:2007/8). Although based on the indicators that focus on those most at risk, this framework has been seen to ignore the context that such abuse operates in, obscuring the extent, forms and effects of violence and intimidation which can "set the stage" (hooks:1997:282) for more extreme violence. This supports the view that women's own judgement of their safety is a more likely 'objective' assessment tool (Hoyle and Sanders:2000).

There are mixed views on both the process and (court) outcome of the SDVC: it is often the experience outside of the court process or setting, where the advantages are seen to be (Burton:2008). More beneficial experiences of contact tend to be either with the IDVAs, 18 or from other women’s victims and survivors support services, such as Women’s Aid Outreach Services and Refuges, where women may seek help (ibid). Although the National Delivery Plan endorses the model of a more co-ordinated response, MARAC has been reported to be a disempowering service for victims, described as a "paternalistic" approach developed with "limited input for survivors" (Home Affairs Committee Select Inquiry into Domestic Violence:2007:6).

The first, Guidance for Specialist Domestic Violence Court Programme (2005:2), included a combination of potentially conflicting approaches. For instance, the promise to develop systems which centre victims of domestic violence and their "special concerns" was alongside the prosecution target/s set within the programme, "to increase rates that domestic violence incidents result in sanction detections, especially in areas with high attrition rates" (ibid). Indeed, in 2010, the Crown Prosecution Service (CPS) reported an increase in the number of "successful outcomes" from the perspective of the service. It was considered that the CPS
was continuing to “improve its performance on prosecutions in domestic violence cases...and these courts...are playing a key role in increasing the number of successful outcomes” (Attorney General, Baroness of Scotland, QC: HM Government:2010:11). However, the confidence of that recent report is counterbalanced by evidence such as that offered to the Home Office Select Inquiry into Domestic Violence (2007-8) from the Women’s Aid Federation England (2007:5) that the emphasis on increases in prosecutions “does not necessarily lead to increased safety for survivors”. Effective prosecution for women has been shown to have different, and often problematic (Robinson and Cook:2006), meanings to those of the CPS (Madden Dempsey:2007), whilst concern still remains regarding the impact of performance and target frameworks on the nature of prosecution (Coy, Lovett and Kelly:2008).

The (specialist) domestic violence court system has developed over the last twelve years, initially through various pilot court schemes in the late 1990s (Grundy:2000; Grundy, Ellingworth, Hackett and Minogue:2001) to the early 2000s (Cook, Burton, Robinson and Vallely:2004; Vallely, Robinson, Burton and Tregidga:2005). Since this development, and under the National Delivery Plan, the SDVC court programme, numbers have increased. In 2008 there were 105 SDVCs, with a target of 128 for 2011 (Coy, Kelly and Foord: 2009:53). Subsequently, under the present coalition government, it has been announced that a number of Magistrates’ Courts will close; including courts accredited under the SDVC programme (see www.justice.gov.uk). There is no universal type (Eley:2005) of specialised court model and across jurisdictions these can vary widely (see Chapter 2, Literature review); in this country the court aspect may share some characteristics. These can include administrative changes, for instance the way cases are identified and then listed to be heard together in one court, and on one day; trials may also be dealt with in this way. In some, but not all courtrooms, physical organisational changes may have been made. In many courts, the hearings are not
listed in public as being heard in a specific domestic violence court; indeed, in many cases, women go through the court system without being made aware of, or knowing they have been through, a specialised system (Cook, Burton, Robinson and Vallely:2004). 22

The instigation of a (regularly reviewed) *National Domestic Violence Delivery Plan* (2008-9) has been widely welcomed, and specifically the recognition inherent that domestic violence cases require specialised focus and attention from relevant agencies (including police and prosecutors) and criminal courts (Coy, Kelly and Foord:2009). Evaluative research however shows certain areas need to be addressed. The SDVCs are seen to produce inconsistent approaches, where “personalities” play a vital role in the more successful court initiative (CPS:2007/8). In addition, despite the (increased) numbers of programmes this is not consistent, and some areas “remain underserved” (Coy, Kelly and Foord:2009:54). The large numbers of women who do not benefit from these valuable but limited, specialised and risk assessed services, 23 may continue to be served (supported and advised) by other, more traditional victim centred services, such as Women’s Aid and their outreach services. However, there has also been concern that having these “two strands of policy development” (Harwin:2008) will impact on all women victims. On the one hand, the government endorsed criminal justice interventions where local outreach services are being replaced by services for high risk victims are seen increasingly as the “panacea” (ibid) for domestic violence, rather than an approach which recognises the variety of needs of women who have experienced violence. On the other hand, the services which are usually (part) funded outreach or independent/voluntary services have found they are being managed by the Local Authority or subsumed into more generic services (ibid). It is this latter group of services which serves the majority of women who may, or may not, reach court. It is worth noting however, that in the current climate of retrenchment, the sustainability of the SDVC programme and all it entails has become a concern (CPS:2007/8).
The Magistrates' Court is most commonly used for domestic violence cases, and is the main focus for this study. It is reported that the nature, complexity and uncertainty of domestic violence cases often determines why women are brought into the (lower) Magistrates’ Court rather than the Crown Court; this is a practice which is thought to be used at times inappropriately and tacitly (Cammiss:1996; 2006; Cretney and Davis:1997a), and a management of cases which “sells the victim short” (Hoyle:2000:160). Although there is no streamlined approach between the SDVCs and the more regular courts in elements of administrative and physical arrangements (Cook, Burton, Robinson and Vallely: 2004), some or all of the wider, and aforementioned legislative and policy-practice developments hold specific implications for how all the Magistrates’ Courts respond to domestic violence (and to an extent other, linked support services to victims of domestic violence).

*The capacity of criminal justice to produce gender equality*

Developments in the criminal (and civil) court and justice response that seek to find ways the legal system can deliver better justice for women in cases of domestic violence, have hitherto been couched in terms of effectiveness of prosecution and policy implementation (Lewis, Dobash, Dobash and Cavanagh:2001; Walby:2002). This echoes the wider conceptualisation of Fraser and Honneth (2003), who attempt to reconcile and combine efforts to produce social justice that focuses on redistribution of rights and recognition of difference into a coherent project. The need to acknowledge and respond to the moral agency and needs of women has increasingly emerged as a concern (Kelly:1988;1999; Childs and Ellison:2000; Walklate:2008).

There is a debate within feminist academia regarding the degree of appropriate involvement with the reform of the legal system (Lewis, Dobash, Dobash and Cavanagh:2001). Within this debate are differing views on the capabilities of the law to respond to the complexities of
domestic violence (Burman:2010), the extent to which involvement with reform threatens the integrity and “visions” (Ptacek:2009:10) of the feminist project, and what the importance of procedural justice is and what effective outcomes may be achieved for women (Coy, Lovett and Kelly:2008). At one end of the scale realist reformers would recognise the capacity for the law to reform, without threatening the integrity of the feminist project focusing mainly on traditional prosecutorial outcomes over procedural justice: at the other end of the scale abstentionists would advocate non-involvement due to their belief of the intrinsic patriarchal nature of the law. The sceptical reformer combines aspects of both of these perspectives advocating on the one hand engagement with the law in recognition of the “immediate need of women who use the law” (Matsuda:1989:8) in order that this action may improve women’s lives, while questioning the capacity of reform to produce real progress in terms of gender equality, unless it addresses the longer term structural and fundamental masculinist characteristics of the system (MacKinnon:1987; Edwards:1996). Both aspects prioritise the need to keep women’s concerns on the political agenda (Thornton:1991) and address how “the female victim is constructed and offered legal protection” (Burman:2010:174). Also reflected within this discourse, for some, is the consideration of responses that involve the possibilities of restorative justice alternatives (Morris and Gelsthorpe:2000; Daly and Stubbs:2006).

The lack of inclusion of women's experiences of the law in the interrelations of legal theory and practice are named as an area which if included, could produce a more meaningful law, and inclusive experience (MacKinnon:2005). This would not only recognise the interests of abused women as 'vulnerable' victims, but would advance the inclusivity of the criminal justice model and the “integrity of the legal system” as a whole (Doak: 2005: 316).
The research aims

The study prioritises women’s lived experiences of their often complex interface with the court process as a valid basis for its inquiry (Carlen:1998; Hudson:2000). This approach builds on understandings and appropriations derived from a feminist standpoint (Hartsock: 1998; Harding: 1987; 1991; 2004) and other theories. Feminist standpointism sees the differences in women’s and men’s experiences as a “socially produced matter of gender” (Bryson:2007:52), and that to prevent a less partial view of women’s oppression in specific areas of their lives, feminist research should “locate its discovery of knowledge’s in women’s lives and experiences” (Artz:2001:12). The research examines, through women’s accounts, the structuring and reproduction of their experiences.

Central to the conceptualisation of the study is the significance of “knowledgeability” and the range of “discursive phenomena” (Giddens:1984:xxx) women employ as agents, which is of real value here for insight into women’s experiences of contact with the court. The study also recognises that the structured properties of social systems are at times “beyond the control” (ibid:25) of women as individual actors, but takes the position that women are not simply “passive recipients” of the law (Lewis, Dobash, Dobash and Cavanagh:2001:5). With these conceptual factors in mind, the empirical driver for the study prioritises and explores women’s perceptions of their experiences who have consciously interacted, or who found themselves in contact with, the criminal court process, following violence and intimidation from their ex/partners. The research engages with the debate surrounding whether women can be considered both victim and agent by the law (Burman:2010), and what impact this has on their perceptions of their place within the criminal court process.
The study encompasses three component questions which forefront women's perspectives and experiences:

- How do the women perceive, define and describe their experiences of contact with the Magistrates' Court process?
- Where do the professionals' views converge or diverge from the women's views?
- In what ways are women's experiences structured and reproduced?

**Structure of the thesis**

The thesis comprises two main sections: the first part outlines the background to the study, and the second part has its focus on the findings, comparisons and conclusions. This section details the two main parts of the thesis by giving an overview of the (consecutive) chapters.

**Part One, The Study**

Beyond this introductory chapter, Part One of the thesis is made up of two remaining chapters (Chapters Two and Three). Chapter Two, 'Review of the literature', aims to ensure that connections are identified within the literature to offer a wider understanding of the body of relevant knowledge, and in so doing demonstrate those areas that are (currently) missing. 'The study of the victim', addresses dominant theories which produced the concept of the gendered victim, and considers the wider ramifications of this. 'Challenging the victimological focus: feminist interpretations of violence against women', demonstrates the influence of feminism in establishing violence against women as a legitimate project and a social problem from the outset. The place of women's explanations in their response to violence and intimidation is considered here against the backdrop of historical explanations for domestic violence. 'Feminist debates concerning engagement with the law in the case of domestic violence' explores engagement with the justice system, both for feminism and for women as individuals. 'Women's interface with the criminal justice system' addresses aspects of the interface with the justice system relating to arrest, the decision to prosecute and the court
response. The review draws on studies which have focused entirely, or in part, on women’s experiences of contact with the court process in cases of domestic violence, and other gendered violence.

Chapter Three, ‘Methodological approach and methods’, addresses the methodology and the operationalisation of the design and analytical methods employed in the study, appropriating and adapting a number of knowledge traditions. Primarily this research is located in a feminist framework, and reference is made to the limitations and possibilities of privileging the perspective of the women’s lived experiences as a focal point for the research inquiry. How this approach is employed, and how it shapes subsequent aspects of the research is addressed in the Methods section of this chapter, which reflects how the research was carried out and issues that were faced. Finally, the approach to data analysis is outlined.

Part Two, Findings, comparisons and conclusions

Chapters Four to Eight, report the thematic analysis of the interviews with the women and address the perceptions and understandings of the processes that they have been involved with throughout contact with the court process. Each chapter broadly reflects the divisions the women themselves recognise in this process, and although there are similarities to elements of the justice process, there is a need to reflect the non-linearity and interconnections between the stages that the women themselves highlight. The chapters address in turn: ‘Starting points: how and why women came into contact with the Magistrates’ Court process’; ‘Disconnection anxiety and anticipation: how women experienced the time leading up to court’; ‘What is appropriate? How women experienced contact with a wider group of professionals in the time leading up to court’; ‘At court’ and ‘Finishing Points? How women felt towards the end of contact with the court’. The themes which form these chapters are initially identified directly within the women’s accounts in order to allow meaning to emerge
exclusively from their experiences. Limited contextualisation of these findings appears in each chapter summary.

Chapter Nine, 'Convergence or divergence: comparing the views of women in the study with those of professionals', compares the views of women who had contact with the court with those of professionals working in the court, and with professionals from support agencies linked to women’s experiences. The chapter does not present an in-depth review of the professionals’ accounts: instead, the professionals’ perceptions are analysed particularly where there was a direct comparison to be made, noting convergence and divergence of views in relation to themes emerging from the women’s accounts.

Chapter Ten, ‘Discussion and conclusions’, elicits meaning and understanding of the themes that emerge from across women’s experiences, and starts to address the implications of these. The first section is a discussion of the core areas and themes to emerge from the research. To explore these more fully, other theoretical and empirical literature is drawn on in order to make comparisons, distinctions or as an explanatory tool. The second part of the chapter comprises the concluding remarks of the thesis. This final section emphasises some of the main points to come out of the study and the more conceptual aspects emerging, and focuses on implications that the study identifies.

1 The thesis on the whole uses terms of violence interchangeably, in the first instance, reflecting the specific experiences of women in the study, that is, ‘violence and intimidation against women from men in past or existing relationships’. Terms are included that were regularly used or adopted, primarily by women in the study, and also by professionals that took part. The most generically used term by both groups was that of ‘domestic violence’ (some support agencies also referred to the term ‘domestic abuse’). Where other specific uses or self-defined terms or forms of violence were named by women these are also included and explained in the thesis.

These and other such forms of violence (such as ‘intimate partner abuse’, ‘woman abuse’, ‘wife battering’, ‘family violence’ and ‘violence against women in the home’), regardless of the individual connotations they carry or limited/unlimited representation of experiences (Hoyle:1998; Walklate:2003; Skinner, Hester and Malos:2005; Davies:2007) are derived from wider overarching concepts and understandings of violence against women, and more recently, gender based violence. The conceptualisation of the study draws on internationally recognised definitions which reflect the specific nature of men’s violence against women, for instance ‘violence
that is directed against a woman because she is a woman or that affects women disproportionately" (General Recommendation 19 of the United Nations (UN), Declaration on the Elimination of Violence Against Women:1992). The study also draws on the 1993 UN definition which focuses on the structural causes of women’s victimisation across boundaries and socio-economic status/background encompassing a range of violence (Declaration on the Elimination of Violence Against Women: World Conference on Human Rights:1993). Finally, violence against women is defined throughout the thesis in accordance with the UN (2001) wording:

...any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

2 Policy statements from criminal justice agencies such as the CPS recognised that historically, such offences were under policed and under reported (CPS:1993). The Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey in the 2002/3 (Walby and Allen:2004), demonstrated that historical reasons for under-reporting still stand. Asked why victims did not report the worst incident of domestic violence in the last year 41% of female victims thought that it was too trivial, 38% considered it was a private matter, 7% wanted to avoid anymore humiliation, and 13% feared more violence or that the situation would get worse as a result of police involvement.

3 The Declaration on the Elimination of Violence Against Women proclaims that States have international human rights obligations to “exercise due diligence to prevent, investigate and in accordance with national legislation, punish acts of violence against women” (United Nations General Assembly: 23.2.94: Article 4c).

4 The Criminal Justice Act 2003 made a number of controversial reforms, for instance, allowing “bad character” evidence, also amendments to the law on ‘double jeopardy’, and provisions relating to judge only trials were rationalised as part of the “rebalancing of criminal justice in favour of victims” (Edwards:2005:1341). The Victim Personal Impact Statement (VPS) scheme was launched in 2001, which made provision for victims to be entitled to complete a statement to the police about how the crime had affected them. When considered by criminal justice decision-makers throughout the process, it was thought rather than improving the “frustrating and disempowering experience” (ibid) of victims, it was made worse by raising expectations and being of limited impact if used in court. A decade on, the take-up and understanding of VPS has been seen to lack consistency in its clarity of purpose and application (Reeves and Dunn:2010). ‘Special measures’ were introduced in England and Wales under the Youth Justice and Criminal Evidence Act 1999. These were applicable to vulnerable or intimidated witnesses, so that better evidence maybe facilitated, through, for example, two-way transmission of evidence into the courtroom. Young people under the age of 17 are automatically considered vulnerable.

5 Prior to the Domestic Violence, Crime and Victims Act 2004, the framework paper, Narrowing the Justice Gap (2002) addressed enhancing criminal justice and inter-agency engagement and effective practice with victims and witnesses at local levels. In the same year as the Criminal Justice Act 2003, the document, A New Deal for Victims and Witnesses (2003), came from the national strategy to deliver improved services.

6 Civil Protection Orders for domestic violence were strengthened (Part 4, Family Law Act 1996).

7 There were four new arrestable offences introduced which could be applied to women experiencing harassment (s2), to fear of violence (s4), to breach of a civil injunction (s3(6) and to breach of restraining order (s5(5)).

8 This was addressed through the Narey Measures in 1999. Since this time other initiatives have similarly addressed the issue of time in court cases. In 2007 Ministry of Justice initiative, Justice Simple, Speedy, Summary Justice (or CJS:SSS) addressed the speed and effectiveness of cases coming through the Magistrates’ Court, and performance in the Crown Court (DCA:2006).

9 Section 33, of the Domestic Violence, Crime and Victims Act 2004 required the Secretary of State to issue a code of practice setting out duties of criminal justice agencies in relation to victims and witnesses. Section 48, established a Commissioner for Victims and Witnesses whose role is to promote the interests of victims and witnesses and investigate complaints regarding the code of practice.


11 This now gave cohabiting and non-cohabiting married and unmarried couples (who had a relationship of significant duration) and same-sex couples equal access to orders.

12 Section 12, Part 2 Criminal Justice: Assault, harassment was enacted September 2009.

13 The Crime and Security Bill is currently proceeding before parliament, with the aim of introducing Domestic Violence Protection orders, giving police and courts the power to exclude perpetrators from on victims’ homes for up to twenty eight days. These measures, entitled “Go Orders” are currently being piloted in a number of jurisdictions. Emerging as a response to findings from British Crime Survey (Walby and Allen:2004), the strategy, Together We Can End Violence Against Women and Girls, was launched in February 2010 to tackle abuse in teenage relationships.
14 Southall Black Sisters took the view that the Domestic Violence, Crime and Victims Act 2004 did not respond to the needs of women who had suffered violence and were subject to the immigration control and so had no right to recourse to public funds (Musgrove and Groves:2007).

15 Objective 4 of the National Domestic Violence Delivery Plan (2008) is to support victims through the criminal justice system and to manage perpetrators in order to reduce risk.

16 The White paper, Justice for All (2002), which covered wide ranging criminal justice reform, signalled scope for more specialisation in criminal courts, and mentioned specialised domestic violence courts. In 2003, the Inter-Ministerial Group on Domestic Violence was set up.

17 Also known as independent Domestic Violence Advocate's, this group are often made up from workers seconded from existing services, with others secured through small funding grants from the 'specialised' SDVC funding stream.

18 These advocates are often not known to be part of a wider (SDVC) programme.

19 The pilot of the first (non-accredited) domestic violence court was set up in this country in 1998 at Leeds Magistrates’ Court, and was fully implemented in 2000. By April 2007, 64 SDVCs were in place in England and Wales.

20 The court in this study falls within the SDVC programme. As far as was practically possible, cases were identified as domestic violence cases and were heard in domestic violence court and trial sessions; both types of court sessions operated in specific court rooms, on specific days (see Chapter 3 for more detail). There were no advocates in situ in the court. In the wider programme IDVAs and MARAC were in place.

21 A number of courts are also able to offer separate places for vulnerable witnesses to wait and access the court room.

22 The specific nature of the SDVC was not addressed in the present study. However, it seems plausible to suggest that access to the court may have been helped by its innovative status or interest in domestic violence.

23 There is a distinction made between the author’s own and other understandings of “specialised services” (Coy, Kelly and Foord:2009:8) in the context of violence against women. For instance, the term specialised service in the thesis refers to agencies that are specifically included as part of the Specialised Domestic Violence Court (SDVC) programme.

24 These include the Statutory Code of Practice for Victims of Crime introduced under the Domestic Violence, Crime and Victims Act 2004; ‘special measures’ for vulnerable and intimidated witnesses, introduced under the Youth Justice and Criminal Evidence Act 1999 (see above), and The Prosecutors Pledge (2009) which outlines acceptable levels of cross examination.
Chapter Two  Review of the literature

Introduction

This chapter reviews literature relevant to the study of victims in the context of gender violence (Skinner, Hester and Malos: 2005; Coy, Lovett and Kelly: 2008), with the specific focus being violence against women by past or existing male partners (Dobash and Dobash: 1979; Morris and Gelsthorpe: 2000), and the experience and perception of those women who, in response to such violence and intimidation, interface in some way, with the court and wider justice system (Matsuda: 1989). The aim of the review is to ensure that connections are identified within the literature to offer a wider understanding of the body of relevant knowledge, and in so doing demonstrate that which is (currently) missing.

The chapter is divided into four parts. The first section ‘The study of the victim’, outlines some of the key debates in the victimological literature, addressing dominant theories which produced the concept of the gendered victim, and considers the wider ramifications of this. The second section ‘Challenging the victimological focus: feminist interpretations of violence against women’, demonstrates the influence of second wave feminism on victimological and criminological literature, namely the consideration of violence against women as a legitimate project and a social problem from the outset, locating “women as occupiers of both the public and private domain” (Walklate: 2002: 73). The place of women’s explanations in their response to violence and intimidation is considered here against the backdrop of historical explanations for domestic violence.

The third section, ‘Feminist debates concerning engagement with the law in the case of domestic violence’, explores some of the key debates in feminist literature regarding engagement with the justice system, both in terms of the value for the feminist project and for
women as individuals. The fourth section ‘Women’s interface with the criminal justice system’ progresses the review towards consideration of women’s contact with the criminal court process. The section addresses aspects of the interface with the justice system relating to arrest, the decision to prosecute and the court response. The review draws on examples of those studies which have focused entirely, or in part, on women’s experiences of contact with the court process in cases of domestic violence, and other gendered violence.

The study of the victim

*Victim (definition)*

A person killed or tortured by another; a person subjected to cruelty, oppression, or harsh, or unfair treatment, or suffering death, injury, ruin etc. as a result of an event, circumstance, or oppressive or adverse impersonal agency. *(Shorter Oxford English Dictionary: 1993)*

The use and meaning of the term ‘victim’ has changed over time: the dictionary definition above gives a broad overview of the terms of reference used today, but does not fully reflect the debates that have taken place since the inception of the study of victims and victimisation (Rock: 2002). This includes literature which has challenged the domain assumption of the ‘offender-victim dyad’ (Zedner: 2002), recognised the need for a victim/survivor perspective (Kelly, Burton and Regan: 1996; Walklate: 2000), and offered an explanation as to the process of the social construction of the victim (Christie: 1986). The use of the term ‘victim’, is in itself considered contentious (Crawford: 2000), expanding to include “a proliferation of new groups and classes of people who have come forward to claim the title of victim” (Howarth and Rock: 2000: 58). There are those who assert (Ofshe and Watters: 1994; Gelernter: 1997; Miers: 2000), that the concept and meaning of ‘victim’ as it stands is “no longer effective... prone to debasement...and perhaps absurdity” (Howarth and Rock: 2000: 59), and those who see such foci as providing “a real usefulness to criminology” (ibid).
It is important for this study to engage with some of the developments and discourses in relation to studying the victim, particularly those relevant to understanding further the gendered construction of the victim/survivor (Kelly: 1988; Kelly, Burton and Regan: 1996), and how this affects the experience of women who interface (in various ways) with the justice system following violence and intimidation from their ex/partners (Randall: 2004).

**Early studies of the victim**

Early studies of the victim formed the development of the discipline known as 'victimology' in the late 1940s, often considered to be on the "margins of criminological research" (Zedner: 1997: 577). The ensuing debates, perspectives and the legacy of earlier positivist research have a direct bearing on the development of victimology theoretically and empirically. Moreover, it is important and relevant to this study, to view how victims and their experience of victimisation were understood and constructed by academia and wider society (Walklate: 2007).

Those academics considered to be the most influential in the conceptualisation, definition and naming of the study of 'victimology' were drawn from the disciplines of criminology, psychology and law. Although legal scholar, Benjamin Mendelsohn is known to have spoken of a "victimologie" in 1947, others (see Zedner: 2002) consider that psychiatrist and campaigner, Fredric Wertham coined the term 'victimology' in his study about murder, *The Show of Violence* (1949), in which he wrote:

> One cannot understand the psychology of the murderer if one does not understand the sociology of the victim. What we need is a science of victimology. (Wertham quoted in Zedner: 2002: 420)

The main influence for many is considered to be Professor of Law, Hans Von Hentig (1948), and his seminal work, *The Victim and His Criminal*. This was thought to be key in developing a study of the crime victim, in which he criticised the "offender oriented nature of
criminology" (Zedner:2002:420). Elias (1986), Mawby and Gill (1987) and later, Mawby and Walklate (2002:70) describe how these early victimologists focused on a more “individualistic understanding of the relationship between victim and offender”. Within these studies, and not considered previously, was the concept of a functional or shared responsibility of the victim, which was seen as an “overlooked contributory ‘cause’ of crime” (Karmen:2001:100).³

Von Hentig drew on an interactionist approach which "challenged the conceptions of the victim as passive actor" (Zedner: 2002:420). He focused on victim features which he felt precipitated their victimisation and the relationship between victim and offender:

...Looking at the genesis of the situation, in a considerable number of cases, we meet a victim who consents tacitly, co-operates, conspires or provokes. (Von Hentig 1948, quoted in Farrah: 1989:44)

The causal role of the victim is central to Von Hentig’s analysis of homicide. He used "psychological and social variables" to create typologies, suggesting that "certain individuals" (including women, children, the elderly, ethnic groups, the mentally ill, and educationally challenged) were "victim-prone" (Zedner:2002:420). In his appraisal, Rock (2007:42) discusses the most neutral position that could be taken on applying this theory:

...an interactive process or evolving relation between victim and offender, in which each influences not only the conduct of the other but also the form and content of any crime that may ensue.

The concepts used by Von Hentig were developed further by Mendelsohn (1956) in the context of an 'offender-victim dyad'. Zedner (2002:420) describes the "degrees of culpability" in Mendelsohn's more legalistic framework as "highly moralistic", with (six) categories ranging from the 'completely innocent' to the 'most guilty victim'. The development of the theory of the contributory role of the victim is important to consider for this study. As Goodey (2000:22) posits, building on Von Hentig’s concepts the “essentialist constructions of the ‘victim’ variously resulted in ideas of victim precipitation or victim ‘blaming’”. This focused on the "collusive, or provocative" portrayals of victims, of rape (see later in this
section, assault and murder (Rock:2007:43). Zedner (2002:421) concurs with Fattah (1991), who defends the idea of victim precipitation as a “sound” explanatory and legalistic “tool” in the right hands. She argues this explanation was used “less to exculpate” (Zedner:2002:421) the offender; rather a way to explain how victimisation came about and to assist in preventative measures. Williams (1999:17) asserts that by individualising victimisation “victims’ interests are not served well”, and by doing this the structural issues and causes which led to this situation were lost. Although more related to issues that are dealt with in higher courts, the recent developments which saw ‘provocation’ abolished as a defence, particularly in relation to murder and manslaughter in cases of domestic violence demonstrated a previous systematic tendency for the law to act against the interest of victims in these cases.

Dangerous idealisations: the social construction of the gendered victim - lessons learnt from the study of rape

Provocation as a particular form of victim precipitation (Wolfgang: 1958) and as a causal explanation of rape (Amir: 1971), represented a concept as one which legitimised a gendered form (Davies:2007) of victim-blaming (Hanmer and Saunders:1984; Kelly:1988). The literature on precipitation focused initially, much as it does here, on rape, however, parallels can be made concerning violence towards women by their male partners. Feminist criminologists challenged the positivistic influence on theoretical explanations of sexual and domestic violence and the discipline's association with the male standards of criminal law (Smart: 1976; MacKinnon:1987; Hudson: 1996; Goodey:2000). Mawby and Walklate (2002) discuss how this episode contributed towards a division in victimology, claiming this was understandable considering the historical connections and potential consequences of “denying the pervasiveness of patriarchal structures on women’s lives, alongside mainstream [malestream] analyses of those lives” (ibid).
In contrast to later critical gender-aware analysis, other studies took dominant conceptualisations of victimhood more at face-value. In 1971, Menachem Amir (one of Wolfgang's students) applied the theory of victim precipitation to understanding rape, in *Patterns of forcible rape*. The criticism that was to follow this and subsequent pieces of work demonstrated that this was not an “isolated aberration” (Williams: 1999:17). Amir’s less than rigorous, methodological and ideological choices were heavily criticised, not least by feminist and critical scholars (Kelly: 1988). In her appraisal of his work, Kelly describes how Amir used official records (as his mentor did), but with no clear definition or statistical evidence to support these claims. Police records were used as “social facts” (op cit: 48), with no questioning or accounting of data where cases were considered unfounded or not recorded as a crime (known as ‘no-criming’), or the reasons for reporting, and non-reporting. There were no interviews with rape victims or professionals and Amir drew heavily on police records of offenders’ accounts in their statements. He produced a typology of characteristics he aligned with victims that could trigger rape, which focused on behavioural aspects, such as where women might socialise, if they drank and if they had a bad reputation (see Rock: 2007). In 1967, Amir reported:

> We are accustomed to believe that forcible rape is an act which falls upon the victim without her aid of cooperation, but there is often [quoting Von Hentig] "some reciprocal action between perpetrator and victim". (p.493)

In response to the largely unquestioned nature of this research and the explicit use of the concept and practice of victim-blaming in the causal explanation of rape, Kelly (1988) sees this as the time of "the emergence of sociological studies of rape which took account of the victimised woman" (op cit:48). In summary, the failings of Amir’s approach are seen to be that the critical reading of lay, ‘common sense’ interpretations of forcible rape are not extended to a critical reading of the police perceptions and the data that it produces.
This identification of blame holds considerable relevance for understanding the social
collection of the gendered victim within the criminal justice system, and for understanding
and explaining some of the attitudes which still resonate towards women as victims/survivors
of men's violence (Radford and Stanko:1991; Dobash and Dobash:1997; Goodey:2000;
impact of the legacy of victim precipitation on the theoretical and legal explanations for rape
and violence towards women, she believes this has in turn created a "gendered victimology"
(p.179).

Williams (1999) and Walklate (2003:29) argue that the concept of ‘victim proneness’ and
‘victim precipitation’ searched for ways of “differentiating the potential victim from the non-
victim which could be applied in all victimising situations”. This builds on Franklin and
Franklin’s (1976) critical examination of the victim precipitation argument, which they view
as being based on number of assumptions: two are considered here. Firstly, they argue that
“the criminal acts can be explained by the behaviour of the victim”, and secondly that the
“offender becomes activated only when the victim emits certain signals” (ibid:11). Doerner
and Lab (1995) believe that this critique shows when the precipitation argument falters. The
“larger issue” for them is considered to be the studies of victim involvement which tend to be
“myopic” in that they do not consider the offender behaviour (op cit:12). Applying a gender
awareness, to what was considered “reasonable or rational” behaviour for a victim
(Walklate:2001) is more accentuated, and furthermore, relies on simplistic assumptions of
stereotypical gendered constructs (Connell and Messer Schmidt:2005) of the victim and
offender. In the specific context of precipitation of rape and sexual assault, Walklate
(2001:29) asserts that:

...the notion that somehow the victim could have engaged in more reasonable
behaviour for the incident not to have happened, arguably, misunderstands the
fundamental [gendered] nature of an incident of that kind.
In comparison to Amir, these studies address the need to consider the voice of the victim and the corresponding need for gender awareness. Both Wilson (1983) and Kelly (1988) highlight further significant studies that followed which questioned methodological approaches, addressed the concept of precipitation and the legal definition of rape. For example, Curtis (1975) used police records and a wider definition of victim precipitation, and found only four percent of rapes fell under the category of precipitation. The studies appraised by Wilson and Kelly which stressed the importance of the victim perspective in this discourse, are particularly useful to the present study, by highlighting the different conclusions when starting to look at the 'dyad' using the victim's standpoint. Other studies such as Burgess and Holmstrom (1974), Bart (1975) and Russell (1984), drew primarily on victims' accounts of their experiences which came closer to understanding the lived realities or the 'facts of rape' (Kelly: 1988; 2005) which were missing in previous studies.

The London Rape Crisis Centre (1977) study dispelled some of the myths surrounding rape. It found that rapes were often carefully planned acts and not a product of the constructed image of the sexually explosive stranger, or female sexual provocation; a claim later addressed by Lees (1996). These contradictory images of women are examined by Clark and Lewis (1977), who make the distinction between women who considered they were not to be provided the same protection against rape by the law as the "unblemished" woman and "open territory victims"—a designation which indicates that the women belonging to the latter category have no real protection against sexual attacks. Lees (1996) later translates this into the construction of 'legitimate' and 'illegitimate' victims of rape.

Feminist studies of the later 1970s, 1980s and 1990s also challenged the limited discourse and knowledge concerning who rapes victims and victim experiences. Studies such as Gundlach (1977), *Sexual molestation and rape reported by homosexual and heterosexual women*, Davis...
(1980), Rape and the older woman, Bart and O'Brien (1984), Stopping rape: effective avoidance strategies, and Hall (1985), Ask Any Woman, which highlighted issues of class and race inequalities impacting on women's experience of, and response to rape. The process of expansion and accumulation of the 'facts of rape' continues to challenge the perceptions and legal definition of rape (Kelly: 1988; Gregory and Lees: 1999; Mayhill and Allen: 2002). Kelly, Lovett and Regan (2005: 33) stress that this process "continues to affect how rape is defined and understood by everyone...beginning with victims themselves".

In his work The Ideal Victim, social constructionist Christie (1986) does not focus on the interaction between the victim and offender: rather what typifies at the "social level-the ideal victim" (and "ideal offender") (p. 18). In order to gain "legitimate status" (p. 20), Christie asserts that there are "necessary conditions" which render the victim "ideal" (p. 19) and therefore blameless. He draws on the importance of the victim needing to be seen to be carry out "respectable" (ibid) daily projects, which were aligned with stereotypical notions of vulnerability (often older, and female) compared to the "unrelated offender" (ibid) (often younger, and male). There was thought to be a fine balance between the requirement that the victim must "put a reasonable energy into protecting herself", and not "sufficient strength to threaten others" (ibid). Aspects of this concept are later developed by Madigan and Gamble (1991: 142), who argue that, the justice system:

...distinguishes between good victims and bad victims, the former being likely to show visible, expressive signs of trauma and more willingness to work with police and prosecutors.

For Christie (1986: 22), the "necessary" conditions of weakness and strength were not always seen as compatible in complex cases such as rape: he explores the importance of the perceived differences between the construction of the "ideal" and "non-ideal" victims, and within this the varying characteristic and situations of women, in the context of rape. Of particular relevance to the present study, he also discusses rape in marriage and 'wife beating' where he
believed perceptions of contradictory constructions of women also existed. The shift in images of women over time, and the improvement of material conditions for women alongside the criminalisation of men's violence's (in certain cultures) were considered within this application. In particular, those women in 'relationships' were viewed as "approaching that status" of the "ideal" victim. Nevertheless, Christie asserts that the "political claim of being real victims" (p.20) and the image of women as victims of sexual and domestic violence was, and still is viewed as problematic (Mahoney: 1991; Randall: 2004). The symbolic and legal equity attached to relationships and social situations could result in either credibility or blame being awarded to women who were thought to be able to protect themselves by leaving a violent relationship or situation.

Walklate (1989), discusses the “dangerous idealisations” that the concept of victim precipitation carries (see also Lees: 1996; Wilson and Daly: 1997; Williams:1999). Kelly (1988) and Kelly and Radford (1998:71) assert that by using blame as a “common sense” view and tendency (both implicit and explicit) “work[s] together with powerful prejudices such as sexist attitudes toward women to disempower victims”. The internalisation of the assigned responsibility of blame, by abusers/aggressors (Dobash and Dobash:1998) and, by wider society (Schechter:1982; Kelly:1988; Walklate:2008 9), can in some instances lead to “self-blame” which Kelly (1988) documents in her study in cases of rape and sexual abuse, including in domestic assaults; suggesting that “blaming oneself is inextricably linked to ideas about provocation and /or suggestion that it is relatively easy to prevent or limit abuse” (p.211) (see also Coates:2007:181).

underlying theoretical assumptions of precipitation are apparent in the way “the police, courts, social workers and victim support agencies interact with victims...preventing many women from going to the police” (see also Benn, Coote and Gill: 1983; Phal:1985; Hall:1985; Kelly:1988; Soothill and Walby:1991). The work of Jeffreys and Radford (1984), Lees (1996; 1997; 1999) and Gregory and Lees (1999) show how this interpretation of blame, in the form of contributory negligence, by the judicial system in cases of rape intensified the experience of victimhood. The assumption by the justice system that women’s statements may be unreliable impacted on court outcomes: following systematic observations and analysis of rape trials, Lees’s (1996:68) research showed when cases did reach court, and opposing views were presented:

......it is usually the women’s view that is discarded. The unreliability of the woman’s word compared to the supposed rationality of men.

Regardless of major, symbolic (Walklate:2008) legislative changes and criminal justice service responses to rape, the reporting levels for rape and sexual assault, levels of attrition are high (HMCPSI:2007; Kelly, Lovett and Regan:2005) and conviction rates are still low (Regan and Kelly:2003; Cook and Jones:2007). This situation is described by Radford and Westmarland (2005:220) as representing the "extent of change and no change" regards rape, which echoes the sentiments of Gregory and Lees’s (1999) earlier study, Policing Sexual Assault, in their review of the 1970s-1990s. According to research carried out by Kelly, Lovett and Regan (2005:83), a “culture of scepticism” regarding victims/survivors claims of rape persists, and the definition of what constitutes ‘real’ rape is still under dispute, and a problematic legislative area (Walklate, 2008). Kelly, Lovett and Regan recommend that there needs to be “a shift ...within the criminal justice system from a focus on the discrecibility of complainants to enhanced evidence-gathering and case-building” (op cit:xii).
Challenging the victimological focus: feminist interpretations of violence against women

It is pertinent to this study to review literature which has considered violence against women as a legitimate project and a social problem from the outset, and from this, developed understandings of male violence towards women, drawing on victims'/survivors' perspectives, before looking more closely at literature which addresses debates specifically around domestic violence. The evidence produced by over thirty years of feminist, academic work (and activism) which has provided insight into women's lives as victims of men's violence's (Stanko:1988), is also seen by critics and supporters as instrumental in challenging and changing legislative provision, and the catalyst for supportive policies and practices for women victims (Hanner and Itzen:2000; Chesney-Lind:2006; Davies:2007; Hoyle:2007; Burton:2008; Walklate:2008).

Re-defining violence against women as a social problem

In the first wave of the feminist movement, it was the Suffragettes, who more generally brought attention to violence against women (Mawby and Walklate:2002), such as the work of Frances Power Cobbe in her literature on *Wife Torture in England of 1878*, which resulted in some changes in civil law. The later influence of women activists and scholars to the position of women in post-war time (in the 1950s and 1960s), is made evident by Mawby and Walklate (2002) with their focus of women's contribution to the era of welfarism (for instance, in the structure of family benefits) and "protection". In 1951, in *Arms of the Law*, Margery Fry proposed ideas on victim compensation which are seen as having a major influence on criminal justice policy. Young and Stein (2004) believe Fry's work places the women's movement as central to the development of the victims' movement, in both the United Kingdom and the United States. Dunn (2007) asserts that there was a difference in the rationale behind the women's movement which was based less on the concept of "need" as
in the wider victims' movement, and more on the right to protection "from further victimisation" (p.255): the focus and underlying radical concern being "about the oppression of women and the complicity of the state in that process" (ibid). Regardless of the achievements considered briefly here, women as victims, and particularly as victims of men's violence, were not fully considered until the 1970s (Wilson:1983; Walklate:2008).

Bunch (1983) and MacKinnon (1991) concur that it is only the close combination of activism and feminist scholarly work which is responsible for exposing the hidden nature of violence against women. Key early examples include the first Women's Aid refuge in 1972 (and later the formation of National Women's Aid Federation), the first Rape Crisis Centre in 1976 (and later the Rape Crisis Federation). In West London, Southall Black Sisters have challenged domestic and gender violence locally and nationally (since 1979), to meet the needs of Black (Asian and African-Caribbean) women. The underlying principles of commitment from these organisations are viewed as:

Providing space in which women felt safe to tell, where they would be believed and respected and had the possibility to explore options. Access to support was not dependent on any legal or other requirements, was available free at the time of need based on the principles of confidentiality and empowerment. (WAVE 2002 quoted in Coy, Kelly, Foord:2007:10)

The documentation of the 'facts' of violence (Gregory and Lees:1999) and the issues raised by those working with women or documenting women's experiences further exposed the problem, such as Pizzey (1974), in Scream quietly or the neighbours will hear, by naming 'battering' and representing women's accounts of their experiences. Notably, in their study Violence against wives: a case against the patriarchy, Dobash and Dobash (1979) analyse historical evidence of the extent of men's violence and included contemporary accounts from women of the nature of violence, the emotions they felt, the importance of structural and material factors for women, and the responses from social and legal institutions. The initial response to violence towards women being seen as a social problem by the state is marked by
many (Wilson: 1983) with the establishment of the Parliamentary Select Committee on Violence in Marriage in 1975.

The quality of responses to women who were abused by their partners began to be questioned in terms of services, such as health, housing, social services, and the poor response of the criminal justice system (Binney, Harkell and Nixon: 1981; Borkowski, Murch and Walker: 1983; Phal: 1985; Maynard: 1985; Kelly: 1988; Edwards: 1989; Dobash and Dobash: 1992; Hague and Malos: 1993; Hanmer and Saunders: 1993; Hanmer: 1995). In terms of a criminal justice response to domestic violence, the significant focus in the 1980s (Wilson: 1983) and into the 1990s (Grace: 1995) continued to be the response of the police. This study addresses the gaps which remain in research on women’s experiences of the courts, particularly with regards to domestic violence cases (see later in this review). The lack of research or knowledge in this area in the 1980s was attributed by Wilson (1983) to the aforementioned police response: she stated that because of this "many cases never reach the Magistrates’ Courts" (op cit: 83).

In *What is to be done about violence against women?*, Wilson (1983) considers the role of activism and the official responses to rape, domestic violence, pornography, prostitution and incest in the 1980s. This inter-related body of action and academic work highlights "potent illustrations of a woman's lack of status, power and influence" at the time (Young and Stein: 2004:2). Research and activism challenged the state, statutory and voluntary responses to take violence against women more seriously and provide some response to "women’s unmet needs" (Davies: 2007:176) (see also Wilson 1983; Dobash and Dobash: 1992; Mullender and Hague: 2001). Walklate (2008:40) revisits the analysis of the problem of violence against women and the "route to a solution" as set out by Wilson in 1983; whilst recognising the
achievements that have occurred in the last 25 years; her critique of the intervening period concludes that major areas of concern remain un-addressed.

As the focus on personal crimes against women increased into the 1980s (Dobash and Dobash: 1979; 1992; 1998; Stanko: 1985; 1988; Radford: 1987; Kelly: 1988), there was concern that the discovery and portrayal of women's experiences were limited in the growth of mass victim surveys of the 1980s, such as the British Crime Survey (BCS). The larger national crime surveys in United States (since 1973) and Britain (since 1982) were initiated to seek out the extent of unreported crime, not captured by the police records (Reiss:1967): victims were also asked about their perceptions of crimes and attitudes to the criminal justice system. At this time there was a debate over the “disparity between risk and fear” (Walklate:2002:98) of victimisation of women in public spaces (Mayhew and Hough:1988). Several explanations were put forward as explanations of the high level of fear for women. Skogan and Maxfield (1981) speculated that women were more likely to experience fear because of their greater physical vulnerability; Riger, Gordon and LeBailly (1978), and Warr (1984) placed the focus on women's fear of rape, as the main cause of fear of all other forms of sexual violence; whilst Worrall, Pease and Mawby (1987) asserted that because assailants were often known to them, women were afraid to report. Stanko (1988) posited that women's fear of crime, which was felt to restrict their lives (at the time and later), was less explained through a debate about irrational and rational fears of women and more a “reflection of the hidden violence[s] against women...which are not normally reported to the police or other sources...nor even to victimisation survey researchers” (p.40). The conceptual and practical limitations of such studies were explored by Genn (1988), who was a main a contributor to this debate (Crawford and Goodey:2000). Genn believed the approach of larger surveys raised a number of “theoretical” questions:
...about what constitutes crime and the circumstances in which aggression and incidence are properly defined as being criminal in character...the meaning of the word 'victim' and how it is applied. (op cit: 89)

Local surveys began to emerge which were thought to be more sensitive at revealing patterns of victimisation of rape, sexual assault and domestic violence (Zedner: 2002). Although some of the figures were met with scepticism (Stanko: 1988), a range of studies reported much higher figures (Hanmer and Saunders: 1984; Hall: 1985; McGibbon, Cooper, Kelly: 1989; Hanmer: 1995; Mooney: 1993; Painter: 1991). Feminist inspired victim surveys highlight the experiences of some of the most vulnerable groups (Jones, Maclean and Young: 1986; Goodey: 2000), such as research on children as victims (Hartless, Ditton, Nair and Phillips: 1995), ethnic minority victims (Salisbury and Upson: 2004), and elderly victims (Brogden and Nijhar: 2000). These have also influenced modifications in the methods of data collection, including interviewing techniques and use of self completion questionnaires for larger surveys, such as the British Crime Survey. In comparison, the more specialist North London Domestic Violence Survey was brought about by a need to ascertain better information on the extent of domestic violence in the general population (Mooney: 2000).

Rock (2007) places feminist research and activism of the 1970s onwards as one of the main influences of change on the "re-discovery" of the victim as an area of study, which:

...transformed private troubles into public issues...and argued that the neglect of violence against women by practitioner and academic was insupportable - and the academics came in time to concur. (p.9)

In his appraisal Rock (2007:44) describes feminist criminology as "quite at odds" with the theorising and approaches of early victimologists, and as having a "radical tinge" which challenged the "domain" but also the long held beliefs of the radical paradigm in criminology (see also Smart: 1976). Jones, Maclean and Young (1986) saw the focus until this point as more on crimes of the powerful and on the way in which vulnerable groups in society are
criminalised. Rock (2002:1) asserts that "individuals were examined independently of social context, relations and history...victims were analytically finessed”.

There have been subsequent reflections and criticism of the continuing influence of feminism, for example from Davies (2007) and Hoyle (2007) who, whilst considering the historical context of the challenge to victimology and criminology (as outlined above), also question the unchallenged position of what they consider the influence of a gendered approach that has taken hold since:

"...All this has an impact upon how a gendered perspective has been incorporated in the victimological enterprise, upon how victim research had been conducted and upon the choice of subject matter under investigation...While all of this indicates an increased academic concern about victims generally as opposed to crime and criminals, it also indicates a growing pro-woman rather than fully gendered way of thinking. (Davies:2007:176)

In response, those such as Burman (2010) support earlier warnings of MacKinnon (1987) that gender-neutrality simply equates to the male standard where masculinity and maleness are the yardsticks against which judgements of others are made.

**Explanations of male violence towards women**

From the 1970s onwards, feminist approaches increasingly challenged the "idea of the male being treated as the norm in criminology” (Williams:1999:19; see also Leonard: 1982; Scraton: 1990), and the “domain assumptions” associated with victim typologies (Davies: 2007:176). The neglect and designation of women as “other” (Walklate:2008:2) in the study of crime was addressed firstly by Heidensohn (1968) in *The Deviance of women,* and more notably by Smart (1976) in her feminist critique, *Women, crime and criminology.* Whilst the focus of much feminist work at this time is seen to be redressing the balance of the victim perspective by privileging women’s interpretations and definitions on violent and sexual abuse by men, thus challenging the “dominant theories” (Lundgren: 1995:39), it is important to note this period also produced a more developed understanding of criminal women.
Criminal women were not just viewed as economically disadvantaged, but "suffering at the expense of unjust, biased and patriarchal systems and institutions" (Davies:2007:176).

This (whole) body of research not only helped put "gender onto the victimological agenda" (ibid:177), but challenged how women were presented and treated in the wider society and by the criminal justice system, itself considered a "gendered institution" (Heidensohn and Gelsthorpe:2007:390). Stanko (1994:93) asserts that as offenders or victims, women had been seen as "heartless, helpless, hopeless and/or in need of protection", and never as agents in their own lives.

Early feminist theoretical approaches such as Firestone (1970), Millet (1970), Brownmiller (1975), Griffin (1979) and Spender (1980) were among the first to consider the pervasive stereotypes and norms in the "discourse of violence as a way of justifying male violence" (Cook and Jones:2007:131), and as an "exaggeration of the normal" (Wilson:1983:65; see also Stanko:1990). The language, policies and criminal justice practices were seen to explicitly or implicitly legitimise and therefore diminish men's responsibility for their violence (Brownmiller: 1975; Bienen:1980; Morgan: 1985; Kelly: 1988; Gregory and Lees: 1999; Kelly and Regan: 2001). As illustrated earlier, this has created "ideological processes through which women are blamed for men's violence" (Kelly: 1988:23 on Griffin:1971).

In sociological research the application of a wider concept of 'power structured relationships' from political theory, was applied to families. In Sexual Politics, Millet (1970) discusses this in the context of relationships between men and women, proposing the family as patriarchy's chief institution. Wilson (1983) takes issue with the continued use of the concept of 'male
supremacy’ stating that if patriarchy and male supremacy is unchanging “it fixes women as victims and it holds out no hope for the future” (p.43): she asserts that whilst men do have power over women, women are not powerless. Kelly (1988) draws on Frye’s (1983:22) premise that:

...force is used when power is in jeopardy...explicit force/violence is in fact a response to the failure of, or resistance to, other forms of control. It is in this context I argue that male violence arises out of men’s power and women’s resistance to it.

The biggest criticism of the concept of patriarchy is that it was universally applied and often failed to acknowledge “historical change and cultural difference” (Kelly: 1988:21 see also Daly and Chesney-Lind:1988; Hunnicutt:2009) A more developed and wider application emerged in the sociology of gender in the 1980s onwards which draws on Millet’s analysis, but which challenges cultural power and gendered definitions of power in relationships and in wider structures (Connell:1987). Later the notion of agency is addressed more fully particularly with reference to youth and the ability to negotiate and resist (Chesney-Lind:2006).

Connell (1987:107) explores how sexual and domestic abuse, are “not intelligible without the structure...this connection of violence with ideology point to the multiple character of social power”. The threat of such violence as a regulatory act of social control (Millet:1970; Connell:1987) had also been addressed by Griffin (1971) and Brownmiller (1975). Brownmiller (1975) received criticism for her claims in Against our Will, about the threat of rape, arising from knowing some women are raped, and how this “creates a climate of fear; all men benefit from the fact that some men rape women” (Kelly: 1988:23). Stanko (1994:40) addresses the issue of misinterpretation and as she sees it, the “castigation” of radical feminists for allegedly supporting the message that all men are “by nature, violent”. She believes that these interpretations are in some way ‘missing the point’ and carry consequences for the way women’s experiences are presented and the way men’s violence will be
understood. Theoretical explanations of violence against women which included the role of masculinity in these explanations were rare (Connell: 1987; Stanko: 1990; Newburn and Stanko: 1994). The criticisms of how gender violence is defined and constructed saw that these explanations failed to consider masculinity as a social construct, and social structure in understanding men’s power (Cain: 1990; Connell and Messerschmidt: 2005; Heidensohn and Gelsthorpe: 2007).

Building and applying theory

Heidensohn and Gelsthorpe (2007:384) describe early feminist empiricism as going “well beyond critique”. Bunch (1983) and MacKinnon (1991) both lay emphasis on women being involved in the process of ‘describing’ and ‘naming’ (Spender: 1980) their experiences, before any challenges, changes and theorising took place (see also Kelly:1988). Drawing on Stanley (1990), Cook and Jones (2007:126) describe this process as the “synthesis” of practice and theory which provided a “radical feminist praxis” that shows a theoretical base built from the ground up in the “experience of women’s lives”.

This doctoral study has drawn on aspects of this feminist tradition, both methodologically and theoretically, to understand women's experiences of the justice system in response to men’s violence and intimidation (see Chapter 3). Literature is shown here which focuses on women’s accounts of their experiences of men’s violence’s, and how the concept of a continuum of violence was used to present these experiences to reveal the “complex ways power structures everyday encounters between men and women” (Kelly: 1988:27).

The discussion of a “socially sanctioned continuum of male sexual aggression” in the context of women’s experiences of rape (Kelly:1988:75; see also Gilbert and Webster:1982; Scully and Marolla:1985), was developed further by Wilson (1983), who argued that women’s
sexual lives exist on a continuum. She discussed the extremes of violent and intimidating behaviours in the context of a “pleasure/danger continuum”, recognising the impact of the “sheer terror of rape” and the daily control of women by “sexual innuendo” (p. 12). Kelly (1988) studied the range of experiences and forms of sexual violence women discussed, and from this the conceptualisation of a continuum of sexual violence was formed: this was used to analyse women’s experiences of sexual violence. In addition, Stanko (1990) refers to the continuum of male violence within a structural context. This discourse considered more fully the inclusion of a wider range of women’s experiences of sexual violence, in a way not recognised previously. Stanko (1985:10) believes this to be because “women’s experiences of male violence are filtered through a pre-determined understanding of men’s behaviour which is characterised as typical or aberrant”: these categories of behaviour are translated as “harmful” or “unharmful” and “encoded” into legal definitions. The use of definition is helpful to this study in two ways: firstly, how other studies enable women to make sense of and define their own experiences to highlight the complexities of male violence and intimidation; and secondly, in relation to how wider and legal perceptions (and attitudes) of what is and is not harmful behaviour “shade into one another” (ibid).

Carrington (1998) sees that post-modern feminist argument of essentialism is probably the most difficult relationship in criminology, criticising the inclusion of all named experiences of sexual and physical violence. This is viewed as expanding the “common sense understanding” (Roiphe 1993:186), and contending that not all women have had the experience of, or agree with the issue of fear and risk of sexual violence. Whilst radical feminists acknowledge this point, Radford (1987) regards this criticism on a deeper level as trivialising violence that could in itself be terrifying (see also Griffin: 1971; MacKinnon and Dworkin: 1998). The use of a continuum of violence is still seen as useful as it can capture a sense of women’s experiences of men’s violence, and differentiates women’s experiences
(Walklate:2007), thus recognising women's diverse experiences as had not previously happened (Lundgren:1995). This concept does not show women's experiences of men's violence as "isolated incidents" (Cook:1997), and so is useful as an analytical framework for analysing the issue of control through forms of violence in women's lives (Cook and Jones:2007).

In her influential study *Surviving Sexual Violence*, Kelly (1988) aimed to hear women define their experiences of sexual violence, and to look at the long term effects of women's experiences of sexual violence. By "placing women as decision-makers and actors at the centre" as this study aims to, Kelly's findings challenge the “implicit assumption” (ibid: 159) that all outcomes following this experience were a negative for women, and that any will to exert agency was lost. On the contrary, the study shows how women used coping strategies "during" and in the "immediate aftermath" of assaults, as well as "over time" (in the longer term) (ibid: 160), and how these strategies were also linked to women's on-going experiences of violence. Women's resistance emerges in different forms and survival was seen as a "positive outcome of coping and/or resistance" (ibid: 162).

As a result of the above, Kelly (1988), Kelly and Radford (1998) returned to the appropriateness of the definition of 'victim' considering the strength shown by women in their accounts from passive victims to "active survivors" (Kelly: 1988:162). The 1980s more generally saw the development of the concept of the 'victim' and a shift in the language used, particularly in respect of sexual violence and "non-routine" assaults such as rape and "more commonplace intrusions" (ibid:27), thus distancing the term from early victimologists' explanations. Kelly drew on the work of hooks (1984), *From Margin to Center* (and other Black feminists work), to discuss women's agency. She examines the individual (and
collective) resistance and coping and survival of women (see also Daly and Chesney Lind: 1988). hooks wrote critically of the tendency of “white” feminism:

...for women to identify (bond) with one another around common victimisation rather than around their strength and ability to act. (hooks quoted in Kelly:1988:228)

Wider debates (which inform the present study), focus on the unresolved nature of the use of and identification with, ‘victim’ and ‘survivor’, and how these, seemingly progressive points have in one sense been chosen, and structured for women (Williams:1999); named as such by those who have the power to do so (Miers:2000). Williams (1999) supports Kelly, Burton and Regan (1998:61) who “question the separation between victimisation and survival” and who have developed a further understanding of meaning, pointing out it is not helpful to use either term as a “core identity” (ibid), or to tell someone they are "stuck" at, or "moving" to a stage (Williams:1999:21). This suggests a process where women are deemed either “inevitable victims or strong survivors” (Kelly, Burton and Regan:1996:82), so affected to a more or less degree by their experience. Kelly, Burton and Regan (1998:61) posit that these associated meanings fail:

... to recognise survival as a minimal goal; and it suggests a necessary complete resolution in order to “qualify” as a survivor, which fails to address the variation in the impacts and consequences of sexual violence for individuals.

Walklate (2003:36) does not necessarily see the two terms as “opposed” and proposes that it is possible to think in terms of both victim and survivor, as active or passive. Because of this terminological debate, Williams (1999:21) asserts that people may "feel their way of coping is somehow inferior". Thapar-Bjorkert and Morgan (2010:50) agree that this range of interpretations is “ambiguous and context specific”; they propose that the focus should be on “women victims’ own definitions of their situation".
The development, influence and use of alternative explanations for violence against women by their male partners

The development of different definitions of, and explanations for violence against women by their male partners inform public opinion, debates, and responses, both legal and social, to such violence (Kelly:1988; Dobash and Dobash:1992; Hague and Malos:1994; Mullender and Hague:2001; Carlson and Worden:2005). It is useful to provide a brief overview of critiques of some of the key explanations, and specifically of interest to this study, to explore dominant themes which continue to have influence today, particularly, those which focus on women's decision-making or the “problematic notion of victim accountability” (McDermott and Garofalo:2004:1247). To do this, the section addresses women's interpretations (Cavanagh:2003) of their responses to violence and abuse by men known to them. Literature showing the way women strategise and use help-seeking is useful for this study, when seeking to understand women's analysis of their own decision-making.

Historically, understandings of violence against women from their ex/partners were, and to an extent still are today, rooted in psychiatry and therapeutic disciplines and interventions (see Stark, Flitcraft, Zuckerman, Grey, Robinson and Frazier:1981; Pagelow:1992; Dobash and Dobash: 1992). Building on early assumptions of the 'victim', medicalised versions of Von Hentig's (1948) model underpin the explanations which pathologised individual behaviour of the victim and the aggressor (Pagelow: 1992). Studies which focused on patterns of violence in families such as Gayford (1975) and Gelles (1979) resulted in what Wilson (1983:95) described as the “best selling theory”, the “cycle of violence”: a proposition made with limited empirical evidence (Hoyle:2007). Kurz (1989) asserts that individual and family pathology tends to underplay male violence against women in the home and in society, and further to this, provides institutional support of violence.
In her appraisal, Wilson (1983) cites studies that interpreted women’s situations through a social or economic framework, such as Goode (1971), who theorises the power system of the family. Walker (1979) and Pagelow (1981) both saw the inadequacy of responses by social agencies as contributory to this ‘syndrome’ of violence (see also Kelly and Radford: 1998).

Wilson draws on Borkowski, Murch and Walker’s (1983) research that surveyed professional groups in health, law and policy. These studies saw the government policies at the time consisting of retrenchment theory of support and self-help, which embodied a “child saving and familist ideology”, with an emphasis on the community (Wilson: 1983: 95). The ‘cycle of violence’ was popular as it justified the actions of those statutory bodies focused on intervening where children were at risk, and keeping the family together (see also Braithwaite and Daly: 1994; Carlson: 2000; Kim and Gray: 2008).

Kelly and Radford (1998) agree with Walker’s (1979) claim that many of these studies perpetuate the image of the passive victim, and generate the concept of learned helplessness, (emotional) dependency and passivity. Wilson (1983) sees such studies (for example, Gelles: 1979) as flawed by their lack of understanding of the complexities of living with a violent relationship. Revisiting these complexities in the context of the ‘service’ response to women’s situations, Cavanagh (2003) concurs that the legacy of early studies is the simplistic assumption that there are only two possibilities – staying or leaving: women’s decision-making and rationality became a main area of focus (see also Landenberger: 1989; Johnson: 1992; Anderson and Saunders: 2003; Randall: 2004; Ballentine: 2005; Kim and Gray: 2008). Here early explanations rooted in pathological explanations of women’s ‘inconsistent’, indecisive behaviour are drawn on (NSPCC: 1974), which construct women as “willing victims” responsible for their abuse (Cavanagh: 2003: 232) and their situation. The limited economic and social choices issue, and the risks for those women who would leave and then subsequently may have returned were rarely considered and were often seen as a
“socially suspect choice – often perceived as an acceptance of the violence... leaving...confirms a woman’s unwillingness to tolerate the violence” (Mahoney:1994:60).

Research carried out by Binney, Harkell and Nixon (1981), investigated the attitudes and experiences of battered women trying to leave violence and focused mainly on a client centred view of the agencies approach to help. The aim of the study was to assess the extent and form of provision to be made available for ‘battered women’ by talking to women using refuges at the time.

Dobash and Dobash (1979) produced a feminist analysis of ‘battering’ incorporating evidence from interviews with women which demonstrated men’s use of violence as control, based on the theory that domestic violence represents a consequence of a culture that engenders and maintains the dominance of men over women in every aspect of their social life. This study identifies four main sources of conflict leading to violent attacks, these included men’s possessiveness and jealousy, men’s expectations concerning women’s domestic work, men’s sense of the right to punish “their” women for perceived wrongdoing, and the importance to men of maintaining or exercising their position of authority (ibid:108). The structural inequalities between men and women give men “the power to define and give meaning to their ‘violent’ behaviour” (Cavanagh:2003), imposing a “definitional hegemony” (Lempert:1996:176): this concept is later explored by Messerschmidt (1997; 2002). The institution of marriage (and later cohabitation/intimate relationships) has been characterised as a “hitting license” (Straus:1976) or “license to kill” (Radford:1982).

Later, Dobash and Dobash (1992), assess and discuss how women use agency, and make great efforts to stop or reduce abuse; noted is how the practice of some service providers has continued to be “underpinned by assumptions that not only infer uniformity in women’s
responses to violence but also fail to consider men’s responses to their use of violence” (Cavanagh: 2003:230).

The previous explanations of women’s passivity and acceptance of violent and intimidating behaviour/relationships have been challenged by Kelly (1988,1999) and subsequent studies which highlight women’s active responses, ways of coping and strategies of resistance (see Dobash and Dobash:1992; Dutton:1996; Lempert:1997; Cavanagh:2003). These studies are useful to the present study in the way women outline the lived realities of the lives with men they were/had been in a relationship with, and how in their accounts they discuss their own responses to violence.

Kelly’s study (1999:35) is particularly relevant here. She analyses a range of women’s strategies, which are viewed as a process, rather than “as a linear process against which an individual women’s circumstances or progress can be measured”: this is a useful explanatory tool when applying models of crisis intervention within criminal justice. The crucial aspect here is further understanding the “contextual framework” (ibid) within which women take action. Cavanagh (2003) also identifies a pattern of responses, which is presented in order to show the context and complexity of women’s responses to managing their situation, including help-seeking strategies. The emerging themes mirror some of the processes Kelly identifies, including working to stop or prevent violence, which involved women defining and redefining the violence as abusive, protecting the integrity of the relationship, employing strategies for avoiding violence, deploying responses which challenged men’s use of violence. For Cavanagh this implies agency, as such action “requires an ability to resist in some way” (op cit: 237). Other themes, such as, “engendering dialogue” and “specific strategies for avoiding violence” detail ways in which women would assess their situation and calculate responses, these decisions were “accumulated from knowledge” (ibid:238). “Deploying
responses which challenged men's use of violence - 'not doing gender', meant women would in some way, be threatening the stability and not “doing it ‘his way’” (ibid). Here, women's action involved verbal confrontation, physical confrontation, leaving, ejecting him from the house, and telling others. These responses could occur at any time, they were often the outcome of “a process of reflection": the form of action they took was hoped to be most effective (ibid: 240). These choices were the most risky as they were seen to be direct challenges to men's authority. Cavanagh describes how women were reluctant to let others know about the violence: “by going public...women transgress gender roles by stepping outside the boundaries of the relationship” (ibid: 240).

Cavanagh gives little detail beyond the fact that all the women in her study went public and that the police were involved in processing charges. There is no additional discussion as to how women found themselves at this point, for instance – whether this was considered their choice or they were in some way compelled or coerced to do so. Her study reports that women's ability to “critically reflect" on their experiences varied, however “contrary to assumptions women...actively responded to violence in diverse ways" (ibid:245-6). Cavanagh suggests that women's responses were often played out in relation to men's responses, but they were made "simultaneously thinking about the possible outcomes for themselves and their children" (ibid:246).

McDermott and Garofalo (2004:1263) argue that if women engage in a discourse with interventions (such as laws, policies and practices) that claim to promote agency, this can bring more responsibility for the victim which becomes “inextricably woven with notions of empowerment” (ibid). They discuss how self determination is part of having agency and choices and ask the question “if the educated victim then chooses to return to the abuse and is re-victimised, is she at all responsible?” (ibid). In their research McDermott and Garofalo
describe a range of interventions from justice initiatives of presumptive arrest, dual arrest situations (Barnett and LaVioletter:1993), no-drop prosecution, and invasive requirements to being a witness – coercion to testify, counselling and advise all of which implies “the professional knows better” (McDermott and Garofalo:2004:1251). The assertion that interventions at an institutional level are designed to help and empower victims, is to show interventions that may “contain the seeds of disempowerment” (op cit:1245). McDermott and Garofalo advocate the need to question interventions, as do Shepard and Pence (1999) who discuss the possibility of disempowerment from the change in law and practice in the criminal justice system.

McDermott and Garofalo (2004:1245) define intervention as when “some action is taken by an outside agent that is meant to change the life situation of an individual in some way”. In their study interventions were not viewed necessarily as a bad thing, unless seen to be “for our [women’s] own good” (ibid), and where professionals would seemingly take choice away from women to protect them. They claim that a problem in writing about empowerment is that there has been “little or no systematic theorising about what constitutes empowerment ...so far discussions are driven by practitioner uses of the term” (ibid:1248). This leads McDermott and Garofalo to advocate that the meaning of empowerment in the context of interventions should be “examined critically from the perspective of the subjects of those interventions” (ibid).

**Feminist debates concerning engagement with the law in the case of domestic violence**

The position of women as victims of male violence within the legal framework, and the benefits or disadvantages of ‘engagement’ with the law in the case of domestic violence, is strongly debated from a number of positions within feminism. A main contention is the value of the criminal justice system in effecting change in men’s violence (Morris and Gelsthorpe:
2000). It is vital to highlight some of the main arguments here, as the contribution made by this doctoral study addresses a gap in the wider feminist discourse on the value of engagement, from women victims’ perspectives. It seeks to acknowledge, and starts to capture, “real-life experiences” that Walklate (2008:13) claims are missing in the debates, policies and processes thus far. With this assertion, Walklate brings into question, whose needs have been imagined “in this recourse to the legal process as a site for change?” (ibid:11).

Many feminist activists and academics researching and writing in this area would not doubt that domestic violence has been accorded a degree of seriousness (Edwards:1989) by the law and criminal justice system as a whole (Stark:1993; see also Hoyle: 1998; 2007; Robinson and Cook: 2006; Walklate:2008). To date, there is no criminal offence of ‘domestic violence’, this is determined by a range of criminal offences such as common assault, actual bodily harm and grievous bodily harm which may have been committed at a domestic incident. “Perpetrators may also be arrested as a preventative measure where it is likely a criminal offence would otherwise take place” (Hester and Westmarland (2006/7:34). The range of criminal offences can also include those such as harassment, sexual assault, criminal damage. Chesney-Lind (2006) posits that the process of criminalisation of victimisation of sexual assault and acts which are seen to constitute domestic violence “was in one sense a huge symbolic victory...however behind this symbolism, problems remain” (p.14).

An example of this in the literature pertains to the consequences of criminal justice policies stemming from legal reforms that have been seen to become routine. The unwillingness or reluctance of women to “engage in officialdom” (Stanko:2007:211) can result in many women’s choices being viewed as problematic by the justice system (Cretney and Davis:1997a; Cook, Burton, Robinson and Vallely:2004), thus problematising victims.
Walklate (2008:4) posits that “the short-term gains for the victim often result in long-term losses” in their lives, which, it is suggested, may come from practical difficulties in enforcement, needing tighter controls on discretion and a better understanding of the complexities of violence and its effects (Hanmer:1989; Edwards:1989; Kelly:1999; Lewis, Dobash, Dobash and Cavanagh:2001). Here, Lewis (2004:6) asserts “that all may not be lost by this investment in the symbolic power of the legal system”. Others such as Smart (1989;1992;1995) and Morris and Gelsthorpe (2000:412) claim that the “criminal justice system does not and cannot challenge the patriarchal structures which both underlie and sanction men’s violence against their female partners”. Schneider (2000) agrees that the danger on the focus of legal intervention in domestic violence is that it may become “decontextualised from the wider issues of gender subordination” because it is now treated as a “problem in isolation with neither history nor social context” (p.97).

In their paper, Law’s Progressive Potential: The Value of Engagement with the Law for Domestic Violence, Lewis, Dobash, Dobash and Cavanagh (2001) outline a number of the standpoints in this on-going debate, that are not always mutually exclusive, and have some distinct features. These include the positions of feminist realists, sceptical reformers and rehabilitation proponents, community justice proponents, and abstentionists. Their appraisal of these standpoints and the debates aligned with these positions put each group into the wider category of those who: “cautiously welcome engagement with the law”; and those who “see no value in legal intervention” (ibid:105). The limited exchange between the “theoretically and empirically informed” is noted and a more open discourse is felt to be “crucial in order to develop both understanding of legal interventions and visions of social and individual change” (ibid: 106). Some of the standpoints are considered here.
Feminist realists employ women-centred approaches based on the idea of social control and deterrence on the part of the state. The standpoint prioritises an improved legal intervention as a viable and acceptable development and intrinsic to reducing women’s victimisation. The critical advocacy of a ‘crime against society’ idea of criminal justice, as opposed to the ‘crime against the person’ idea of civil law is open to accusations of underplaying women’s agency. In civil law, women are seen to be able to take an active role in “privately seeking redress” (ibid:107); whilst challenging men’s violence’s. Lewis, Dobash, Dobash and Cavanagh, locate the issue of challenging men’s violence firmly within a framework of a social/state intervention (see also Dobash and Dobash:1997).

Realists such as Cavanagh (2003) acknowledge that the limitations of reductionist assumptions commonly attached by the law, to the decisions and actions women make as responses to violence in complex intimate relationships. She believes that there is so much more to consider in the “literal” and “figurative sites of struggle” (ibid: 231). There is consistent research to support the view that women should not be in a position where they feel coerced into making decisions: academics such as Ford (1991), Cretney and Davis (1997a), Bennett, Goodman and Dutton (1999), Lewis, Dobash, Dobash and Cavanagh (2000), and Robinson and Cook (2006) do not view women as “passive recipients” of the law, but as survivors in their own “process of active and strategic resistance” (Lewis, Dobash, Dobash and Cavanagh: 2000:5). As Lewis, Dobash, Dobash and Cavanagh (2001) point out, there are contradictions in this position as the success of interventions are often dependant on women’s decisions to support prosecution and leave (or reject) their relationship, which is also seen to equate to making women safe. This conveys “a narrow portrayal of women’s circumstances [and] may not be the aim of all women with violent partners”, the concern here being that these women could be viewed as victims “devoid of agency” (Lewis, Dobash, Dobash and Cavanagh:2001:109). They extend their interpretation of agency to those women who use a
"variety of resources (including the legal system) to resist men's violence to protect themselves and their children" (ibid) (see also Lewis, Dobash, Dobash and Cavanagh:2000).

In direct opposition, abstentionists who write from a feminist perspective argue that it is impossible to use the law to seek justice. Lewis, Dobash, Dobash and Cavanagh (2001) outline how a rejection of engagement supports the argument Freeman (1980) makes, that it is "impossible to use the law and legal apparatus to confront patriarchal oppression when the law itself is saturated in patriarchal beliefs, structures and methods" (Lewis, Dobash, Dobash and Cavanagh:2001:113). Lewis, Dobash, Dobash and Cavanagh believe that arguing from an often abstract position, theoretically and politically as abstentionists do, gives little weight to the alternative responses they advocate which support the community as a site for "social transformation". Little attention is said to have been given to the socio-legal "dilemmas presented by violence against women [and] the complex question how to provide protection for women without reliance on oppressive state machinery" (ibid). This approach is seen as rarely informed by empirical research or grounded in women's experiences of the law, or the range of ways in which women "exert their agency", or based on women's (and men's) needs: here, the focus of inquiry then "becomes the law" (Lewis, Dobash, Dobash and Cavanagh: 2001:114).

Those who advocate the exploration and formation of a women's alternative justice based on women's different moral values, such as Daly and Stubbs (2006), build on Gilligan's (1982) work, with its focus on women's (and girls') moral reasoning/rights. Gilligan's 'different voice' concept has been taken on and challenged in various ways. There are also those proponents such as Heidensohn (1986) and Harris (1987) who apply the care/justice dichotomy with an emphasis not to replace with either system but to value both. Harris shows unease with alternative forms of justice, the concern here was for individual freedoms in a
forced’ community approach, and still emphasises the need to bring women’s voices into the criminological and legal field. Heidensohn (1986), Daly (1989) and MacKinnon (1989) challenge the link to justice/care model to male/masculine and female/feminine voices, where “certain gender or other hierarchal relations were presupposed, maintained and reproduced” (Daly and Stubbs:2006:11). Those who advocate and discuss the possibilities and limitations of the use of this approach (Masters and Smith:1998; Brathwaite and Daly:1994; Morris and Gelsthorpe: 2000; Hudson: 2002; Daly and Stubbs:2006; Hoyle:2007), see the principles and practices of restorative justice as a way of transforming and “re-visioning” (Daly:2002:64) conventional justice. Posited as a model which represents victims, the appropriateness of the restorative justice and its implementation (Shapland:2000; Busch:2002) for offences like domestic violence and sexual assault remains controversial (Braithwaite and Strang:2002), or is considered dangerous and wholly unacceptable (Lewis, Dobash, Dobash and Cavanagh:2000; 2001).

Lewis, Dobash, Dobash and Cavanagh, locate a section of feminist legal theorists within the wider range of sceptical reformers. Although their focus is mainly on the structure or form of the law, rather than the criminological focus on the content of the law, they share a belief that the law is capable of change, albeit a longer-term project of reform. Legal scholar, MacKinnon (2005) believes that the law should be “instrumental” in, not “exempt from social change”, acknowledging that women’s experiences have for the most part, been ignored in theory and in practice in the law because of the way in which the law is theoretically informed. Socio-legal studies have examined the “impact of law on a range of issues relevant to gender politics and women’s lives” (Lewis, Dobash, Dobash and Cavanagh: 2001:112): there is an underlying assertion that the culture of the law is embedded in a masculine culture. MacKinnon (1983) believes that the “law sees and treats women the way men see and treat women” (p.644). Smart (1992) agrees with MacKinnon’s (1983; 1987) assertion that the
ideals of “objectivity and neutrality which are celebrated in law are actually masculine values which have come to be taken as universal values” (Smart:1992:32). Nevertheless, those such as MacKinnon (1983; 1987), Matsuda (1989), Walby (1990), and Brush (2003) share the same opinion as Thornton (1991:457), that within the law there is a “small space in which to manoeuvre” which should be seized to create change.

The position of sceptical reformer encompasses “a wide range proponents of legal reform” (Lewis, Dobash, Dobash, Cavanagh:2001:114), including some of those who hold the positions and arguments (though not all the conclusions) presented here. The shared value is that a critical approach should be taken without “abandoning law as a site of [feminist] struggle” (Smart:1992:40). Smart (1992) sees “the desire to be political has been confused with the desire to be practical, and thus law has continued to occupy a conceptual space in our thinking which encourages us to collude with the legalisation of everyday day life” (p.40), regardless of this, she still sees the law as useful. Although sceptical reformers continue to agree with the underlying assumption outlined above that the law maintains patriarchal interests, there is considerable ambivalence (Heath and Naffine: 1994; Walby and Allen: 2004). Others like Burman (2010) support earlier claims from those such as Thornton (1991) who see the law as capable of reform that can and should respond to women. The legal system is often viewed as responding to the least challenging concerns to the detriment of areas of concern highlighted by feminists, which forms part of the argument that the law is often seen to be a “blunt instrument” (Madden Dempsey:2008) incapable of responding to the nuanced needs presented. Those who take this position are criticised for not adding to the understanding of men’s experiences of the law – as aggressors or individuals experiencing the legal process. Feminist scholars such as Lees (1994) in her work on sexual violence asserted that it was important to engage with the law to some degree:
To abandon legal strategies altogether would be no solution at all; rather it would be to concede defeat, leaving the law unchallenged, our silence to imply that we had no criticism to make. (p.80)

Lees also believed that “researching the law in action” was one way of knowing how women experienced the law and holding it to account (Radford and Westmarland:2005:214).

The feminist debates regarding the efficacy of the law have addressed specific innovations in the court process in response to domestic violence in the last decade (in North America and in England and Wales). Mirchandani (2006:799), sees such developments as a “catalyst to revisit existing theoretical approaches to the state” and the debate as to whether recent changes “empower women and disempower men”. She posits that her study, of a specialised court innovation in Salt Lake City, supports a more optimistic view of the state, despite the “classical hierarchical outward presentation of most courtrooms” (ibid:786), and concerns of those involved in the court project, regarding the sustainability of the approach against the bureaucratic nature of the judicial process. Mirchandani discusses the culture of the court and the beliefs in the context of and “ideological goals and structural transformations” (ibid:798).

Mirchandani asserts that the innovation is a feminist informed approach which changes the ways in which the state has previously worked to disadvantage women, as argued in Brush’s (2003) twin theory of governance. Brush’s “governance of gender” argument addresses the differential rather than gender neutral way institutions regard, reward and position men and women (see also Smart:1992; Weldon:2002), and the “gender of governance” argument (aspects of which are drawn on in this study) which refers to the structures, procedures and discourses of the state, which includes:

Legal constructions of relevance that that legal arguments be framed in administrative categories and not told as stories, are insisting on a masculine mode of argumentation that may inhibit women’s ability to speak or be heard. (Mirchandani:2006:784)
Others see such innovations as opportunities for the state to "co-opt feminism and retain its patriarchal inclinations" (ibid:782); this is a point of view supported by those such as Walby (1990), Feldman (2001) and Ptacek (2009), who posit that visions of the feminist project have been inhabited, undermined and misappropriated, and suggest women still continue to be viewed as "passive, dependent and easily manipulated" (Mirchandini:2006:782) by the justice system.

Matsuda (1989) observes that the immediate and loaded choices that women often have to make will mean that they will feel compelled, and or willing to engage with the law; therefore it is the needs or priorities of women who interface in some way with the law that are considered here. While many feminist legal scholars see the need for long-term planning and reform, they are "impelled by the urgencies of women’s (shorter term) imperatives" (Lewis, Dobash, Dobash and Cavanagh:2001:115). Matsuda argues that while "there are times to stand outside the courtroom door" there are also "times to stand inside the courtroom [and] embrace legalism as a tool of necessity" (1989:8). Lewis, Dobash, Dobash and Cavanagh (2001) concur with Matsuda, stating "it is the immediacy of women’s needs which drives her to advocate engagement with the law" (p.115).

**Women’s interface with the criminal justice system**

*Research which addresses criminal justice decision-making in cases of domestic violence*

This study has women’s experiences of contact with the court process as its main focus, however it recognises the integral role of the police as ‘gatekeepers’ into the criminal justice system (Buzawa and Buzawa:1993; Hartman and Belknap:2003; Robinson and Stroshine:2004) documented in the wider range of literature in this area. The insistence that violence against women should be taken seriously and handled as a criminal matter (Edwards:1986;1989; Stark and Flitcraft:1996) as previously stated in this review, was
considered as a major symbolic success. It did however, give rise to an “uneasy alliance” between some feminists, victim advocates and the police (Chesney-Lind: 2002: 81; 2006). These tensions and exchanges are reflected in the literature of the past few decades, which inform the significant developments in the police response towards women who have suffered violence and intimidation from their male partners (Grace: 1995; Walklate: 2008), and the wider criminal justice response to domestic violence (see Chapter 1).

This present study draws on literature which looks specifically at certain (relevant) points in women’s interface with these aspects of (procedural) decision-making, and where possible, which address women’s perceptions of this time. The emphasis here is on the effects of police response concerning (arrest and charge) decision-making from the 1990s to the present, which may (or may not) result in women’s subsequent contact with the court system (Sanders and Young: 1994; Lerman: 1992). The literature which discusses the initial decision to prosecute (or discontinue) on the part of the Crown Prosecution Service is also considered here (Hoyle: 1998; Sanders and Young: 2007).

Studies which address police decision-making

The legacy of the police response to women as victims of men’s violence’s is a dominant theme in the literature, and so relevant to a review of the discussion of a criminal justice response. Nonetheless, in contrast to other parts of the justice system, such as the court responses to women as victims of domestic violence, this area is well researched and documented (Fleury: 2002). Hence, wider literature in this area is not covered in-depth in this section, but pertinent points will be referred to.  

Drawing on the work of Edwards (1986), Grace (1995) emphasises the legacy of the police response to domestic violence. The reluctance of police to intervene or become involved in
“domestics” (ibid:1) was shown by the speed at which they attended calls, the failure to take women’s claims seriously, and attitudes of the police towards what were viewed as ‘deserving’ or ‘undeserving’ victims (Hanmer, Radford and Stanko:1988; Stanko 1989; Edwards:1996). These responses were compounded by attempts to reconcile women and their aggressors, and arrests as a response to reports from the victim were rare (Dobash and Dobash:1979; Binney, Harkell and Nixon:1981; Pagelow:1981; Edwards:1986;1989). In addition, the “lack of adequate recording...meant that the true picture...could not be obtained” (Grace: 1995:1).

In her review of the development of responses to domestic violence, Grace documents that in the 1980s it was recommended that “procedures used to help victims of sexual assault should also apply to domestic violence victims” (Home Office Circular:69/1986). By the 1990s, the police were encouraged to “take a more interventionist approach” in policy and practice, which involved a presumption in favour of arrest where an offence had been committed. The need to “record and investigate...in the same way as other violent crimes” (Grace: 1995:1) was emphasised: forces were also encouraged to set up dedicated units to deal with domestic violence or to appoint liaison officers (Grace:1995). When explored, the stronger commitment showed that whilst there was an “increased understanding of domestic violence issues, the transition of policy into practice has been as yet limited” (ibid: iii) (see also Hoyle:1998; Walklate:2008). The discussions concerning responses to domestic violence raised the issue of discretionary powers and to what “extent they can be guided by laws and policies” (Hoyle:1998:7). Hoyle discusses this issue in the context of “working assumptions” (wider interpretations of how processes are likely to operate) and “working rules” (actions chosen in any particular setting), she asserts these concepts are grounded in a social science rather than a “legalistic approach to understanding discretion” (ibid:21).
The 'presumption in favour of arrest'

Prior to legislation and policy being developed in this country in favour of arrest, the adoption of more aggressive pro-arrest policies was already underway in the United States from the 1980s onwards, with some States passing legislation on mandatory arrest as part of the police operational response to domestic violence (Stephens and Sinden: 2000). This followed the findings from an influential report showing the results of an experimental approach to the policing of domestic violence, notably used by Minneapolis Police Department (Sherman and Berk: 1984; Berk, Campbell, Klap and Western: 1992). Despite criticisms of the method and interpretation of results (Buzawa and Buzawa: 1993), and dissimilar findings from other studies, arrest studies continue to dominate criminological and justice responses work on domestic violence in the United States: the use of ‘preferred’ to ‘mandatory’ arrest is seen more often now. In the United States, Stephens and Sinden (2000) assert that victims’ perspectives and experiences are under-represented in the on-going debate concerning arrest in cases of domestic violence (p.534) and the seriousness, with which they and their claims are treated, is shown to be an important factor.

The issues raised regarding the role of the law in domestic violence cases are not “jurisdiction specific” (Burton: 2008) as shown here, there is a wider international debate. Victims were the primary participants in Miller’s (2003) study: this is one of a limited amount of studies which examine victims’ perspectives, specifically, victim reports of recurring violence, their perceptions of power and safety following police interventions. High levels of stress and reoccurring violence were shown where no responsibility was taken on by the aggressor (p.710). Smith (2000) reports that victim perspectives are often overlooked, although some women were in favour of mandatory arrest and no-drop prosecution policies, some women believed they would be less likely to report future violence as a result of their experience of interventions. Smith’s study supports research carried out by Coulter and Chez (1997) who
found such policies would be helpful to other women than themselves, especially when women feared the consequences of further violence. In terms of the victim’s preference for arrest, Buzawa and Buzawa (1993) consider that the victim preference may properly be considered as “critical” since the victim is in the “best position to determine how his or her rights should be vindicated...” (ibid:566). They found that three quarters of the officers in their study “were unable to report the victim’s preferences, let alone follow them” (ibid).

Literature here (Morley and Mullender: 1992), and in the United States, questions the success and integrity of the implementation of such policies. Smith (2000) reports where pro-arrest and prosecution and no-drop policies did increase conviction, further analysis uncovers a significant degree of ‘screening out’ of cases which were unlikely to gain convictions. There have also been studies which voice concerns as to the rationale behind the continued emphasis on a pro-arrest stance. Hoyle (1998; 2007) reports that pressure on forces to improve arrest rates are linked to performance targets for offences which fell into the category of domestic violence incidents.

The above findings compound the lack of understanding of the shorter and longer term consequences of presumptions of arrest (Walklate:2008), such as an increase of violence, and the failure to understand the needs of women from ethnic minorities (Patel:1992). In addition, there are expectations that women move from “confusion to resolute action” at the point they interface with the police (Kelly:1999:38). Studies, such as Ford (1991) and Mills (1998), show actions of police or prosecutors may “ignore or even conflict with the goals of victims” (Robinson and Stroshine:2004:302): a main concern is how the “voices of women themselves, and what they might want from the criminal justice system (if anything) are lost” (Walklate:2008:5). Stephens and Sinden (2000) are of the same mind, that the trend towards a more aggressive law enforcement, may reflect “an increased societal intolerance......but it is
the victims who have the most to gain (or lose)” (p.535): in short, if action is taken which is against women’s wishes, any effect of this action being empowering ceases (Hoyle:1998; Hoyle and Sanders:2000).

Walklate refers to Wilson (1983) who warned against calling for “stiff sentences, but against the deep-rooted sexism in law” (Walklate:2008:10). The approach to arrest and charge the aggressor divides feminists who argue for increased criminalisation and penalisation of men’s violence, from those who dispute the universal merits of prosecution to effectively respond to men’s violence (Morris and Gelsthorpe:2000). Kelly (1999) produced evaluative findings of a project in Islington, which aimed to build on the changes in policing policy in the mid 1990s. She advocates a more skilled, integrated and focused approach to crisis intervention (see later in chapter): to do nothing is to deny “women a fundamental aspect of citizenship – the right to personal safety and protection under the law – and allows violence to continue unchecked” (ibid:1). Kelly emphasises that any such approach should take “seriously women’s assessment of the danger they face” (ibid:37).

Lewis, Dobash, Dobash and Cavanagh (2001:111) discuss how there is no consideration of arrest as a “process which starts with formal arrest and may end with any number of outcomes”, and recognises there exists a body of literature that exists about domestic violence “which could bring...an improved appreciation of the complexities of the phenomenon...and how arrest interacts in the context of women’s and men’s lives” (ibid). This literature though is rarely drawn on: Kelly (1999:36) asserts that models (of intervention) “are by definition, unable to encompass the complexity and messiness of [women’s] daily life”.

The lack of awareness and skills in assessing individual women’s situations and recognition of women’s management of this to “limit/control” violence thus far (Kelly:1999:38) restricts
the understanding of the context of women’s decision-making, and where/if the involvement of the justice system works for them. What arrest means for women (Garner:2005) is one example of this. Cretney and Davis (1997b:19) refer to the “importance of the distinction between reporting and ‘complaining’”, and the consequences if a gap exists between the two for the victim. A victim may be complaining about the harm suffered and be “asking for assistance...the act of reporting violence does not constitute a [formal] complaint” (ibid).

Hoyle (1998:123) reports that a third of her sample wanted their partner arrested “they wanted immediate protection but not necessarily prosecution”, and many did not want the police to proceed further. She views that some victims “judged interventions as successful even though they did not result in prosecution” (ibid): whether or not their partner was arrested was unrelated to women’s levels of satisfaction with the police.

Robinson and Stroshine (2004:315) similarly find that satisfaction with the police “is a function of the extent to which victim’s expectations are fulfilled...they were able to express concerns and...feel that their wishes are not ignored”. Victims who called the police themselves, whether to calm the situation down, or to have the police make an arrest were much more satisfied than those who came into contact via someone else. They conclude that criminal justice actors supporting women’s choices “will lead to greater satisfaction among domestic violence victims” (ibid:317). This echoes Lerman’s (1992) earlier study which reports that survivors who were more satisfied with their contact with the police, would be more likely to participate in the court system.

Hoyle (1998) and Morris and Gelsthorpe (2000:414) discuss that where victims decided “not to proceed further with a prosecution [this] was a rational choice”. Their research supports Ford (1991:329), who describes women’s use of the justice system as a “power resource”, which they could use to increase their relative power and as a way of managing the violence.
they experienced. One example used is where women many want to exit the system if it has
served a particular need, or purpose (Lewis:2004) through immediate intervention. Ford
argues against any policies which might “inadvertently disempower victims” (op cit). Morris
and Gelsthorpe (2000) mirror the reference made by Walklate (2008) in the previous section
on feminist debates of whose needs have been imagined:

...whatever the reason... whether we as outsiders agree with it or not – if a woman does
not want her partner arrested, prosecuted or imprisoned, it is arguable that she should
be listened to...for us to dictate otherwise ...that we might fulfil some assumed goal...is
more problematic. (p.414)

Studies which address the decision to prosecute

Prosecutors have a key decision-making role, determining whether a case (and the victim)
will continue in the justice system. The belief that many victims will be reluctant and
uncooperative from the start or during the course of the case (Davis, Smith and Nickles:
1998), is seen to hinder the likelihood of a successful prosecution which in turn affects
conviction rates (Parnas: 1967; Pastoor: 1984; Mawby:2007). The history of the pursuit of
domestic violence cases and prosecutorial attitudes are likened in the literature to those of the
case (Hirschel and Hutchinson:1998), with regard to the expectations that surround the
prosecution of domestic assaults (Hartman and Belknap:2003; Cammiss:2007). A perceived
lack of co-operation with the law has been put down to women’s lack of rationality and
assumptions have been made that women have not been “capable of making decisions in their
own best interests” (Robinson and Stroshine:2004:302). Cretney and Davis (1997b:2)
consider that for the prosecution of domestic assault the “most important element... is the
complainant’s commitment to the process” (ibid: 88): the emphasis here being on a successful
prosecution, even if compulsion is used. Cretney and Davis (1997b:78-81) discuss four areas
of consideration in relation to compellability and prosecution. These include: the
humanitarian consideration (the welfare of the complainant); the pragmatic consideration
(doubt surrounding the effectiveness of this practice); the symbolic consideration (the
importance of the condemnation of men’s violence’s towards women by the criminal law; and the contractual consideration (the idea of an implicit contract was discerned by police and prosecutors, once a complaint was made).

Critics counter this argument (Eley:2005:594) by asserting that the reasoning behind this approach is ignoring the “realities of domestic violence” for women, and compounds the matter by putting them in a situation where they feel “re-victimised” by the justice process. Cretney and Davis (1997a:75) argue that as a result of “reflection of [the courts] inadequate... response”, this results in women’s “disinclination” to take part. They describe how the prosecution perception of the victim’s behaviour can result in a “defeatist mentally” (ibid: 96). Buzawa and Austin (1993) and Erez and Belknap (1998) show these negative assumptions exist even where women who do want their aggressors pursued by the courts: the inference that came from Cretney and Davis's (1997b:147) research is that this could result in “a self-fulfilling prophecy” for victims. Robinson and Stroshine (2004) discuss the “uniqueness” of each victim's experience, asserting that “a desire for arrest or prosecution cannot be assumed to be universal” (p.302).

Cretney and Davis (1997a:147) focus on whether decisions with regard to prosecution in domestic assault are treated differently from assaults in “other contexts”. The purposes of ownership of prosecution are raised by Cretney and Davis (1997b), as the prosecution is not acting on the behalf of the complainant, but nonetheless, the role of commitment is encouraged as prosecution is seen to be in the women’s interests. The intention here is for women’s interests in relation to domestic violence to be shown of proper concern for the criminal law (Grace:1995), but it is recognised that this is the location of a continued “problematic nature of the engagement between criminal justice and domestic assault” (Cretney and Davis:1997b:76). In his study of the management of domestic violence cases,
Cammiss (2006) asserts that once in the system (from the point of the mode of trial hearing), "the interests of the victim are sidelined" (p.704) (see also Cretney and Davis:1997a; Hoyle:1998)\(^{28}\): the continued interface of women with the law whether compelled or not continues to be raised (Ford:2003).

**Exposing the gaps: women’s experiences of the criminal court process**

There is a limited amount of literature which specifically addresses women’s own, distinct experiences of their interface with the court process, and as a result of violence from their partners as this study does (Ptacek:1999; Cammiss:2006).\(^{29}\) Much of the literature that has become available in more recent years addresses the court response to women and comes from evaluative studies (Griffiths and Hanmer:2005). The focus is largely on aspects of the process and outcome of specific innovations (see Chapter 1), although some studies do include some findings which focus more on women’s satisfaction with the process (Fleury:2002; Cook, Burton, Robinson and Vallely:2004). The lack of in-depth exploration of women’s perspectives and non-evaluative research studies of the last ten years, which offer insight into women’s own analysis of their experiences of contact with the court process, exposes a gap in the knowledge.

This section explores selected literature which addresses women and the criminal court process, and draws on studies which include women’s perspectives of their experience, considering women’s agency – their decision-making and their (dis-)engagement with the justice system and (obstacles to) their future use of it.

Literature in this area has previously addressed the treatment of women at the hands of the courts as victims (Patullo:1983)\(^{30}\) and as defendants (Jeffreys and Radford:1984;\(^{31}\) Wincup:1999;\(^{32}\) Quaid and Itzin:2000\(^{33}\)) in response to men’s violence. The focus had been
more on individual cases (Fleury-Steiner, Bybee, Sullivan, Belknap and Melton:2006), or more reliant on officials' accounts of their approach to cases of rape, sexual violence (Matoesian:1993; Temkin:2000; Larcombe:2002) and domestic violence, in order to analyse how the legal framework was used to further oppress women and with little of women's own interpretations of their experiences. Although it is recognised that there are many important differences between how women experience violence, and how courts deal with rape and domestic violence (for example, generally cases are heard in different courts, guilty pleas are more common in domestic violence cases and rare for rape), there are parallels in the way the law treats and responds to women and in the gendered nature of these crimes. Bearing the differences in mind, it was still felt appropriate to consider women's court experiences in relation to rape.

In the 1990s, limited research focused on women's experiences of their interface with the court system in relation to men's violence (Konradi:1996; Frazier and Haney:1996; Ptacek:1999). The aim was to gain insight into "how survivors understand the legal process and respond to its constraints" rather than research "how the legal personnel structure the survivors' legal 'career', particularly the early stages" (Konradi:1996:406).

Lees (1996) draws on women victim's accounts of their experiences of rape, and their experience in court, along with her own observations from rape trials in the judicial system. As with other studies, such as Konradi (1996), the perceived expectations and experience of the attitudes of court personnel were a key part of women's accounts. Konradi focuses on the time leading up to and during court, and how women negotiate the "given set of circumstances" (ibid: 408; see also Konradi:2007), how the perceptions of women, for example, expectations of rape victims, how they 'present' — their image/and demeanour, played a large part in how women prepared for court. The (not unrelated) style of questioning
in the court was the issue raised most for women in Lees’s study. A common complaint women made was that they were not allowed to explain fully what happened to them and how they felt. Women discussed how restricted questioning was used which limited their ability to answer, despite legislation in place (the Sexual Offences (Amendment) Act 1976), this included questions about previous relationships, and about lifestyle: women felt like they were on trial (Lees:1996:31-33).

Lees reported how the experience of court impacted on how women felt about discussing their experience to the researcher after the case was over. Frazier and Haney (1996) also studied how women as survivors of rape felt about different stages of the legal process, and whether the extra-legal attitudes influenced decision-making in the justice process and the relationship between those experiences and recovery after the case.

Similar to studies carried out with survivors of rape shown here, victims/survivors of domestic violence were more satisfied with judges’ responses when those judges listened to them (as with police responses), and empathised with their situations (Ptacek:1999). This is supported later in research by Fleury-Steiner, Bybee, Sullivan, Belknap and Melton (2006:34) who report how being listened to evoked feelings that women were “believed”, and “their decisions were respected”.

Ptacek’s (1999) American study, *Battered women in the courtroom*, focuses on the much more “common, everyday interactions” of the “lower” court, which reflects the (Magistrates’) court setting in England and Wales, and the doctoral study more closely. Although he makes mention of specific higher profile cases as examples in the introduction of his book, he soon moves on to say this “may not be the best means of understanding women’s daily encounters with judges in a legal space” (p.67). The specific focus is women’s experiences of judges
when they have applied for restraining orders in the criminal courts: he draws conceptually on ways in which women resist violence (see also Kelly:1988; 1999).

As with Konradi’s (1996) study, women are seen to be engaging in some way with the justice system: she states “given how often women are asking for the protection of the courts, it is crucial to identify ways that judges either encourage or discourage women from claiming their rights under the law” (ibid:7). Ptacek relates the effect of listening and responding in the court situation in the women’s experiences as directly related to the “legitimacy” of the courts: if the courts do not take account of women’s complaints or actions, and are seen to tolerate or accept men’s violence, these become “empty rights” (ibid:6).

Issues concerning women’s perceived disengagement before and during the court case (Robinson and Cook:2006) have become a focal point for many studying and administering the justice system. Fleury-Steiner, Bybee, Sullivan, Belknap and Melton (2006) have their focus on the response to women’s decision-making across, the criminal justice process including the court process. Here the limited knowledge of the “multiple factors of women’s decision-making is made apparent” (ibid:329), whilst the “vexed” issue of attrition is explored by Robinson and Cook (2006:190) 37

Bennett, Goodman and Dutton (1999) discuss obstacles that were thought to detract from victims engaging with the court system. These include: confusion about the process from insufficient provision of information; lack of contact with court in the lengthy interim period as women wait to go to court which served to exacerbate victim frustration; fear of the offender during the time leading up the trial; anxiety about the consequences of prosecution for the women and the accused; conflict over the possibility of imprisonment for various economic and emotional reasons; the length of the criminal process. The findings for
Anderson, Boyle, Cook, Hartley and Roberts (2001), gained from a range of voluntary and statutory workers about reasons women gave for retraction, were similar to those of Bennett, Goodman and Dutton (1999), but also include the fear of the offender and/or repercussions from his family or the community, and fear of damaging family status, losing children. In this study missing information was particularly highlighted for those women who did not speak or understand English in relation to elements of the process, such as the progression of their case; changes to bail conditions; and immigration status. Research by Shapland, Willmore and Duff (1985) was extremely critical of the lack of information and support provided, noting that victim’s perceptions of the way the criminal justice system responded to their problems became more negative as their cases progressed through the system.

Fleury-Steiner, Bybee, Sullivan, Belknap and Melton (2006) refer to what they see as a failure in previous research, which is an understanding of the “how interpersonal, relational, community and system-level factors support or hinder women’s future use of the system”; women’s experiences (and expectations) of the police, prosecution or court system were each shown to “influence women’s intentions to re-use these systems” (p.327). Erez and Belknap (1998) talked with women about their experiences of the police and court process and found women had very different experiences of the system. The majority of women in this study reported that someone in the system had tried to convince them they should drop their complaint, but regardless of this, three quarters of the women in the study said they would use the system again to address future violence. This study also shows that outcomes at court could also influence future use of the system if they “fit with what they [women] had wanted from the system” (ibid:330).
There has been an increasing amount of evaluative research (Griffiths and Hanmer: 2005) in response to the justice system initiatives concerning domestic violence since the late 1990s (Hanmer, Griffiths and Jerwood: 1999; Kelly: 1999; Shepard and Pence: 1999). The focus on new innovations in a number of courts has added to this, addressing "how the system ought to handle these cases" or "the efficacy of the [criminal] justice response and civil remedies" (Fleury: 2002: 202; see also Burton: 2003; 2009\textsuperscript{38}).

The concept of court specialisation within the criminal justice system is rooted in the theoretical models of problem-solving/collaborative justice or therapeutic jurisprudence. In the late 1980s and 1990s a number of specialised courts were operating in the United States, Canada, and Australia (Plotnikoff and Woolfson: 2005; Cook, Burton and Robinson: 2004). Specialist courts span those which access specialist knowledge or sentencing regimes, courts that depart from traditional adversarial justice models, and those that make administrative change such as grouped listings (Home Office: 2001): these include those focusing on drugs (Belenko: 2001), problem-solving/community (Casey and Rottman: 2003), mental health (Redich et al: 2005), and domestic or family courts, which focused on victim safety and defendant accountability (Shepard and Pence: 1999).\textsuperscript{39}

Appropriations of aspects of these models which focused on domestic violence (Fritzler and Simon: 2000) were piloted in England and Wales, from the first courts in the late 1990s (Grundy: 2000) and into the early 2000s (see Cook, Burton, Robinson and Vallely: 2004) in Magistrates' Courts. These courts now operate under the auspices of the Specialised Domestic Violence Court programme (see Chapter 1).
Robinson and Cook (2006) refer to court studies prior to these innovations as dated, single jurisdiction studies, often not in the United Kingdom, and based on data from 'traditional' courts. The evolution of court practice regarding domestic violence across all courts, includes the implementation of legislative and policy changes and those court innovations which fall within the 'specialist' model (see Chapter 1), are in part all informed and influenced by the findings from these previous limited studies, and by evaluative findings of models in other jurisdictions (Plotnikoff and Woolfson:2005), and in this country. The warning of a "one size fits all" assumption when attempting to replicate an integrated intervention was made by Holder (1999:265), though Greenan (2004) suggests a shift in policy is seen to be most effective when located in the context of a coordinated justice system response to domestic abuse (p.64).

There is little comparative work (Cook, Burton, Robinson and Vallely:2004), to be found between specialised courts and those which operate within the more routine legislative and policy changes, and so the focus here is on research carried out on key reviews of innovations involving some form of court adaptation in England and Wales (see Chapter 1).

The court related studies have, to different degrees, included the victim's point of view for evaluative purposes (Grundy:2000; Vallely, Robinson, Burton, Tregidga:2005). Findings have been used broadly to ascertain expressed satisfaction at the end of a process (such as Grundy:2000; Robinson:2003; Standing Together Against Domestic Violence:2003; Vallely, Robinson, Burton and Tredidga:2005) as part of a wider multi-methodological evaluation. Professionals' viewpoints have also played a major part in the studies; advocates and support workers perspectives are often used alone or alongside victims accounts to analyse victims' responses on specific issues, such as retraction (Robinson and Cook:2006). Robinson and Cook analysed data from different evaluation studies: police files, community-based advocate
and support workers and interviews with victims in order to understand further the causes and consequences of victim retraction. The main focus of the research report is on process and outcomes, and they find that “despite the innovative courts [and] multi-agency partnerships, half of domestic violence victims still chose to retract” (Robinson and Cook:2006:189).

Where various models of specialised domestic violence courts were in operation, analysis of the victim experience find that:

In the majority of sites, the court itself, which mostly women do not attend, is not what impacts on satisfaction...The existence of [a specialist] court, however, may be a catalyst for improved services and heightened awareness of domestic violence issues, and signal to the victim that she is being taken seriously. (ibid:88)

Robinson and Cook quote a key informant’s view that:

Victims really do not understand that there is a special court [or system in place] and it makes no difference to them. They want to be heard and believed [but] they do not attend except to retract or attend the trial. (ibid)

In terms of outcomes for the women, Cook, Burton, Robinson and Vallely (2004:89) state that “research universally indicates good to high satisfaction with support and advice provided by the voluntary [or charity status] sector” in such cases (see also Grundy:2000). In more recent evaluative studies of the Specialised Domestic Courts, Robinson (2007) reports “…only a quarter of women attributed their enhanced safety solely to Criminal Justice intervention” (p.367).

Fleury (2002) discusses the increasing amount of evaluative research which addresses satisfaction with justice responses. Her research focused on women’s perception of control over this response, and finds that higher levels of perceived control are associated with higher levels of satisfaction of the process. However, she importantly recognises perceptions of and actual control are potentially very different, and warns that any changes in the system (including specialisms or wider legal/policy changes across courts more generally), that
increased women’s perceived control but did not increase their actual control [would] ultimately... be misleading and disempowering” (ibid).

Chapter summary

This chapter highlights a range of relevant literature and debates that inform this study. By stressing aspects of the development of the study of the victim through the dominant victim/offender dyad (Mendelsohn: 1956) and subsequent influences, a better understanding is gained of the way victimisation, and specifically here, victimisation of women through men’s violence, has been explained and understood over time within victimology and criminology, and perceived by wider society (Miers: 2000).

The gendered construction of the victim reflects the values and practices across the justice system has produced contradictory images of women which continue to retain currency in more and less subtle ways in the study of victims of men’s violence. The actions of women continue to feature as a central issue in the literature, which has implications for the status of women who are victims of men’s violence when they come into contact with the criminal justice and court system.

The literature review focuses on women’s interface with the wider justice system and the court process, following men’s violence. The occasional perspectival studies that punctuate the literature reviewed in relation to women as victim/survivors of men’s violence are particularly useful to the approach taken in this present study. These respond to the need, highlighted earlier, for a victim perspective to be recognised in victimological and criminological research. It is also helpful to assess, more critically, the different methodological approaches used in the wider literature which aim to explore women’s experiences of the justice process. Such studies offer historical lessons and contextual
reference points which show how the research aims for this study can be examined more fully and where the limitations might lie.

As shown, feminist and wider literature which concentrates on women as victims of men’s violence, and in the context of partner abuse, is evidenced in a broad catalogue of empirical and theoretical studies, and adds to the continuing discourse, offering a deeper understanding of women’s experiences of violence. The literature that explores women’s experiences and perspectives of coming into contact with the court process in such cases is less evident, especially studies which allow women’s own views and priorities to more fully inform the research process and findings, rather than that of the professional ‘expert’ (Oakley:2000). In this thesis, women’s perspectives of their experiences and interface with court process provide the main focus of analysis, though the convergence and divergence with professionals’ views are addressed. The methodological approach and methods used in this doctoral study are discussed and explained in the next chapter.

1 See Chapter 1, for working definitions used in the study.
2 It should be noted that no in-depth exploration of wider definitions of intimate violence is made here. Whilst recognising the existence of intimate violence within other groups, such as the use of violence in same sex relationships (Ristock:2002), and with respect to women’s violence against men (Kimmel:2002; Dobash and Dobash:2004), the author concurs with Kelly (1996), Dobash and Dobash (1992, 2000), and Lewis et al (2001) that to study these areas would require a distinct analytical approach. Wider definitions are considered to be “qualitatively different” phenomena (ibid:124). For discussion on intimate violence and ethnicity see Walby and Allen (2004), immigrant populations, Raj and Silverman (2000), by age Fisher (2003) by class Renzetti (2004).
3 Hungarian criminologist Stephen Schafer (1968) focused on functional responsibility. His typology was a variation of those groups proposed by Von Hentig, emphasising responsibility, rather than risk factors.
4 The Coroners and Justice Act 2009, Section 54, refers to the new partial defence to murder of loss of control, which is explicitly defined in sub-section 2, as not necessarily a “sudden” loss of control. Previously the defence of provocation required the “trigger” (ibid) to be a single incident, rather than sustained victimisation over a long period of time. Early criticisms point to the potential problems in how loss of self control maybe construed in court by Prosecutors, Judges and juries (Edwards, S. 2011).
5 ‘No criming’ is a practice associated with discretion when potential crimes are reported. For example, Chambers and Millar (1998) carried out a study for the Scottish Office which investigated sexual assault. Of those cases that were ‘no crimed’, 22% were judged to be false complaints, 30% were forwarded for prosecution and not proceeded with.
7 Rape in marriage was integrated into statute in this country in June 1994. Lees (1996) looked at cases of rape in marriage and reviews others research in this area leading up to the implementation of this decision. The view was taken from transcripts and court decisions that rape in marriage is treated less seriously than rape by a stranger or acquaintance.
8 The consideration of the changing status of women within a “cultural framework” led Christie (1986:22-23) to use parallels in history when examining features of the non-ideal victim, through belief systems, such as the criminalisation of the older woman, and women with mental health issues, who were considered to be witches in medieval times.

9 Walklate (2008) discusses the symbolic nature of changes in the law are “not necessarily accompanied by changes in public attitudes” (p.9), which still rely on crude characterisations of rape, including an emphasis on women’s contributory behaviour.

10 Section 41 of the 1999 Youth Justice and Criminal Evidence Act ruled no admittance of sexual history as evidence and restrictions on questioning. The 2003 Sexual Offences Act in England and Wales (in force in 2004) expanded the definition and the attempt to codify and understanding of reasonable belief in consent and the steps the accused took to ascertain this.

11 Kelly, Lovett and Regan (2005) discuss six points of attrition: 1) reporting to the police, 2) no evidence of assault and false allegations, 3) insufficient evidence, 4) early withdrawal, 5) CPS decision-making, 6) court and trial.

12 The Matrimonial Causes Act 1875 gave Magistrates’ the power to grant legal separation, but not divorce. Here a right was given to maintenance for a wife “whose husband had been convicted of aggravated assault upon her” (Wilson:1983:86).

13 An in-depth review on the wider crime victims’ movement is not given here (see Mawby and Walklate:2000; Zedner:2002; Rock:2004; Young and Stein:2004). Rock (2004) believes the victims’ movement has had a more political and ideological role in North America than that which developed in the United Kingdom.

14 Pizzey went on to lose favour with her peers, regarding issues over the funding of Chiswick refuge, and significantly, due to her alliance with explanatory theories which focused on the pathology of victims and their addictive behaviour in Prone to Violence (1982).

15 Genn (1988) discussed “habitual domestic violence” in relation to multiple victimisation considering how such violence could not be captured or understood as isolated events for survey (counting) purposes. She posited this “...could not adequately record or reflect conditions of life where fights, verbal abuse, sexual assault...were common place...in those situations...”. For her, questions like “have you been threatened with violence during the last 12 months...become frankly an embarrassment” (p. 99).

16 McGibbon et al (1989) carried out a small scale study which reported that women were victimised 36 times prior to police involvement. Hamner (1995) quoted that women seek assistance from an average of 10 agencies before finding appropriate help.

17 Considered within the historical context of positivism and against the political climate of equality for women in the 1960s and 1970s Davies (2007) asserts: “...it is perhaps not surprising that studies of male and female crime and victimisation patterns have sometimes been conflated and confused with studies that are concerned with exploring how gender relates to criminological and victimological enquiries and enterprises” (p.176).

18 Spender (1980) challenges the assumptions implicit in the construction of knowledge which exists, which excludes women’s perspectives, and considers their contribution to be of “lesser value” (p.vii).

19 Griffin (1971) discussed fear produced from harassment and intimidation as “little rapes”, which Stanko (1988) believes were unlikely to appear, or be considered as experiences of criminal behaviour in a crime survey. Since the 1960s, rehabilitation has been used in the context of the criminal justice system in the United Kingdom and North America, rather than diversion schemes. Within this framework, abuser programmes are often based on the Duluth model (Pence and Paymar: 1993; see also Dobash and Dobash:1998). The prioritisation of resources towards men’s behaviour is not without criticism (Burton, Regan and Kelly:1998), although the starting point is retributive and is based on feminist interpretations of men’s violence.


21 This report to the Home Office gave an overview of previous research findings and reported from a national survey on the processing and responses from police forces/officers: this study also included victim perspectives. Regan and Kelly (2003) have since argued that rape is a very much “forgotten issue on political and social policy agenda’s attracting neither the debate nor the resources which have gone into highlighting domestic violence as a social policy priority” (p. 17).

22 Historically, victims were “active participants” in the prosecution process until the nineteenth century, which was evident in the level of recorded crime. By 1880, prosecution practices had changed, the police had in many cases assumed role of the prosecutor (Godfrey:2008: 171).
25 Section 80 (3) (a) of the Police and Criminal Evidence Act 1984 (PACE) made a “wife a competent and compellable witness against her spouse where “the offence charged involves an assault on, or injury or threat of injury to, the wife...of the accused...wife who refuse to give evidence may be punished for contempt”. One option that can be used if a complaint declines to give evidence is to use section 23 of the Criminal Justice Act 1988, which permits a statement made by a person to be admissible as evidence. Cretney and Davis (1997b) research showed there were difficulties in getting a court to accept an original statement.

26 Cretney and Davis (1997b:77) show prosecutors estimated that up to seventy per cent of complainants withdraw, and was viewed as a “failure” in terms of prosecution of a case.

27 The prospect of a realistic prosecution is assessed on the basis of whether there is sufficient evidence and whether the prosecution is in the public interest, based on the Code for Crown Prosecutors (2004).

28 Cammiss (2006) discusses this in the context of the consideration of ‘vulnerable’ groups and the different associated concerns, rather than applying this as a “catch all” term (Sanders and Jones:2007:1). The move to increase participation and resources is seen to be an attempt to “alleviate the worst excesses of the marginalisation of the victim” (Cammiss:2006: 706).

29 For studies showing the experience of other groups considered to be vulnerable victims/witnesses in the court process, see Plotnikoff and Woolfson (2004) who explore the perceptions of young people giving evidence at court. Also see Shute, Hood and Seemungal (2005) who explore the perceptions of ethnic minorities as defendants in the Crown Court.

30 Patullo (1983) produced information for the NCCL which looked at the prejudices of senior judicial figures at the time, and uses their accounts in her presentation of individual cases.

31 Jeffreys and Radford (1984) use individual cases in their wider analysis of the legal framework.

32 Wincup (1999) carried out research on women in bail hostel provision, and their experiences awaiting trial. She makes particular reference to the gendered nature of the experience and the need for the justice systems to recognise “the particular need of women who offend” (p. 2).

33 Quaid and Itzin (2000) address the treatment of women in the court who have fought back or killed violent partners. In the same text, Griffiths examines the legal defences for murder, and uses women’s accounts of incidents to discuss the concept of “self preservation” as a defence in court.

34 All three of these studies use discourse analysis to analyse the dynamics of the courtroom.

35 The cases of 21 women came to trial, four stranger rapes (all found guilty), 17 acquaintance rapes (5 found guilty). 15 cases did not go to trial, although women were willing to testify, they were encouraged to drop the case due to lack of evidence, where it was an acquaintance rape, in other cases no reason was given. The only women would speak to the researcher after trials were those who had a guilty verdict.

36 Ptacek (1999) carried out research on two sites, both were generally supportive of women’s rights, but with very different socio-economic profiles. The aim of the research was to examine the role of the judges in obtaining restraining orders in the lower criminal courts. A content analysis approach is used to analyse the affidavits of 40 women he spoke to on the telephone. Judges were also spoken with.

37 Robinson and Cook (2006) figures were consistent with other research that showed 50% if women retracted at some stage of the proceedings. Of those, almost half retracted before trial, 35% before the defendant entered a plea, 7% on the day of the trial 71% of women would retract early. The first month of case progression was seen as vital when “women weighed up the pros and cons of continuing their involvement in the prosecution” (p.201).

38 Burton (2009) examines the civil/criminal interface and reviews the instigation of non-molestation orders in both these settings.

39 Lord Justice Auld (Home Office:2001), considered court models in North America such as the use of drugs and domestic violence courts. He argued that some features of domestic violence offences made them unsuitable for conventional courts, but from his observations, he concluded that changing proceedings was less important than gathering resources together. Although he had heard of the Domestic Violence court in Leeds (see Grundy:2000), he left the question of specialisation open; this was raised again in the White paper, Justice for All (2002) (see Chapter 1).

40 These included arrest, pre-court, fast tracking cases, style of management of cases, ‘clustering’ cases to be heard in specified hearings/trials, during court case (Cook et al:2004).

41 Which includes the phased implementation of the closer integration of civil and criminal systems (see Burton: 2009).
Chapter Three Methodological approach and methods

Introduction

This chapter aims, in two main sections, to discuss the methodology and the operationalisation of the design and analytical methods employed in the study. The first section discusses and outlines the 'Methodological approach' which utilises appropriations and adaptations of a number of knowledge traditions. Primarily, this includes issues and requirements of carrying out research which is located in a feminist framework. Within this discussion, specific reference is made to historical debates which address the limitations and possibilities of privileging or focusing on the perspective of one group over another, and specific to this study, which used women's lived experiences as a starting point for the research inquiry.

The second, main section of this chapter reflects on the 'Methods' used in the study, namely, how the research was carried out and issues that were faced. An outline of the research design, the research setting, and details of the research participants is given. The issue of how access was gained in the study is addressed, firstly by discussing gatekeeping issues encountered, and then by giving a more specific account of how participants were approached. Methods of data collection are set out, outlining the style and content of interviews and the role of observations. Issues in relation to the researcher and researched/participant relationship in this study are also discussed. Finally, the approach to data analysis is outlined.

Throughout the course of my study, and when considering and operationalising methodological choices, I have aimed to stand "outside" (Stanko: 1997: 83) my research and take a more reflexive approach.
...turning a self critical eye onto one’s own authority as interpreter and author. (Alvesson and Skolberg: 2004:i)

I have also been keen to become more reflective (Ryan:2009), an approach advocated by Kelly, Burton and Regan (1994), Smith and Wincup (2000), and Lee (1993). I feel this is an important part of ‘doing’ research, namely, where possible, not to “censor out the mess, confusion and complexity of doing research” (Kelly, Burton and Regan:1994:46).

**Methodological approach**

**Outline of knowledge traditions drawn on in the study**

As discussed previously, the aim of the empirical research was to explore the experiences of women in contact with the Magistrates’ Court following violence and intimidation from their male ex/partners. The literature review demonstrated the need to situate the experiences and perceptions of the women in the study at the centre of the research design.

The study draws on the approaches of feminist, and other critical scholars that assert that the perspective of one group is a “valid basis for theoretical inquiry” (Hudson:2000:185). Drawing on the “understandings derived from standpoint and other theories” (Hague and Mullender:2005:148), this empirical research has drawn on appropriations of a feminist standpoint (Harstock:1987; Harding:1987; 1991), which emphasises the use of women’s lived experiences as the starting point of the research inquiry, to prevent a less partial view of those experiences. The main reason for drawing on this epistemological position and methodological approach was to ensure that women’s individual voices were prioritised as research subjects, and importantly, their specific experiences heard and listened to (Hague and Mullender:2005) in relation to their contact with the criminal court process, following their ex/partners’ violence.
It is not exclusively the supporting ideology and application of approaches used in this study that makes this a feminist piece of research (McCarry:2005). Rather, as Kelly (1988) asserts, what makes it so is the “the questions we have asked, the way we locate ourselves within our questions, and the purpose of our work” (p.6). This study is located in a feminist framework with the aim of creating knowledge about women’s experiences, whilst “seeking to understand women’s oppression” and to look at “the ways it is structured and reproduced” (Kelly, Burton and Regan:1994:33). The knowledge traditions drawn on to achieve the aims of the study are outlined below.

In order to “create the conditions for understanding” (Denzin:2001:5), the broad use of the knowledge tradition of interpretivism was employed. This knowledge tradition was drawn on to illustrate how the participants in the study interpreted and made sense of their experiences, using their own definitions of their situations and activities, developing a practical yet deeper understanding of meanings and actions (Miles and Huberman:1994; Maynard and Purvis:1994). As the emphasis of this present study was to ground the research in the meanings provided by the women who had contact with the court, the interpretation was intrinsic and not external to the data. Whilst some connection is made to existing literature in each of the findings chapter summaries, this is intended to contextualise the themes that have emerged from the data. The concept of a closely aligned interpretive variation of grounded theory as formulated by Charmaz (2000; 2006), influenced the methodology. She takes up Glaser and Strauss’s (1967) invitation for researchers to “use grounded theory strategies in their own way”. She makes the “study of action central” then creates more “abstract interpretive understandings of the data” (Charmaz:2006:9). Building on cultural theorist Alasuutari (1996), her discussion of what constitutes interpretive theory asserts that “lay persons and researchers hold different interpretive frames” (ibid:128). Charmaz believes that Alasuutari’s level of detail of the specifics combined with his theorising gives his work
"theoretical reach and depth" (ibid). In this study, interpretive "grounding" was used to contextualise the information to the "particulars of the participants and the place and of inquiry" (O'Connor, Netting, Thomas:2008:39). The aim was to use methods which allowed "careful interpretive understanding" (Charmaz: 2006:126), rather than testability of results and a "more abstract and explanatory" (ibid) approach like Strauss and Corbin (1998).

The final analysis and discussion of this thesis draws on structuration theory's (Giddens:1984) focus on the relationship between agency and structure as a useful conceptual tool to explore more fully the dominant areas and pertinent themes drawn from women's experiences. Though much of the data and analysis remains at the micro level, it does not preclude the possibility that firstly, these micro-level experiences could in combination produce macro structures, or secondly, that that these micro experiences could be a product of, or affected by macro structures, thus embracing the concept of the "duality of structure". Like Giddens, this thesis does not engage with the debate of one micro or macro sociological approach being more "fundamental" (ibid:139) than the other, or that this divide is "there for a reason" (Craib:1993:9): rather the researcher agrees that such differences would be better explored as a "problem of the social with system integration" (ibid:xxvi) where a recursive relationship exists between "social structure and individuals" (Risman:2004:447).

Giddens has been accused of spending little time on the "distinction between philosophical and the substantive levels" of analysis (Stones: 2005:7). Although this thesis is not the place for a full discussion of Giddens's theory, it is appropriate to outline the features of this conceptual tool which are useful to this empirical study. Firstly, the study has as its main focus women's experiences (as victims and agents) of their interface with the institution of the law, following ex/partners violence. The law, is a dimension of (a gendered) structure which can be viewed as capable of imposing constraints, created by action, which is not external to
individuals but "shapes individual choice" (Risman:2004:433). Importantly for this study, rather than overestimating the "knowledge and power of agents" (Stones:2005:7), Giddens gives weight to what people think, say or do, considering this to entail an important "range of discursive phenomena" (Giddens:1984:xxx). Also, by focusing on the "margins" of what can count as action, Giddens recognises the ways in which individuals are constrained by a "range of specific circumstances" (ibid: 14). This position supports feminist developments of the meaning and potential of agency (Connell:1987; Risman:2004), and recognises women's ability (as agents) to "make a difference" (Giddens: 1984: op cit) within the varying constraining and oppressive effects of structure.

**Methodological issues considered when locating the research in a feminist framework**

There has been some debate as to whether there is truly a feminist methodology in both the "traditional and feminist discourses" of the social sciences (Harding:1986; Hammersley:1992; Alcoff and Potter 1993; Maynard and Purvis:1994; Bryman:1996; Oakley:2000; Skinner, Hester and Malos:2005). The discussions of method and methodology have, as Harding (1987) stated become "intertwined with epistemological issues", though this perceived deficiency is not entirely placed on feminist's shoulders (see also Buchanan and Bryman: 2007). Harding (1987) purports (and others concur) that this is a failure of social scientists per se, to fully understand the proper meaning and relationship of methodology to research, allowing a "lack of clarity... permit[s] critics to avoid facing up to what is distinctive about the best feminist social inquiry" (pp.2-3).

Skinner, Hester and Malos (2005) mirror the position of other feminists, claiming that there is "no single unified feminist theory or feminism" (p.10) and different ontological and epistemological stances exist from realism to relativism (see also Gelsthorpe and Sharpe:2006). Theoretical divergence holds with principles that underpin a feminist position
(Smith and Wincup:2000), which are primarily based on understanding "women's oppression in order that we might end it" (Kelly, Burton and Regan:1994:28). For Kelly, Burton and Regan (1994) the focus on producing knowledge about women and their experiences, as this study does, is essential. However, at the same time they assert that in order to understand women's oppression, researchers have to find ways and methods to locate this in a broader context to illustrate the ways in which oppression is "structured and reproduced" (p.33). A core issue for feminist research has been the need to "focus on the complexities and problems of women's situations and the institutions that influence those situations" (Smith and Wincup:2000:334). Of relevance to this study, is the way feminist principles in research on violence, utilise "gender" specifically "as a concept in the theoretical framework" (Skinner, Hester and Malos:2005:11). The analysis of structures and the explanation of the reproduction of structural power accorded to men by institutions such as the legal system, named as the 'socio-structural' context of violence by Stanko (1995) was particularly useful:

The oppression of women by men, which is legitimated on a wider level due to the inequalities in social justice through the structure of patriarchal systems, through regulatory frameworks and the negotiation of men's structural power with others. (p.38)

Although Holland and Ramazanoglu (1994:144) acknowledge the postmodernist concern that "women's lives are contradictory", they posit that "...there is a strong case for taking people's accounts of their experiences as a necessary element of knowledge of gendered lives and actual power relations" (ibid:127). They assert, as this study does, that issues such as violence against women are "public political issues" which cannot be "studied apolitically" (Ramazanoglu with Holland:2002:9). In this context they discuss what they consider to be "distinctly" feminist:

What remains distinctively feminist is perhaps the particular positioning of theory, epistemology and ethics that means feminist research questions versions of the truth from a particular stance - enabling an exploration of the relationship between knowledge and power. (p.9)
Because this study cannot and does not, seek to or explicitly claim that any knowledge produced is ultimately the ‘truth’ (Reinharz: 1992), it utilises perspectival knowledge “based on the lived experience of the participants as the goal” (Hudson: 2000), which acknowledges “both the necessity of grounding knowledge in experience and the impossibility of treating experiential knowledge as simply true” (Skinner, Hester and Malos: 2005:14). Hudson (2000) draws on the work of sociologists of the 1960s such as Becker (1967) and Gouldner (1968) to demonstrate her point that value-free knowledge is “unrealistic...for critical research, since standpoint is inevitable, it had better be overt” (Hudson: 2000:184).

**Doing feminist research in the social sciences**

In understanding the context of the methodological choices for this study, it is important to consider some of the historical debates and epistemological issues that have emerged within and outwith feminism. The theoretical and empirical impetus provided by feminist research (Smith: 1989) to the social sciences, addressed how women’s oppression and lack of voice was considered, by making women’s lived realities more visible. This section touches on accusations of flaws in a feminist standpoint epistemology (Stanley and Wise: 1990; Alcoff and Potter: 1993), the subsequent reconceptualisation of standpointism, and how this study draws on such an approach. Studies which operate within a feminist framework and have prioritised women’s experiences in their analysis, as victims/survivors of men’s violence(s) are also touched on in this section.

Historically, the issues for feminist academics and their research focused on the visibility of women (Smart: 1976) and the worthiness of women as subjects (Harding: 1991). Prior to the contribution of second wave feminists, women were understood in western society from within deterministic (Millet: 1970), biological (Firestone: 1970; Lehman: 1994) and pathological explanations (Leonard: 1982). These understandings were closely aligned with
'typifications' of conventional femininity (Eaton: 1986; also revisited by Connell and Messerschmidt: 2005): anything more or less was considered deviation from an ascribed "sex role" (Connell: 1987; Carlen: 1998). Second wave feminism brought with it the awareness that women's experiences and perspectives had been denied in a "subject-object" relationship (De Beauvoir: 1972), and the validity of a feminist contribution in the social sciences to the "construction of knowledge" (Smith: 1974: 7). Considered at the root of the epistemological debates surrounding the value of feminist contributions, is the aforementioned issue of power and truth claims (Grosz: 1992): the challenge from feminist theorists and empirical researchers has been discussed on several interconnected levels.

The work of Spender (1980), Delphy (1984) and Rowbotham (1977), who (amongst others) challenged the ethics of exclusionary tactics in particular discourses, posited that this was embedded in the culture of positivism in the natural and social sciences. Smith (1974) referred to this process as engendering the assumed "collective authority of male academics" (p.12). The ensuing production of knowledge was referred to by Grosz (1992) as the strategy of "phallocentrism" which "collapsed" representations of gender into a single "human" model, but which was seen as "congruent only with the masculine" (p.50), which led to women and their lived experiences (including that of men's violence) being studied in a "generally distorted fashion" (Klein: 1985: 146). A more specific application of direct relevance to this present study is MacKinnon's (1982) discussion of the "male epistemological stance" which she defines as "men's power to create the world from their own point a view, which then becomes the truth to be described" (pp.23-24). MacKinnon uses this application to understanding how the law is made and applied (see literature review).

It was useful in the formulation of the methodology for this study to reflect on the accomplishments and the underlying aims of the women's movement in the late 1960s and
1970s, not least because at this time there was "a sense of the right to have women's interests represented in sociology" (Smith:1974:353), but of more importance, because, "giving a voice to the silent has been a dominant feminist metaphor" (Oakley:2000:47; Smith:1974). As outlined in the previous chapter, the principles and practices of feminist research were synonymous with activism and academe (Kelly, Burton and Regan:1994) and started to impact on the social sciences:

...women's lives and experiences were still largely invisible. What was most usefully required then was an approach to research which maximised the ability to explore experience, rather than impose externally defined structures on women's lives. Thus feminists emphasised the importance of listening to, recording and understanding women's own descriptions and accounts. (Maynard:1994:12)

The prioritisation of experience was debated within, and outwith feminism (see Hammersley:1992; Ramazanoglu:1992; Gelsthorpe:1992). Kelly, Burton and Regan (1994) chart a period where there was an "increasing disconnection" with experience. They discuss how, in the 1970s, experience was used as a "necessary starting point" and by the 1980s how this focus was questioned by identity politics and postmodernism (p.29). The use of privileging certain (Westernised, and predominantly middle class) women's experiences had become seen by some to be a one dimensional approach (Hoyle:2007; Davies:2007) and representative of only one voice:

...this approach which proved so beneficial to feminists, in their early work, gradually developed into something of an unproblematised orthodoxy against which the political correctness, or otherwise, of all feminist research could be judged (Kelly:1994:27)

A major flaw of standpoint and of some Westernised feminists was their failure to outwardly recognise and include Black women's experiences, and acknowledge their struggle within the race, gender divide. Anthias and Davis (1983) challenged the notion that 'sisterhood' reflected a "commonality of interests and/or goals amongst all women" (p.62). Black women's interests were felt to be "ghettoised" and "marginalised" which excluded or polarised the "ethnic differences, views and experience of Black women" (Onwurah:1985:24-
5). Carby (1982) and Bat-Ami Bar On (1993) raised the question whether such privilege would distance other women from the centre in this analysis, whilst hooks (1993) claimed that "conceiving of marginality in this way denies marginal subjects agency" (p.87). Collins (1998) discusses the need to consider "inter-sectionality" when outlining the constraints Black women and other groups are subjected to within "unjust power relations" (p.205): she sees it as useful to theorise hierarchies within, as well as between groups, supporting an approach which takes into consideration the "multiple axes of oppression" (Risman:2004:442).

The criticism of a practice of 'privileging gender' over other variables (see Hammersley: 1992; Gelsthorpe: 1992; Ramazanoglu: 1992), such as race and class in feminist approaches is viewed as valid. Nevertheless, approaches to research which examine this conscious choice have also been acknowledged as having constructive methodological uses (Heidensohn and Gelsthorpe:2007) when applied to other unequal groups, events and causes (Daly and Stephens:1995). This study, which takes women experiences as a basis for knowledge, was developed with both a critical and contemporary understanding of the wider application of a perspectival approach.

Hudson (2000) discusses the importance of the impact of second wave feminism to criminology and the "powerful challenges" it set "...of exactly who are the powerless, when we are thinking about crime" (p.185). She asserts that a single standpoint, here the 'woman' or 'woman question', offers "a valid basis for theoretical inquiry" (see also Cain:1990; Smart:1990; MacKinnon: 2005). The alignment with this conceptual framework was made with those who had political and practical objectives in their research, in areas such as research on prisoners' rights (Sim:1994; Carlen: 1990;1998). Hudson draws on Carlen (1998) who discusses the prime "referent as contingent on the question at issue...sometimes gender will be the starting point for an investigation; sometimes...race, ethnicity, or poverty or some
other quality" (Hudson: 2000:185) as well as considering these issues of structural inequality in conjunction with each other (Risman: 2004).

Also associated with feminist research was the apparent exclusivity of qualitative method in feminist research (Oakley: 1981; 2002; Stanley and Wise: 1983; Kelly: 1990; Bryman: 1996). Commonly documented in the oppositional discourse of the positivist versus interpretivist framework, known as the so called “paradigm wars” (Oakley 2000:23). The underlying reasons for the emphasis on a more qualitative approach in feminist research originally came as a challenge to the earlier discussed ‘male epistemological stance’ (MacKinnon: 1982), and increasingly in response to the often sensitive nature of research being carried out by feminists at that time (Reinharz: 1979; 1997). For Oakley (2000), the paradigmatic dichotomy functions chiefly as a “gendered ideological representation”, with qualitative research associated with hermeneutic techniques, based on ‘unscience’ or experience and perceptions (Cain: 1990). There has been a movement from feminists subsequently towards diversity and appropriateness in the choice of methodological tradition (Kelly: 1990; Gelsthorpe and Sharpe: 2006). Gelsthorpe and Sharpe (2006) support Oakley, in the view that it is a “mistake” to conclude “that in giving value to one methodological understanding, there is a need to devalue the other” (p. 9). When considering the methodological choices for this present study it was felt, as demonstrated thus far, that the knowledge traditions were "relative rather than absolute" (Oakley: 2000:14) choices.

The exposition of experience

A more informed rationale and methodological basis for investigation for grounding the present study in women’s experiences emerged from considering the arguments presented thus far. Advocating Hudson’s (2000) assertion, Skinner, Hester and Malos (2005) see the place or ‘role’ of experience as a useful methodology, particularly where, those individual
experiences, converge into some common themes, such as women’s experiences of men’s violence and the responses to it (Stanko: 1994). The conscious practice of giving space and priority to women’s perceptions of their experiences was an approach used consistently in both the method and analysis of this study (see Methods section). It was useful then, when considering its application, to explore examples which have drawn on aspects of this approach, located in a feminist framework (see Holland and Ramazanoglu: 1994).

When information was gathered using a more 'open-ended' approach to “hearing women’s own unique voice[s]” (Belenky: 1986:134), second wave feminists’ exploration of women's daily lives (Oakley: 1974; 1979; 1980) formed a basis for unearthing, defining, understanding, and theorising, and, in some cases, for taking social action, known as a radical “feminist praxis” (Stanley: 1990). Striking early examples of this can be seen in the work of Oakley (1974) who analysed what women said about housework in her study "providing a basis for a conceptual and political shift - towards including domestic labour in definitions of what work means" (Oakley: 2000:14), and later with her work on women's transition to motherhood (1979; 1980). Of more direct relevance to this study, Stanko (1994:96) believes it was this method of drawing on women’s accounts that “lay bare the hypocrisy of the criminal justice system, the state’s apparatus in the ideological and practical protection of citizens”.

Finally, it was valuable for this study to draw on and learn from studies which, although having their own distinct research focus, consciously moved away from others’ “subjective understandings” of women’s lives and concentrated on women’s “own definitions of their experiences” (Gelsthorpe and Sharpe: 2005:43). Notably, in her study, *Surviving Sexual Violence*, Kelly (1988) draws on the concept of "naming" (Spender: 1980) to help frame her research. At the centre of Kelly’s research is the emphasis on the importance of who is “describing and naming reality”. For her, this is part of the process for women in the study to
“make visible what was invisible”, with regard to experiences of sexual violence (p.139), and how women’s experiences informed the analytical process, allowing the data to be placed within a “definable context” (O’Connor, Netting, Thomas:2008:39). As a result, by conceptualising different forms of sexual violence as a continuum of violence, Kelly was able to further develop feminist theory on sexual violence, and understandings of rape. This insight challenged the institutional structure which provides legal definitions (the ‘facts’) of rape and the wider criminal justice responses to it (see previous chapter).

For the present study, it was useful to understand the ways in which women’s descriptions of their experiences (including issues, events and feelings), can be affected by existing structures. In Kelly’s study, women provided accounts of men’s behaviour (not necessarily viewed as sexual violence) that they had experienced over their lifetime and the strategies they used to resist and cope. Women inevitably drew on others’ definitions and stereotypes of harmful or unacceptable behaviour in their recall, and biased frameworks of reference (for example, pre-defined categories or what they perceived to be the existing perceptions and definitions of professionals or their abusers). Important for the present study is to understand how women’s understandings were dependent and affected by external structures. In Kelly’s study it was acknowledged that women may draw on an existing. This observation resonated strongly with the present study, when considering how women gave their accounts of their experiences of coming into contact with the normative features of court process and practices of professionals linked to their experience (notwithstanding the gendered structure that their aggressors operated in). Although Kelly’s study is quite different to the focus of this study, what is important to draw on here is how women descriptions can go beyond the prescribed discourse, where women feel able to name/construct an experience in language meaningful to them.
The application of the methodological approaches used in this study, are now considered in the next section of this chapter.

**Methods**

This second section of the chapter sets out the methods employed in the field (deriving from the appropriations of the knowledge traditions outlined in the previous section), and the experience of applying them. It outlines the research design, gives the particulars of the research participants, how they were accessed, and the methods of data collection, as well as how the analysis was undertaken. Ethical issues faced in the planning and fieldwork elements of the study are considered throughout this section. The selection of methods was made in response to the research topic, questions and the sensitive nature and scale of the research.

The study encompassed three component questions which forefront women’s perspectives and experiences:

- How do the women perceive, define and describe their experiences of contact with the Magistrates’ Court process?
- Where do the professionals’ views converge or diverge from the women’s views?
- In what ways are women’s experiences structured and reproduced?

**Research Participants**

**The case study area**

The research design focused on a small case study area (Yin:1989). A single area was identified in order to focus on the study of women’s experiences of their contact with the Magistrates’ Court process following violence and intimidation from their male ex/partners. The selection of the case study area was in part determined by practical reasons concerning access.
The case study area was in the north of England, and specifically in a Local Justice Area (an administrative and geographically defined area)\(^8\) where the participating Magistrates' Court was situated. The parameters of the Local Justice Area determined where the fieldwork was carried out, for instance with women participants who had contact with this court, and with agencies that worked at the court, or worked within the area. Some of the other agencies involved had a wider geographical remit, and so had contact with women from a wider area.

The case study area was located within a Local Authority identified (by the Office for National Statistics: 2001-2008) as a predominantly urban area with a population of around 200,000. Classed as an area of deprivation, there is slightly lower life expectancy than regional and national levels. It is a predominantly white, working class area, with high long-term unemployment. There is well below average owner occupation, with over a quarter of households being Local Authority housing, and a high level of divorce and a low marriage rate.

Focusing the study in one area proved to be useful on two levels in terms of the sampling strategy; firstly, the research participants shared knowledge and experience of the court process and the wider role of other support agencies in the same geographical setting. Secondly, the women interviewed were, for the most part still located nearby. Court professionals were based or worked regularly at the local Magistrates’ Court, and other agency professionals also worked within the same local area. On the whole, a single case study area presented a more manageable task of selection and gathering data, allowing a closer focus on the research aims.

The Magistrates’ Court had implemented some requirements of the SDVC programme (see Chapter 1), in the way it listed domestic violence cases and trials to a dedicated court, with the
expressed aim of providing an enhanced service to victims, and improving the administrative processing of cases. This aspect however, did not ultimately emerge as a factor in the research for the women in the study, though it is conceivable that the courts commitment, particularly the legal (adviser) team, may have influenced the preparedness of those professionals to engage with the research.

The study sample

Women who had recently had contact with the court process

A non-random, 'opportunity' sample of ten women who had been in contact with the court process was interviewed. There were fifteen arranged interviews: those women who were not interviewed contacted the agency to say they could not come, had changed their minds or, for various undisclosed reasons, did not attend. Additionally, women were spoken with informally at various points in the research, including speaking to women informally at the Women’s project and at the Women’s Aid Outreach Service (see Appendix 1 for sample breakdown). The same strategy for approaching and giving information to women was used throughout. The fact that the informal contact was made more generally with professionals reflected the focus of their work, making them more accessible for unplanned contact, while the women in the sample were living much more disparate, less predictable lives.

The interviews with women took place in the main from late summer to the end of 2007, though, due to the difficulties in recruiting women (see below), the last of the interviews took place in early spring 2008. The aim was to speak with women who had a recent experience of contact with the local Magistrates’ Court in the six to twelve months prior to interview (the nature of such victimisation and the justice response to it reflected the fact that many had additional experience within both).
Women who had contact with the court were less likely to participate once a court case had concluded, or sometimes for various reasons they had moved away. One example of the latter is when one woman agreed to be interviewed who had been living in the case study area, but she then moved to another part of the country soon after she had agreed to take part. Here, accessing a potential participant proved to be difficult, as the threat of being in the area of the country where her aggressor lived was too great and took priority. The possibility of a telephone call was discussed by the support agency worker, but soon ruled out on this occasion, as this was agreed to be an impractical way of carrying out an intensive interview in this particular situation. 10

Because of the reasons outlined above, this sample were considered to be a 'harder-to-reach' group (Liamputtong:2006), which proved to be time consuming: for example, it took almost three months to locate and speak to the first participants. It was not a certainty that women would be contactable, or if they were, that they would feel able or want to speak at this point. The situation for some of the women corresponds with Liamputtong's (2006:48) reflection on potential participants who “have greater need to hide their identities and involvement”: here, such groups would not only be harder to reach, they would require different and "special considerations", such as where and when they might be interviewed, or whether women might withdraw from the research. 11

Although the interviews did not specifically address the demographic characteristics of the sample, observational and research participant information suggested a wide cross-section of characteristics. The age range of this group was not concentrated in one age group, it consisted of one woman in her late teens, with the remainder in their twenties and thirties and one woman in her mid forties. One woman was of Irish heritage, and one of Italian. All but one woman had children. The children ranged from 8 months to teenagers, with one adult daughter living away from home. Most women described themselves as being single, or with
a new partner; others were with the same partner, or in an 'on and off' relationship with the same partner. Women spoke of their work, their college commitments and of unemployment.

*Professionals*

A theoretically derived, purposive sample of twenty professionals was achieved for the second phase of interviews which took place from early 2008. Additional, informal discussions helped to frame thoughts and identify themes for the analysis of professionals' viewpoints (see Appendix 1). This sample was constructed, in order to investigate whether any similarities could be found between women's views and those of professionals. The approach was first based on Robson's (1997:141) description of the researcher using their judgement as to the “typicality or interest” of the sample to the needs of the project, but influenced by responses from the women. A consideration here was to “think critically about the parameters of the population [the study was] interested in” (Silverman:2001:250).

The sample was divided into two broadly defined categories: the first being court professionals, and drawn from workers who for the most part, were based at the Magistrates’ Court. This group included a District Judge, Magistrates, legal advisers, ushers and Crown Prosecutors (who worked across local courts and police stations). It is noted that technically, Magistrates are unpaid, but from the women’s perspectives they were considered as broadly similar in status and outlook to the professionals. Eight of the court professionals were women and seven were men. The second category was drawn predominantly from those support agency professionals who had some contact with women immediately before, during or after their recent contact with the court. This group (all women) comprised workers from an Independent Domestic Violence Advocacy Unit (IDVA), a Women’s Aid Refuge, and (separate) Women’s Aid Outreach Service, and a local Women’s project. A conscious decision was made not to include police in the sample, primarily because the women in the
study viewed the police role as relatively limited in time and qualitatively different from the connection or role of, in particular, support agency workers in their experience. In addition the parameters of the study were deliberately chosen to focus on an area which had received relatively little attention.

Appropriate sample sizes for both the women who had contact with the court, and the professionals, were thought to be achieved once an acceptable theoretical saturation point was reached (Guest, Bunce and Johnson:2006). This research aimed to generate empirical themes, which are used to develop tentative "theoretical categories" (Charmaz:2006:102) in the concluding discussion. In particular with the sample of women who had contact with the court, it was felt that meaningful themes (Rodwell:1998) and useful, and not inconsistent, interpretations or patterns could be identified. The aim of the research was not to provide an understanding that was necessarily generalisable to a wider population, but to identify issues and experiences within this context, the understanding of which may be transferable to other settings.

The diagram below, (Figure 1) sets out the flow between different stages of data collection, analysis and the resultant findings. It demonstrates the principles by which the stages inform each other and how the process is grounded in the perceptions of women in the study who had contact with the court. The diagram shows in the "stages of data collection", how depth interviews with women constituted the first, and most influential, stage of data collection. In the "stages of analysis", the diagram shows how the emerging themes from the initial analysis of the data informed or "fed into" the subsequent processes, including other stages of data collection, like the formal interviews (and informal contact) with professionals. The next stage of analysis, an in-depth analysis of data from interviews with women, formed the most substantial and first part of the "findings section" (Chapters 4-8): a thematic representation of
women's perceptions. Secondly, the in-depth analysis informed the comparison between women's perceptions and those of (court and support agency) professionals, presented in Chapter 9. It should be noted that informal contact with professionals and on-going court observation shown in stages of data collection, informed interviews with professionals from court and support agencies and the context and analysis of comparisons made between women and professionals: these were not however intended to be formal data generating exercises, but simply knowledge gathering to enable effective research processes.
Figure 1: Stages of data collection and analysis

Stages of Data Collection
- In-depth interviews with women who had contact with the court process
- Informal contact with women
- Interviews with professionals
- Additional interviews with women
- Informal contact with Professionals
- Court observations

Stages of Data Analysis
- Preliminary analysis:
  1. Transcription and listening to tapes
  2. Organisation of data
  3. Noting emerging patterns
  4. Building an early thematic table to inform further data collection and early headings for in-depth thematic analysis
- In-depth thematic analysis of women's perceptions
- Comparing women's and professionals' perceptions

Findings Section
- Findings Chapters 4-8: Women's perceptions
- Findings Chapter 9: How women's views compare to court and support professionals
How access was gained in the study

Gatekeeping issues encountered in the field

It was known that the research would involve working with a range of different organisations, and through these, access to a range of women who had been in contact with the court process would be facilitated. In order to secure access it was ensured that the planning and approach demonstrated "legitimate concerns of gatekeepers [had] been taken into account" (Robson: 1997: 184). How this fitted in with the priorities of the various organisations (on a variety of levels) had to be considered without losing sight of the research own goals (and wider timeline).

It was vital from the outset that the researcher was able to convey clarity and understanding of the research aims, approach and the ethical considerations of carrying out research of a "socially" (Sieber and Stanley:1988) sensitive nature (Lee and Renzetti:1990; Lee:1993; Wellings, Branigan, Mitchell:2000; Liamputtong:2006). The research process was informed by the University of Salford, Research Governance and Ethics Committee guidelines, including the University Health and Safety, Risk Assessment procedure. The original research proposal was submitted in September 2006 and approved by the Committee in November 2006. The British Sociological Association and the British Society of Criminology's own statements on carrying out ethical research also informed this study. In addition, protocols of other agencies were adhered to and incorporated into relevant aspects of the access and fieldwork procedures.

For the purposes of this research, the term 'gatekeeper' is defined as those who are "vested with the power to make decisions" (Mccarry:2005:95). This mainly included higher management, and then, if accessed, the workers managing or working within an organisation. Locating the person that could offer entry was "not [always] easy to determine"
(Ely: 1998:20), and as with most research which deals with different organisational structures, inevitably “layers” (ibid) or “permissions” of access (Buchanan and Bryman:2007:490) needed to be negotiated.

During the course of study, two distinct challenges were experienced regarding gatekeeping and the route to access: both impacted on the experience of the researcher, the focus of study, and highlighted the complexity of macro and micro politics (Lee:1993; Punch:1986). The first challenge experienced was in negotiation with a central government department. Here dealings were with some of the more influential (Skinner:2005) and elite (Robson:1997) players in relation to the area of research area, concerning the criminal justice process. The outcome of the first encounter influenced the future design of the research, resulting in the aims and methodology becoming revised, but ultimately more focused. This experience is considered to be relevant to the development of this study (Buchanan and Bryman:2007), but not central to it; as such it forms part of the researcher’s reflective aims and it is relayed in a separate short account (see Appendix 2).

The second experience of locating and accessing gatekeepers applies directly to the research focus of the resultant study, and highlighted issues both similar and distinct to the first encounter. It was clearly essential to the study with its focus in one case study area, to understand more closely the ‘smaller scale’ politics in operation. The influential players and localised agency culture had to be appreciated, in order to progress the research, in particular in gaining access to professional circles.

It should be made clear that, unlike previous attempts in this course of study to access court settings (see Appendix 2), approaching one court directly in this instance presented no real problem: the most problematic areas of gatekeeping lay with other agencies, beyond the court.
The main issues at play included the researcher’s status as a lone, postgraduate researcher and how this affected the research being taken seriously, and the reluctance of local agencies to participate for varying reasons. There were, understandably, suspicions attached to whether a post-graduate student could be a credible researcher, doing a credible piece of work, which resulted in some professionals treating this prospect with caution. It is interesting that some agencies needed no persuading as to the benefits that may be attached to knowing more about women’s experiences of the engaging with the court: others, however, could not, or would not be persuaded.

It was difficult to identify which of the factors discussed above were the most influential in gaining access. It was important in establishing and developing contact, and in negotiating the researchers’ role, that some level of understanding regarding the research and the researcher was enabled. In many cases once an initial telephone conversation had taken place, or face to face contact had been made, emails or hardcopy information was offered explaining more about the research and its aims. Some agencies required more information: usually, a more detailed overview of the research, and experience of the researcher in this subject area. This could have been in the form of a request from an agency or, on occasion, was welcomed when offered by the researcher. On the whole an open, honest and personable approach was used which appeared to develop a level of trust, or acceptability and was often the first step to any involvement, balanced with a safe level of (professional) disclosure on the part of the researcher. This approach clarified and established the role and status of the researcher, and the research and assisted in the formation of relationships with the research participants.

The priority of the research study was, of course, rarely the priority of agencies. Issues for the agencies included concerns over time, balanced with any further pressure outside requests.
might put on resources. Other issues were down to the nature of the research, but on the face of it, the main concern which emerged for many organisations was the need to 'protect' workers and resources. There were inevitably other, undisclosed reasons which were of course accepted and not revisited. The range of responses included obstructions, a delay in responses from weeks to sometimes months at a time, non-response or access was denied. Sometimes there were requests to return at a further date, which if weeks later did not present a problem, however, having continuity with an agency from one month to the next (and beyond) could require on-going (re) negotiation. Even after lengthy discussions these efforts could prove to be fruitless.

Although the researcher mostly encountered interest and generosity, she was met on a few occasions with a more unreceptive response. In one case the experience appeared to indicate that the Manager of what was felt to be a key agency, saw little value in the aims of the research. Here responses included: "we're not in a position to help you" and at a later date "it's too late [to talk about what happens] once they get to us". The latter response, had it been possible to explore could, of course, have been of particular interest to the study. Being 'blanked' at meetings and the non-return of calls, are referred by Johnson (1975 cited in Lee:1992:122) as "freeze outs" where the legitimacy of presence is "questioned or revoked."

Admittedly it could have been this particular worker felt inhibited from sharing information, or considered that they may only have had "fleeting contact" (Lee:1993:73) with women who had contact with the court. Tensions in relation to local politics and personalities were also observed, producing further obstacles and delays. More usually experienced, though, was an interest in being involved in the research in some way, though in some cases with many of the above factors at times also playing a part.
The experience with the wider agencies led to agreement with Hammersley and Atkinson (1983) that access is not a process that is only established at the start of a data collection, but more an issue of "an on-going problem throughout the research project" (p.31). With the main aim to recruit participants from a group which was relatively difficult to locate, and best accessed by the agencies under discussion, this situation was approached with a balance of sensitivity and confidence. Although certain (successful) skills were applied more than once, this study brought about a useful insight into getting to know what is "particularistic" (Miles and Huberman:1994:117) about local agencies. Some of the reactions could be interpreted as "obstructive or disempowering", but were more often seen as an acceptable safety "barrier or filter" to what is "inappropriate or unsafe" (McCarry:2005:95). It was necessary to be sensitive to this defence strategy and judge the most direct and responsive approach. One example of this was in the endeavour to gain access to Women’s Aid and Women’s Aid Outreach Service. These were key agencies to accessing women who had contact with the court and agency workers. It was clear that it was important to convey a clear outline of the task at hand, and what the nature and use of the interviews with women would entail. Once in direct contact with the Manager at Women’s Aid, she stated she “needed to know more”. She explained how she was no longer in the habit of “wheeling women out” for research, press or other purposes: she wondered at times, because of her past experiences with research requests, what was hoped to be gained from this. This was deemed a valued reaction to the request, and an example of a frank and honest exchange. Experiences like this were a constant and vital reminder of the reflexivity needed at all stages of the research process and the willingness to state clearly what the conceptual and empirical drivers were for the study.

Approaching a Magistrates’ Court

The first task (which determined the research ‘case study area’) was to approach Magistrates’ Courts in a number of Local Justice Areas to talk about the research and their possible
involvement. One of the first courts to be approached in March 2007, showed a willingness to be involved. In this instance, the contact was the lead legal adviser who headed up the court legal team. An interest was shown in the research focus of women’s experiences and this contact was more than happy to talk further about the work of the court and how they could facilitate the court based aspect of the research. A provisional arrangement was made which gave permission for the court and staff to participate. Thereafter, regular contact was made by telephone and email contact: it was May 2007 before an informal face to face meeting was able to take place. The aim of this meeting was to discuss any issues or boundaries which may have existed with regard to carrying out fieldwork at court (such as observations and interviews).

The first visits to the court were considered unobtrusive by the legal team, as this took the form of observations and did not impinge on their time. Any further contact was arranged at the convenience of the lead legal adviser and members of the legal team, Magistrates and District Judge. The research design determined that the court personnel were approached again, later in the course of the fieldwork for interview. No re-familiarisation was thought necessary by the lead legal adviser. Although the court officials were normally busy during court sessions, the arrangement of duties for those working in the court full/part-time, were such that the interviews were carried out within a three week period at February-March of 2008. Two interviews were re-arranged due to sickness or meetings.

Other court related officials, specifically the Crown Prosecutors, one of which had special responsibility for Domestic Violence, were interviewed by the end of April 2008 and required a little more negotiation. This was mostly due to work constraints related to time and the changing location for Prosecutors (which could be at the participating Magistrates’ Court, the Crown Court, local police stations or the main Crown Prosecution Service office). A number
of Prosecutors showed an interest in being interviewed and then had to cancel. Interviews were in the end carried out in between court sessions.

**How other agencies were approached**

Approaches to a range of other agencies began in May 2007, contact continued with a number of these, throughout the fieldwork stage. A wider search was made, mainly due to the difficulties in locating and approaching women to be participants, and recruiting staff from agencies. The agencies approached over the course of the research included: Independent Domestic Violence Advocates (IDVA's); Women's Aid, Refuge and Women's Aid Outreach Service; Victim Support (community based)/Witness Support (court based); a local Women's project, Witness Outreach (vulnerable witnesses), and a Women's Hostel. All these agencies were approached regarding the best way to access women participants, and in some cases, the possibility of them providing a representative to be interviewed.

It must be noted that not all of the agencies listed here had a specific designated role to work with women who had contact with the court, but may have had a link with women in the case study area concerning issues of violence and intimidation. Access through the above agencies was seen to be the most ethical way of contacting women. The police as an organisation and as a means of making contact was ruled out: other agencies were deemed more appropriate as they were dealing with women at all stages of their experience, and/or were able to identify the best way of locating and contacting women.

The agencies that gave formal interviews were able to arrange interviews with women included the Independent Domestic Violence Advocates (IDVAs), Women's Aid, Women's Aid Outreach Service and, a local Women's project. In arranging access to the court and other agencies, it was important that the opportunity was given to put a research protocol in
place, which mutually benefitted all those involved, and also further clarified the researcher role and purpose of the research. This included details of how participants would be approached, and how data collection would be carried out (see below). It was not thought necessary, by any agency, to draw up an absolute agreement. This was carried out in a less formal way by setting out and confirming all arrangements discussed at that point, and agreeing that this should be reviewed at any time. With some, this was a process, "in which the researcher's right to be present was continually renegotiated" (Johnson: 1975: 121). For other agency workers, formally stating how this relationship would proceed was unnecessary, but as outlined earlier, an approach demonstrating transparency and understanding was well received.

There were no "explicit conditions" of access (Lee: 1993:124). All those involved did express an interest in how the research was progressing, and in the final findings and thesis. The researcher attended a meeting at the end of the fieldwork stage of the research, with those court professionals and other agency professionals (which also included one Local Authority policy maker) who expressed an interest in the progress of the research. As at the point of access, it was thought necessary to re-state at the time of leaving the field, the aims of the research and what the end product or thesis would represent (rather than, the findings themselves, which were unknown at this point). This was done to ensure the role as researcher would not be misconstrued as providing an official evaluation, either for the court or for the agencies involved. While some findings may be considered to have evaluative features that may be useful, this was not the main aim of the study and on the whole, the thesis would provide less obviously practical, policy oriented conclusions.
How women were approached

The majority of women were approached individually by workers from the participating agencies throughout the course of the fieldwork (as outlined earlier in more detail, from early summer 2007 to spring of 2008). One agency, a Women's project, approached women that attended their sessions. The researcher also visited the project and spoke with groups of women that attended sessions in progress at the centre, and on a less formal basis at the lunch time drop-in session. It was during these visits that the researcher took on the role of directly recruiting women for formal interview. Posters were also displayed in communal areas to encourage self-selection.

All agencies received the same written information about the research once initial contact was made, to minimise any confusion. In addition to this, the researcher made herself available to women who wanted to meet before deciding whether they wanted to participate, or to assist with points of clarification. One woman wanted to know more about the interview before it took place.

The IDVA unit (in operation since October 2006) had developed a (meticulous) identification system whereby they reviewed every case from the start of the IDVA project in that area. They separated civil and criminal cases, Magistrates’ and Crown Court cases: out of 195 cases, 90 were through court, starting from January 2007 onwards. Contact details of twenty-five women who had been to Magistrates’ Court were recorded: workers approached most of these. Other agencies were not in a position to locate women in this way, as their role was not simply to assist women who had been in contact with the justice system. Workers identified women known to them who had been to court recently and who were still contactable.
Women were telephoned, or spoken to face-to-face by the worker. In some cases, workers felt they knew that for different reasons some women might be interested in taking part in the research. However, the perceived likelihood of women attending an arranged interview was not the only consideration: attempts were made to represent a range of experiences and attitudes. The women interviewed were quite different: their attitudes, and their experiences varied, which was a testament to the workers' approach to this task.

There were potential ethical issues raised regarding how the details and confirmation of the interview were communicated to women. One of the agencies felt it appropriate to send a letter to the women to confirm the interview. As a researcher, and without knowledge of the women's situations, the concern was that this may put women in a compromising situation should they still be in contact or living with their ex/partner. There was reassurance that the workers felt they knew the women's situations, and that this was done with permission after confirmation by telephone, and sometimes on request, by the women. A letter was produced, confirming the interview date and time and contact details of the worker they had spoken to. The nature of the research in brief and the aims of the interview were also outlined. This was sometimes followed up by a telephone call from the agency worker the day before, or on the day of the interview.

For other agencies, at times, there was understandably more reason for concern for women's safety. Here, a face-to-face conversation or telephone call to women to approach them, followed by contact nearer the time of the interview was sufficient. The interviews were arranged at a time in order to suit the women, the agency and the researcher. Agency workers kindly offered to arrange and pay for transport from the agency resources.
To summarise, the negotiation of roles involved initial agreements with the agencies; the researcher acting to provide additional clarifying information; identification of appropriate women was split between mainly the agency workers, including an assessment of potential risks, with some occasional actions by the researcher. Once identified contact with women was established by the worker, who acted as the main contact thereafter. In so doing, it was felt that the research could benefit from, but not damage the established relationships between the agency workers and the women.

Methods of data collection

The methods of data collection employed in the case study are presented in this section. The main source of data collection for this study comes from the use of depth interviews; also discussed here, is the use of observations employed as a method of supporting data collection.

Data collection: depth interviews

Interviews were used as a main way of generating data: hearing (and recording) participants' accounts were a key part of the research design. The closest description of the face to face interviews that took place is “in-depth” (Liamputtong:2006:96), thus permitting a fuller exploration of a particular topic or experience” (Charmaz:2006:25). Each participant was (generally) interviewed once, however, due to the interviewing style, and depth of data captured, interviews did not reflect the “hit and run” approach that Booth and Booth (1994:417) describe for some single interviews. The time taken for interviews with women who had contact with the court, and interviews with professionals was determined on the whole by the time available to these individuals and groups (see ‘interviews’ below for details on the typical length and range of interviews).

Two rounds of interviews took place, with the first informing the second thematically (O’Connor, Netting, Thomas:2008). The first phase was with women participants who had
been in contact with the court, this subsequently informed the second phase of interviews with
court and other agency professional participants. There were limited additional interviews
with women later, due to the hard to reach nature of this group.

The interviewer and interviewee relationship

Before moving to the style and content of interviews it is useful here to consider how the
ethics of the ‘researcher and research participant’ relationship was approached in this stage of
data collection. This is the subject of much discussion concerning issues relating to hierarchy
(Hammersley:1992) or status, which, when discussed from a feminist perspective, focuses on
the balance of power and reciprocity (Reinharz: 1992). Some early feminist research
advocated an approach that “power relations between the researcher and researched should be
non-hierarchical” (Skeggs:1994:79). This research adopted a more realistic approach which
moved towards a more developed understanding of an “acknowledgement of power and
differences” (ibid:80).

The issue of motivation to take part in the research did feature in the nature of the relationship
between the researcher and research participants in the study. With the court professionals, a
number of the staff declared having a personal interest in the research. However, it was clear
that the court staff seemed, on the whole, to be taking part because they were ‘on board’ with
the enthusiasm and interest of the lead legal adviser, and the commitment she and her team
had made to dealing with domestic violence cases. It was unclear if any pressure was placed
by “superiors” (Lee:1993) on court staff or those who sit on the bench (Magistrates’ and the
District Judge) to take part. It was not always clear if all in the latter group shared the vision
of those full-time (and paid) legal professionals. However, they did agree to put themselves
forward to be interviewed. The researcher was not privy to any conversations that took place
with any higher management, but it was reliably assured by the lead legal adviser, that there
was no direction (or implied interest) on how the court dealt with domestic cases or victims
experiences of this. The much appreciated participation was also down to the participant’s availability and willingness to give their time. The Crown Prosecutors worked more autonomously and from a different directive. Consent and a willingness to take part appeared to come direct from the individual Prosecutor.

It was less straightforward to consider the reasons why women who had contact with the Magistrates’ Court had agreed to take part in the research. There was no need or desire to know the motivation for participation, but from observations and comments women made, some insight was given as to why these women contributed to the study.

The issue of the balance of power had to be considered before the interview stage, at the point when agency workers approached women to take part. Usually women had an existing relationship or link with the agency. Aside from the woman who self-selected herself as a participant, there was a layered and, almost mediated nature to the relationship between the women and the researcher. No woman expressed that they had felt under pressure to take part, although this could not be presumed.

There were no inducements to take part, though travel expenses were paid by the various organisations. In one instance, a crèche place was provided, and in another, a sleeping baby attended an interview. Motivation played a part here, it was often said by women that they were happy to help, and welcomed the opportunity to talk or more commonly wanted to share their experience which mirrors the experiences of other researchers (Hoyle:1998). The possibility of more “problematic” issues (Kelly, Burton and Regan:1994:35) arising concerning the reasons for participation had to be considered, particularly in those instances where women looked towards the researcher for advice or counselling on certain issues. Here good ‘active’ listening skills were imperative, and planning for how to deal with such
instances by building responses into the research design was useful (see next section style and content of interviews). There was a possibility that some participants may have felt that the interview had therapeutic benefits, but this was not a central aim, nor was it feasible to make this a “therapeutic” interview (Kelly, Burton, Regan: 1994).

Every effort was made to “democratise” the research process (Kelly, Burton and Regan: 1994:36). This approach relates directly to the emancipatory aims of feminist research, but can be fulfilled in a number of ways, in terms of the methodological aim and methods, and by the aim of the outcome of the research. This was not a study which claimed to involve women physically every step of the way, but did claim transparency: they were given the option to see, and revise, the transcript and an end report or summary of findings. Here women were informed it was, first and foremost, the aim of the research to hear their accounts of their experiences and use these as a basis for the enquiry. As part of the consent procedures (see Interviews with women), women were asked if parts of their accounts could be used (anonymously) in the thesis, and possible publications, which did not present a problem. Women were also asked how they felt about some of their experiences and points (with permission), being put to professionals, along with other women’s points in the study. Their responses varied between expression of interest, enthusiasm and indifference to this happening. On the whole it was thought to be a useful exercise, especially as this was all happening in their own local area and it might raise levels of awareness.

Although it was explained to participants how findings from women’s accounts would form a central part of the research, the researcher was careful not to overstate the uses of the research or make false promises. This study actively avoided the implicit or explicit promise of empowerment: a concept which is often used in a “glib” way which reflects “either an arrogance of viewpoint or a failure to think though what our ‘power’ consists of” (Kelly,
Burton and Regan: 1994:37). Aside from the planning outlined above, the researcher could not completely control for how women would feel at the interview, or in the de-brief later on. However as part of the responsibility as a researcher, it was considered that there was an ethical requirement to think about how being interviewed and talking about their experiences might affect the women in the study, and be prepared to deal with the consequences.²²

There were limited instances of self disclosure from the researcher, although this was generally accidental, rather than strategic. This may be viewed as using “immediacy behaviours” (Pitts and Miller-Day:2007:188) in developing rapport – these can range from non-verbal to more specific verbal interactions to “reduce participant uncertainty” (op cit). Although such examples of self disclosure in the way it is described here are not uncommon in wider research, this may have been used unknowingly or in a limited way, rather than a definite methodological decision to attempt to democratise the interview procedure or a built in strategy to initiate a dialogue (Reinharz:1992).

It was on reflection that the researcher considered if personal disclosure had played a part in building a level of trust, and which may have brought a degree of rapport. On the few occasions that limited personal information was disclosed, there was little evidence that it produced for “better data” (Lee:1993); rather, that, maybe for an instant, a better flow of discussion was had.

This is not the place to delve into a detailed discussion of gender dynamics, and whether women should interview women (see Reinharz:1992), and the effects of this in this study; that would entail further focused discussion with the participants. Other considerations of identity and consent would also need to examined on the basis of factors such as class, race, sexuality and disability (Liamputtong:2007). This research setting, however, clearly involves
"sensitive gendered experiences" (p.75) (see also Anderson and Umbertson:2004). Here, the women who had contact with the court in this study had experienced violence and intimation from ex/partners. The culture of the agencies that women had engaged with assured women of safety and freedom to talk, in these instances; it was of course, an all female environment. With regard to the wider interviews with professionals, this consideration was shown to be less of an issue in terms of participation, although, there was probably expectation that the researcher would be female due to the nature of the research.

The question as to whether interviews concerning sensitive topics require instant rapport or likeability is often raised (Reinharz: 1992). It was not the ultimate aim, nor necessarily achieved with any or all the research participants, but to some extent rapport was more desirable. It was considered that confidence was built more generally, without the reliance of mutuality, and more on the growing skill of interviewing on socially sensitive subjects. It must be said that the two spheres of discussion in interviews, which would draw on the private and the public domain, required some different skills: for instance, as women were often drawing on very complex and at times emotional experiences, and professionals may have been nervous about the way their accounts might be interpreted. It was useful to consider what place skill and manner have as features of a good researcher:

Wise argues that success in interviewing depends more on a complex inter-relation between the relative structural positions of interviewer and interviewee, and the interviewers’ skill and personal style, than it does on a simple identity of gender. (Lee: 1993:109)

An overview of the interviews is given next which addresses the more specific arrangements in the field, and the style and content of the interview. Research participants, that is, women who had contact with the court, and professionals are discussed separately.
Interviews with women who had contact with the court

Although the settings for interviews with women were varied, all interviews were carried out in secure (agency) buildings, in a quiet room (usually an informal meeting or counselling room), with support staff nearby. The safety of the women was of course paramount, in setting up and carrying out the interviews (Lee:1995), though the safety of the researcher was also a consideration given the associated risks within this research area. Both were part of a “thorough and careful research plan” (Jamieson:2000:69) submitted to the University Ethics Committee. The interviews were all initiated in the same way with the researcher introducing herself and then moving on to address issues of consent. A brief outline of the research was given and women were asked if they had any questions or concerns at this point. The consent form assured confidentiality and anonymity, and the option to stop or withdraw from the research at any time was emphasised. All participants were re-informed the interviews would be taped at this point.

It was challenging to find ways which did not put further pressure on participants to take part in the research: interview situations could be seen a way in which further pressure is brought to bear (see Kelly, Burton and Regan:1994). In order to reflect a more “active” agreement (McCary:2005:93) on the part of the participants, at various points, women were asked how they felt about aspects of the research or procedure: women did respond to this approach. One way of giving some more control over to the participants was to ask if it was still appropriate to tape the interviews. It was stressed we could pause or end the interview if need be, or that women could talk about aspects of their experience without recording if desired. No participants objected to the interview being recorded, although given the pressure of the situation, this subject was re-visited again if a participant appeared distressed. The tape was stopped on one occasion for a few minutes.
The interviews lasted a minimum of an hour. Once the tape had been turned off, if any further information that related to women's experiences was discussed, permission was requested to write this down. On one occasion, when this involved a complex account, the researcher asked if she could to turn the tape back on. Knowing when to end the interview or when the interview was at an end was ultimately guided by the women according to the time they had available (and very occasionally by the researcher). By the end of the interview, generally any questions from the researcher were focused on whether women were wanting to add or ask anything else, or how they were feeling, the aim being to return to a "a normal conversation level before ending" (Charmaz:2006:30).

It was recognised that due to the nature of the interview, it was ethically responsible to find ways of minimising any negative impact throughout the interview, by ensuring there was a debrief at the end (Barnard:2005). Here women were given the opportunity to talk through issues or concerns (Alty and Rodhan:1998). There were limitations to this approach (see Paradis:2000) and subsequent access to workers and other services were provided by the host agency if women required these.

As outlined earlier, the interview was considered to use a depth approach, with the emphasis on "active asking and listening" (Liamputtong:2006:97). This approach was used in order to be more "interviewee oriented" (ibid) with a focus on the interviews being an interaction in which narrative accounts were created by the participant (Miller and Glassner:1997). The interview was framed by broad themes and topics with deliberately open-ended questions which related to women's contact with the court: for instance "How did you come into contact with the court?" "What was it like for you before (or during) court?". It was important not to "assume shared meaning" (Kelly: 1994:113) between women or with the researchers' own interpretation of issues and areas of importance. Women who participated did bring their own
interpretation of the above questions, indeed some aspects of the phases referred to were not recognised as part of their experience, and so the interviews were framed further by the women to fit their own experience and the "natural narrative" (Davies: 2000: 91), which was a desired approach as far as possible. Close attention was paid to when was the right time to probe further, with the intention never to ascertain sensationalised data (Charmaz: 2006: 30), but to further understand an aspect of the experience that women viewed as significant, and to be able to validate this if and when presenting this account (Liamputtong: 2006). Every effort was taken not to lead the conversation, but rather to concentrate and build on what was being said.

Women did ask questions, for instance, for points of clarification, or to ask if something was relevant, to which the researcher would usually urge women to carry on. Requests for advice or any information were usually set aside by women until nearing the end of the interview. One useful approach was the value and purpose of what researchers may consider as 'digression', but a research participant might consider an integral part of the description of their experience. In this, the work of Yeandle (1984) proved useful, as well as when creating a tone where women felt they were taken at face value and knowledgeable about their experience. It was also recognised that equally, this may not happen with some women, and that they may simply give shorter accounts, or there would be occasions when women may feel certain areas were not within their "system of relevances" (Giddens: 1991: 127). The aim was to promote an environment where women were able to tell their own story, and "in their own way" as far as is possible to recall. Interestingly, most women also "define[d] the end" of their story (Yeandle: 1984: 25), both in terms of the end of the experience they were recounting and the end of the interview itself. This was, of course, a single interview, but the themed nature of the interview allowed for this to develop in a much better way than a more structured interview.
Interviews with professionals

Interviews with court professionals were generally accorded privacy, away from any duties, in meeting rooms or smaller courts that were not in use. Occasionally, the interviews were in “less than ideal circumstance[s]” (Phoenix:1994:59), in a working office, with the participant occasionally breaking off to deal with work related issues. The researcher also carried out two interviews with more than one participant at one time: on one occasion with court related staff, and on another with support agency staff. This of course required different kinds of skill in interacting and listening, but did not present any problems for the nature of the interview. The length of interviews were often dependent on how much time the professionals could, or wanted to spare, but lasted generally for about sixty minutes, with a range from twenty-five minutes to two hours (the latter involved a group interview with three workers).

The interviews were initiated and approached in much the same way as those with women who had contact with the court. A similar process and approach was used concerning the issue of consent, although most participants were less responsive to the process of this, and keen to move on. It was important to outline the research and the way the interviews would be structured. These were more directed in nature, framed by the same broad themes and topics and questions which related to women’s experiences of contact with the court, but punctuated by reference to emergent findings from women’s experiences, and that offered some specific examples which professionals could choose to respond to.

The same approach to listening was taken; however, because of the time and nature of the interview, the approach to digression differed slightly. Beyond the explanation of why things might appear or work as they do, the depth of focus on processes or legislation which was felt to determine women’s experiences, and professionals’ personal viewpoints, was at times so
wide, that it was necessary to 'get back on track'. This response from the researcher was also in line with the aim of the research to prioritise the women's accounts. Prompts were useful here, so that the interview kept its relevance to the phenomena being studied. Making a link from what was being said regarding the original theme/point of discussion, or simply acknowledging the point made and returning to the interview focus were useful strategies. There were points where the sensitivity of the subject aligned itself with personal experience and here, a different approach was required. For instance, one participant was obviously affected by the death of a woman, who had been abused by her partner, and that she had come into contact with outside of her role as a Magistrate, as a tutor. She felt she could have done more to help the woman. Time was allowed for her to talk through this experience.

Again, the interviews were brought to an end by asking if participants had any further questions or things to add, which did happen: generally, with regard to aspects of the interview they wanted to revisit, or in terms of the research itself. A debriefing time was allowed for in the same way as with interviews with women who had contact with the court.

Data collection: observations

Observations (non-participant) started early on, and were carried out at various points in the fieldwork. Any observations carried out later were done specifically to address elements that had not been possible previously. They were intended to be used as a “supportive or supplementary technique” (Robson:1997:192), to offer an extra level of contextual understanding, but not as a formal data gathering exercise. The understanding gained was helpful in interviews, and later assisted in the analysis of the interview data. Observing the day to day running of court business gave an opportunity to clarify points of procedure, in particular, roles of officials, and the physical organisation of, the court. Observations were recorded in fieldwork notes and memos after visits to other agencies. These agencies were
more regularly visited outside of the court environment, to arrange or carry out interviews on
the premises. On the whole, this was more informal than the court observations, but equally
useful, and for some of the same reasons as outlined above. In addition, an invitation was
made and accepted to 'sit in' and attend a number of events, training or meetings which
addressed issues on domestic violence, which enabled observation and the gathering of
subsidiary comments which were useful to aspects of the research (an example of this is the
attendance of a Magistrates' 'domestic violence' training day).

Although the original aim was achieved, this method proved to be invaluable to understanding
women’s experiences of their interface with the court process further, echoing Lees's (1996)
point of the usefulness of observation in "researching the law in action" (p.80). The
opportunity to see women, their aggressors, and the court operating at first hand, gave a
heightened insight, appreciation and empathy as women gave accounts of their experiences
and perceptions later in interviews.25

Observations in the court (and court building) would not form the primary basis of the
findings, but the issue was raised as to whether this role was based on “pure” observation
(Bryman:1996:71) for the duration of the fieldwork. With regard to the researcher’s
perceived role when carrying out observations, the intention was that the role would be one of
a ‘non-participant’ observer, taking no role within the court and for most of the time; this was
done at a distance from others in the courtroom and the researcher’s presence seemed to go
largely unnoticed. There was, however, a sense that this role became blurred at times,
especially for court professionals who became used to seeing the researcher at court for
observations and interviews. Sometimes, brief discussions would take place with court or
court related staff, for instance who would discuss (with the researcher) what had happened in
court. If this happened it was usually in between cases or sessions, with some legal advisers,
Crown Prosecutors and on the odd occasion with Magistrates. Also, regardless of whether they had been informed of the research, there were two occasions when it was apparent that Magistrates and the District judge became mildly suspicious of whom the researcher was. The researcher was asked to state out loud who she was and why she was there on one occasion towards the end of an afternoon court. The researcher had been sat at the back of the court throughout the two court sessions. Following this incident it was observed independently by the researcher, the legal adviser and the Crown Prosecutor, that for this court session, the presence of a researcher had appeared to influence decision-making in the court in one case. The Magistrates had been put under pressure from the Prosecutor to delay proceedings once more while a woman was located.

**Analytical approach**

**Analysing women's experiences of contact with the court process**

In order to ‘(re) present’ (Liamputtong:2006; Dunbar et al:2002) the meaning of women’s accounts as “fully and richly as possible” (Ely:1998:170), the analytical process developed common themes, sub-themes and concepts from the data, from interviews with women who had contact with the court. The aim of this process was to allow pertinent issues to come to the fore from women’s own narratives of their experiences, in order to produce a “thick description [with limited early interpretation] of the content” (O’Connor, Netting, Thomas: 2008:40). The interpretive approach taken here required that the organisation and analysis of the data focused on what was considered most relevant, or given meaning by women in their accounts, such as “views, feelings, intentions and actions” (Charmaz:2006:12). This also included issues or descriptions of particular times and events and interactions. This process allowed for commonalities to emerge, but also allowed for differences between individual narratives to surface. In order to prioritise women’s perceptions, a deliberate analytical process was required which aimed to ensure findings emerged from the data; there was a
conscious resistance to the desire to provide explanations based on the researcher's own pre-
conceptions. This section looks briefly at how this was achieved.

The organisation of the data and analytic method used to generate a thematic presentation of
findings employed a 'bottom up' approach, where data, analysed here as both transcripts and
audio files, are revisited and examined a number of times, and coded and developed to
produce a thematic analysis (Strauss and Glaser:1998). The analysis produces the themes,
rather than the data being fitted into themes. Themes are defined by Ely (1998) as
"statements of meaning that run through all or most of the pertinent data", and those
experienced by the minority which carry a heavy "emotional or factual impact" (p.150). Ely's
approach of applying 'thinking units' (ibid) "with their properties and dimensions", provided
a useful way of organising and examining the data, and identifying relationships between
categories and suggested commonalities and differences in women's experiences. Themes are
represented (in Chapters 4-8) by drawing on examples from the women's accounts – this
could be done to illustrate a wider point that emerged from a number of interviews or a
perception of an individual woman of particular pertinence.

The broadly themed 'framework' for interviews in the study was, inevitably, reflected in the
wider thinking units, for instance, "the time before court" or "the time at court". To a large
extent this also divides the chapters as the reader moves through the study's findings.
However, thinking units were extended and new dimensions were developed from the data,
reflected in additional chapters, such as (Chapter 6), 'How women experienced contact with a
wider group of professionals in the time leading up to court', or (Chapter 8), 'How women
felt towards the end of contact with the court'. Even at the initial stages of analysis some
larger, conceptual connections emerge, for example, a more developed discussion on the
shared abstract notion of appropriateness.
The thematic dimensions (within the wider thinking units) represented more accurately how women experienced particular times, events and interactions during contact with the court process. The strictly linear justice time frame is an example of an interpretation imposed on the findings externally and not necessarily shared by the women and do not therefore emerge from the findings themselves. The subtexts of the chapters reflect how women perceived and defined experiences in this time and so extended the concept and use of thinking units.

Within each of the broad thinking units and the development of thematic categories, meaningful text and commonalities in women’s accounts emerged. Categories were revised on more than one occasion (and depending on the level of abstraction is not an exhausted process). It is important to note here that, at this stage, the intention was not to collapse thematic categories (Charmaz: 2006:160) and their dimensions in order to develop more abstract themes, across different points in time in women’s experiences. The aim was to communicate and “extend...understanding of the phenomena” (Ely:1998:139). Themes and concepts presented in the following findings chapters are therefore not presented in order to theorise, but to allow meaning to emerge primarily from the interview data which represented women’s experiences, and to provide the reader with a sense of the richness emerging from the interviews. When required, a brief narrative contextualises specific quotes within the circumstances of the particular woman. Once achieved, limited connections are made with the emerging themes and wider literature in each of the chapter summaries. Some of these are then developed in the later discussion of core areas and themes.

As stated, the level of interpretation described was generally concentrated and confined within each thinking unit and its thematic categories at this stage. However, when thematic categories were addressed across each of the thinking units some emerge as core areas and themes that cut across all the data (see final analysis).
Comparing the views of women in the study with those of professionals

As part of a subsidiary and wider aim of the research, comparisons were made in between the views of women in the study and those of the professionals, specifically here, professionals seen working in the court, and those from support agencies most linked to women’s experiences. The analyses noted where professionals’ views converged or diverged from the women’s views, in relation to themes and sub-themes emerging from the women’s accounts. A small number of additional themes are identified within the professionals’ accounts.

The final analysis

The final analysis of the thesis explores how the core areas and their constituent themes emerged from the initial analysis; this level of examination allowed the connections to be made” between [the] local worlds” of the women in the study, and the “larger social structures” (Charmaz:2006:133) which shaped women’s experiences. The core areas and themes running through the analysis were found by searching across the (previously discussed) thinking units and thematic categories that developed within these. Particular themes and concepts were categorised so the connected issues within each could be defined and explored in more depth. This involved drawing on theoretical concepts and relevant empirical literature and locating the findings therein. An example of one of the (three) core areas, is: ‘Women’s decision-making’, which encompassed two themes: ‘the perceived rationality and intentionality of decision-making’ and ‘limits on the power of women’s decision-making’.

Chapter summary

This chapter provides insight into the research philosophy, the methodological approaches of the study, the methods employed and the experiences of the researcher in employing them in the field. All of these are addressed in terms of data collection and analysis.
Key to this chapter and throughout the study is not only how the methodological debates were understood, but also how grounding the research in women’s experiences translates into the methods and analysis employed. An ethical priority for the study was how the research was carried out “in a respectful manner that legitimates women’s voices as sources of knowledge” (Campbell and Wasco: 2000:10), and then how this experience informs the analytical process (Kelly:1988) through to the presentation of findings (Lee and Renzetti:1990; Liamputtong: 2006).

The remaining chapters of the thesis form the findings from the research, culminating in the concluding discussion. The first and substantial part of the findings (Chapters 4-8) comprises a thematic presentation of the analysis of the women’s interviews. The individual chapters represent significant experiences, such as views, thoughts and feelings pertaining to times and events, and particular issues relating to their contact with the Magistrates’ Court process. Initial interpretations based on the women’s experiences are provided at the end of each chapter summary. Following this, Chapter 9 examines where professionals’ views converge or diverge from the women’s views. Chapter 10 then analyses and discusses the core areas, constituent themes and findings which emerged from the study and draws out conclusions and implications of the thesis.

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1 Personal pronouns are used here, and occasionally in appended reflections, because of the need to reflect the specific research context and personal decision making and journey undergone.
2 I have drawn on the dual definition of reflexivity outlined by Nightingale and Cromby (1999). This includes the use of “personal reflexivity”, that is, the role one’s own values and beliefs have in “shaping” the research, and “epistemological reflexivity”, the assumptions about knowledge and how the research question/s can define and limit “what can be found” (p.228).
3 Smith and Wincup (2000) see the value of adopting this philosophy, and agree with Lee (1993) who hails these more candid accounts as “heroic tales” (pp. 331-349), rather than a sign of weakness. The tendency still exists for researcher experiences to be hidden.
4 Useful here is Ramazanoglu, with Holland’s (2002) discussion of survivor’s accounts of rape, and how these may be reliable and accurate, but could well be “adapted” for different listeners in different circumstances or “differ” over time: “...with a friend, mother, partner, counsellor, police officer, court...[accounts] could change as the speaker gains knowledge or memories fade...[events] may not be interpreted as rape at the time but may later define it as such...individual experiences of events such as rape will differ” (cited in Skinner et al:2005:14).
5 Gunew (1992) asks whether women can operate outside of science and the production of knowledge. In offering their own experiences as knowledge is this “sufficient validation for a feminist knowledge” (p.13), or should women ‘side’ with their male counterparts and the body of knowledge in existence.
6. Hammersley aligns an emancipatory position as a goal for research with critical theory, seeing this analytic concept as a problem. He accepts the empirical findings as valid “but not the grounds in which feminist knowledge has been produced” (Ramazanoglu:1992:207). See Hammersley (1992), Ramazanoglu (1992) and Gelthorpe (1992) for debate on feminism and methodological approaches.

7 In Kelly’s (1990) self reflections on doing research on sexual violence, she describes how she began to realise the need for feminists to expand and utilise a range of methods.

8 Local Justice Areas (LJA) are units in England and Wales established by the Courts Act 2003, replacing and directly based on the previous Petty Sessional Areas. Each LJA has a Local Criminal Justice Board.

9 A number of court rooms were used for domestic violence case hearings and trials. In two of the courts used, one had a small physical change so that the defendant’s and witnesses’ view of each other was obscured slightly: this court was not always used for domestic violence cases. In another courtroom, a video screen was available for vulnerable witnesses. There was no indication from the listings that informs defendants or witnesses that there was a specific (domestic violence) court in operation. There was no IDVA or wider advocacy service in situ in the court room, although on limited occasions a worker may have attended with a woman. Witness Support had a waiting area for the use and a separate entrance could also be used by vulnerable witnesses.

10 In practice, some agency responses to requests from the researcher highlighted additional reasons why some women were harder to reach: this tension is addressed later in this chapter.

11 One such group falling within this category in the study area, and considered especially vulnerable, were women who had come as immigrants to join their partners from West Africa. Here, women were described as being in fear of their safety and of losing their immigrant status.

12 For the duration of the study IDVAs described themselves as working with ‘medium to high risk’ victims/survivors who were at serious risk of injury or death threats. IDVAs offered practical, legal and emotional support, including those using the criminal justice system. Not all women would be referred or come to the attention of the agency if they did not meet the risk criteria. Women who had contact with this agency could have had contact with the Magistrates’, Crown or Civil court system. Women were usually made known to the advocates via a referral from one local agency, or a multi-agency referral system (MARAC). At the time, this unit had some funding from central and local government; however most of the staff were seconded from local agencies, such as Women’s Aid, Witness Outreach and housing. It was noted that not all women would be referred to, or come to the attention of the agency if they did not meet the risk criteria. (See Chapter 1).

13 Women’s Aid provided emergency accommodation, counselling and support for women and their children facing or escaping domestic abuse. This organisation also offered a telephone helpline and legal advice clinics. Women’s Aid Outreach Service offered an aftercare and outreach project run separately to the refuge. Women who were known to both sets of workers because they had elected to approach the agency directly, or had been referred via another agency. One of the aims of these organisations was to support women seeking relevant court orders and to give help and support during criminal or civil proceedings.

14 There are a number of understandings of when research should be considered ‘sensitive’ (Lee: 1993; Wellings et al:2000). This study uses a definition where “research is deemed sensitive if it requires disclosure of behaviours or attitudes which would normally be kept private and personal, which might result in offence or lead to social censure or disapproval, and/or might cause the respondent discomfort to express” (ibid:256).

15 This shows similarities with Smith and Wincup’s (2000) experiences, who believe kudos is often demonstrated today by a wider research/evaluation culture and/or attachment to a funded piece of research, but one generally commissioned from ‘within’, or a more central, government source of funding.

16 Since April 2005 the Magistrates’ Court in this study area allocated two court sessions, on one day a week, to hear most or all domestic violence cases and trials. On occasion, and usually when witnesses or defendants had failed to turn up or the court session had finished, other ‘non-domestic violence’ cases may be heard in the court. The remand court which took place on a Monday morning was not a dedicated to hearing domestic violence cases, such cases were presented when defendant’s were in court that had been in custody prior to appearing. Where possible, future hearings arranged to be heard in the dedicated court (see Chapter 1 and Chapter 2, on court innovations in some Magistrates’ Courts in England and Wales).

17 Victim Support and Witness Support were approached because these agencies can, and do have some contact with women at court. Witness Support service staff and volunteers described offering information and support to witnesses, victims, their families and friends. This included, where possible, a visit to the court /court room, information about court procedures. A designated, quiet place was shown where victims can wait before and during the hearing; also if requested and available, staff would sometimes be present in the court room when victims gave evidence.

18 The Women’s project worked with women at risk of offending, and those who had offended. The project workers received referrals and attended court with this aim in mind, but provided sessions at the centre on a range of issues impacting on women’s lives, including domestic violence.

19 In the case of the hostel, the temporary nature of women’s accommodation proved impossible to locate women who had recently completed, or were near completion, taking a case to the Magistrate’s Court.

20 O’Connor, Netting, Thomas (2008:41) discuss how in a more developed and “interpretive” approach, generally any data reduction would usually be done when all the data was collected, however, as in this study,
“any prior analysis would be at the thematic level and would serve to ground the research process within the context of the inquiry”


22 The University Research Governance and Ethics process, involved the completion of a risk assessment form which asked researchers to consider the effects of their sensitive research and how these could be anticipated, avoided or responded to.

23 Women who had contact with the court were asked how they would like to be represented in the final thesis and any future publications; they were of course, assured complete anonymity, and to be represented in a way which they preferred. They were less keen to have a pseudonym and either wrote their real name or no name to be used on their consent forms. On the whole, the women were keener to get their experiences represented more fully in written form and to inform the research process. To overcome the ethical complexity of mixing real names and pseudonyms (Grinyer:2002:3) and to ensure anonymity across the board, it was suggested that each woman was assigned a number (which they each knew). They did not consider this as “loss of ownership” (ibid:p.4), rather a less intrusive method of identification, where their perspectives and accounts were prioritised: this preferred method was adhered to throughout. The method was specific to this study, it is of course acknowledged that each research project will differ in its approach, and participants will differ in their preferences.

24 McCarry (2005) discusses different uses of consent forms, e.g. prior to, and at interview stage. Opt out forms have a lower response rate due to the person having to “expressly withdraw from the research” (p.93).

25 The observational methodology used in the study demonstrated how this method could warrant greater emphasis were the focus is placed more directly on the micro level interactions in the court room. It must be noted however, that agreement for recording case notes would have to be officially made and the non-participant nature makes depth understandings of participants actions more difficult to achieve.

26 Dunbar (2002) offers a useful description of ways of (re) presenting voices (in this case young Black Americans). The methods used in this study have not been drawn on explicitly here, but offered insight into how analysis and writing up can develop as a process, how new dimensions emerge, and how this might influence the presentation of findings. His aim was to collect, analyse and write-up as “most ethnographers would do”, however, he contends when “the stories started to emerge”, they revealed new aspects of the lives of young people (pp. 182-183).
Part Two: Findings, Comparisons and Conclusions
Chapter Four

Starting points: how and why women came into contact with the Magistrates’ Court process

Introduction

This chapter presents thematic findings which offer some insight into the thoughts and experiences of women as they were coming into contact with the Magistrates’ Court process. In part, this chapter explores how and why women had contact with the court, and shows through women’s accounts how this is complicated by their experiences. The role, nature and intention of decision-making in the early stages of women’s contact with the wider justice process played an important part in women’s accounts, and was a recurrent focus when reflecting on their experiences of the ‘whole’ court experience.

As discussed in the (previous) ‘Methodological approach and methods’ chapter, the main aim of this research was not to focus on women’s experiences of contact with the police. Nevertheless, the aim of the research was to ask women about their experience of contact with the Magistrates’ Court process and how they experienced this time. Here, unsurprisingly, when discussing a range of decisions made by, or on behalf of women by ‘others’, women made a number of references to how they came into contact with the police, which usually predated contact with the court. As such, it would be difficult and probably misleading to start to report the findings of the court experience in isolation without representing these earlier experiences. That said, the manner in which women recounted their contact and relationship with the police was qualitatively different from that with other, support agencies which had longer and more profound influences on their experience of the court process (see Chapter 3, ‘Methodological approach and methods’).
The themes are presented in the following sections. Section one addresses 'The complexity and inter-connectedness of influences on women's lives', and concentrates on the different pressures women were facing at the time they came into contact with the justice system. This includes the combination of everyday concerns and issues of (on-going) contact with the justice system - these were seen as inextricably linked and affected how women viewed and responded to their court experience. The second section 'Changing behaviour and actions: decisions involved in managing violence and intimidation', stresses the importance placed on the ways in which women would deal with a situation, as an alternative to, or in addition to, seeking outside help from the justice system.

Section three focuses on 'The impact of previous experiences of contact with the justice system' and the significance women placed on past experiences of contact with the justice system, and how it affected their future decision-making. This section highlights the difficulties associated with detachment from past experiences, regardless of whether they were considered to be a positive or negative experience. 'Recent decisions: how women came into contact with the justice system' is the focus of section four. The decision-making route which led women to be in contact with the justice system was rarely seen as being related to any one decision. How women viewed other people being involved in the context of their own decision-making is considered here. Section five addresses the theme of 'The motivations involved in women's decisions', which underpinned women's contact with the police, such as women wanting to gain some control in their lives and at a particular point in time. Section six, 'The limits on women's power to decide', draws on one woman's account to illustrate key themes relating to women's experiences once in contact with the justice system, and of the restrictions placed on their own decision-making. The seventh section looks at women's 'Thoughts and feelings once the police became involved', and
how the expectations and perceptions of women became increasingly important as they began their relationship with the justice system.

**The complexity and inter-connectedness of influences on women's lives**

In this theme, women regularly described how they were dealing with a combination of pressures at the time they came into contact with the justice system. A high number of complex issues influenced how they managed decisions regarding their relationship, and how they made other, ‘external’ decisions, which may (or may not) involve the criminal justice system (see next section). Subthemes emerged within this theme which addressed the following. For many of the women the cumulative effect of repeated and on-going contact with the justice system, and the combined pressures of ‘everyday’ living affected how women 'got through' their court experience. The levels of risk and emotion felt at this time further complicated women’s situations. On the whole, women did not separate out their experience of coming into contact with the court process from other, complex factors: they were viewed as inextricably linked, and are reflected as such here.

*The cumulative effect of repeated and on-going contact with the justice system*

One aspect which was viewed by women as contributing to the complexity of their lives, was the multiple court cases that they had faced during a relatively short period of time (and within the time frame of the research). It emerged from women’s accounts that it was not unusual for a woman to have had more than one case (more commonly two, and sometimes three) go through court in the past year (2007-08). Prior to the interview, half the women in the study had experienced contact with the local Magistrates’ Court (and some with the Crown Court): women also had cases on-going or forthcoming at the time of interview.³
The recurrent involvement women had with the justice system, caused them to make frequent references to the cumulative effect of their experience of unbroken contact. A consequence of this situation was that women saw that this was not just a case of one set of decisions being made, by themselves or others, about their situation. Women spoke of the effects of having more than one case in court, and how, combined with the pressures of being in a violent and intimidating relationship, this could result in a sense of confusion:

There's been so much going on at the moment... in my life this year it's, I don't know where I am (nervous laugh). (W3, p1:15-16)

This year? Yeah, erm the first time was, oh I can't even remember he's done that much I can't even remember. (W7, p1:6)

Yeah cos there's so much gone on with us in the past year... So it's hard to keep up with it all. (W9, p2:11-12)

The emergence of a cumulative effect came about as women told of their experiences of multiple court cases. The number of times some women had contact with the court and other justice agencies, combined with the on-going nature of the circumstances which brought them into contact, were seen to be contributory factors to the difficulties they experienced at that time (also see the value of experience in informing decision-making later in this chapter). An example of the cumulative effect was depicted by Woman 6:

This case? I have been to court many times, too many to count, 30ish, in the past and made retractions too. At beginning of the relationship I did not report it. Quite a few Crown Court cases too and he has been violent also to friends and family. I mean I've had so many [incidents of] domestic violence's and so many times with court, I don't think the police can catch up with it (laughs) cos I get confused, it's like two or three times a year if not more I've had trouble with him. (W6, p4:26-30)

Combined pressures of 'everyday' living

The inter-connectedness of influences in women victim's lives which emerged as women's accounts unfolded further, emphasised how women were not in a position to make isolated decisions. Additional pressures regarding on-going issues such as: housing, childcare, work, finances, general health and mental health, were often seen as related to the situation arising
from the violence and intimidation women experienced, and so impacted on their decision-making. The connectedness of the complexities that women were experiencing at any one time, and the number of decisions they were making at this particular point in time, determined how women prioritised to suit their needs.

The attached urgency that each extra pressure brought, showed that the place given to attending to matters relating to the police or court, might be related to the problems described, but may not always be a sole concern when other decisions had to be made. One or more problems could take equal place, or precedence, over justice related issues, and the combination of diverse pressures influenced how women took varying levels of action:

It [the violence] got worse. I mean it was always bad anyway but when I got pregnant I was very aware that as soon as I had a baby that that would be the next thing really. That’s not something that I could, I could’ve accepted. For some women it’s different but I couldn’t, I knew that, something that was more important than me in a way and I knew that. That was how I felt, but it was it was very difficult because obviously it was his child and, but he was telling me that it [the baby] wasn’t his child [that] I was you know sleeping with a lot of men and there was a lot of that going on. I had a nervous breakdown when I was five months pregnant ...bearing in mind that only a very few people knew what was going on, my family certainly didn’t know, a couple of my friends did. I went to my doctor and I said I knew that I needed to leave my property, I knew there was only one way I could do it you see and that was totally disappear because, he used to stalk me and follow me and I knew there was no way of getting out I said [to the doctor] “I need help, I’m in a really abusive relationship that I need to get out of, I need to leave my home, can I have a letter for the housing”. The doctor was fantastic she was really good and she gave me a letter. It all really began from there; I was referred to Women’s Aid. (W8, p3:5-21)

The excerpt above demonstrates the point of how additional and influencing factors were combined, and how every day decisions became prioritised. What was important to Woman 8 is that she was making one decision, to act: she stated she was in an abusive relationship and wanted to make herself unreachable. However to do so, she had to take a number of steps to reach her aim. Although the particular issues outlined here might not reflect every woman’s personal circumstances, this excerpt shows the way in which many women described managing combined pressures on a daily basis. Women reported how these pressures could,
and would, take precedence over issues that were more directly, justice related: this was seen by the women as a rational decision-making process.

**Perception of risks associated with love, violence, intimidation and other factors**

The complexity of the context of decision-making was further exacerbated by the levels of risk and emotion that came with intimate relationships. Examples of this included considering whether to continue or end relationships; considering women’s ex/partners’ relationships with children; fear of repercussions from a partner; damage to women’s sense of self, and the involvement of others in decision-making.

Although most women gave accounts of being in relationships where there had been sustained instances of violence and intimidation over time, for some this was a more recent factor to their relationship. It was rare that a woman gave an account of the episode that brought them to court being an isolated incident. Usually, the amount of incidents of violence and intimidation women had experienced outnumbered the times that there had been any contact with agencies.

When women recalled violent incidents that resulted in contact with the police, they reported that these were not necessarily considered to be the most ‘serious’ ones they had experienced. This exemplified, at times, the central part played by risk and emotion in such intimate relationships, and how this can impact on decision-making. In her account, Woman 8 explained how such complexities became central for her:

> I only wish I could’ve maybe done it [reported to the police] at times when he had done things more serious...oh yeah there was loads of incidents [not reported]. It’s funny in a way because...it sounds really silly, but I think I just really loved him...So it wasn’t even a case of coping strategies. I think I have obviously got a real problem with my self esteem, really bad, and that’s why not making any excuses for him but how I rationalise it to myself. (W8, p17:20-28)
A number of women reported ambivalence regarding taking any action in response to their situation, due to the mixed feelings they had towards their partner. They described how this, in their experience, appeared to present problems for members of the justice system; in particular in understanding how this was a dilemma for some women and a non-negotiable issue for others. The excerpt below illustrates how fear, combined with strong emotional feelings for an ex/partner, could affect the decisions women had taken, even after experiencing levels of physical violence. Woman 9 discussed how her choices were responded to by the police:

He [ex-partner] has so many different personalities but the bottom line is, I’m absolutely petrified of him, but I love him, and that’s a freaky combination...A lot of it is quite heart-breaking...half of it’s not even been reported, or the police have come out and I’ve been covered in bruises from head to toe and I’ve refused to go to the police station and have pictures took. I’ve had police officers wanting to give him a good kicking and I’m thinking ‘no’. They’ve tried to literally drag me to the police station to take photographs of the injuries and I’ve said no and they’ve just looked at me and said “you’re gonna be one of them women who end up dead”. (W9, p13:41-48)

It is the connectedness of areas that women highlighted which would cause some professional discourses to label them as having a 'chaotic' lifestyle. Although women spoke of, and recognised this language, they also described how they were dealing with a range of complex problems in parallel or shifting priorities, including involvement with the criminal justice system. Women felt that this apparently hectic time, or way of living was amplified as *irrational* when set against the expectations and demands of institutions, particularly those with a seemingly *rational* and rigid orientation. Women often saw these complexities were being ignored, or not fully understood:

...they didn’t take into consideration my own life, and circumstances. (W1, p2:17-18)
Changing behaviour and actions: decisions involved in managing violence and intimidation

In their accounts, women routinely reflected on how they consciously (and sub-consciously), had altered their behaviour and actions at times in response to their situation, and in order to manage their often violent or intimidating relationships. This theme was an essential and regular part of how women viewed their decision-making generally, and therefore, as with the previous section, acts as a necessary consideration and insight into the reasoning behind the types of decisions women made.

Women described how they had found ways of dealing with a situation or managing their relationship, as an alternative to, or in addition to, seeking outside help, for instance, from the justice system. Below are a range of behaviours and actions women described they had used. These examples were rarely referred to as strategies, or choices, rather 'what women would do' or 'try' to minimise, control or stop a situation.

Talking to the aggressor to gain control of a situation

Talking to the aggressor to gain control of a situation was one option that women discussed; this would range from speaking calmly and making requests, to imploring their aggressor to stop. The intended and unintended consequences of speaking to their partner or ex-partner are described below.

Requests to leave

Some women viewed that a passive/assertive approach of straightforward requests could control the situation. Woman 2 considered that a repeated request did sometimes have an effect; however, she pointed out the fragility of this approach, and how, on some occasions, she had met with point blank refusals from her ex-partner.
...asked him to leave...I was asking him to leave...asking him to leave and him refusing. (W2, p2:1-2)

**Fight back, try and calm down the situation, begged – all at the same time**

Drawing on a reserve of several approaches, and if necessary, in quick succession, was one way women felt more able to manage their situation. Woman 5 spoke of having used a number of approaches in the past. She gave an example of a recent “quite violent attack” when, once an attempt to physically try to break free from her ex-partner had failed. Woman 5 then moved to an attempt to enter into a dialogue with her aggressor. She engaged her ex-partner in conversation about their son, to try and deflect him from what he was doing:

I’m trying to fight to get down [stairs] and he tried to strangle me on the stairs and I actually blacked out. I managed to come round and he proceeded to drag me into the bedroom, that’s when I thought something nasty was gonna happen, and then he just said face the wall, so I said “what for?” and he said “just face the wall”. He said “I’m gonna kill you now and I don’t want you to see how I’m gonna kill ya”. So imagine, your life’s before [you] and I says to him, I tried to keep as calm as I could and I said “can I please ring my son and say goodbye to him then”, he said “no”. I must have begged for my life for about... it must have been four or five minutes, but it felt like an hour...he hasn’t changed. (W5, p4:12-21)

**Silence and compliance: ways of controlling a situation or keeping the peace?**

In contrast to the above, women spoke about how, in order to keep ‘peace’ in a relationship, silence or compliance as a strategy was seen as a useful way of calming a situation, and for the violence and intimidation to be over sooner. Enduring different types of behaviour at the risk of greater consequences was also discussed.

"The way that was best...to keep my mouth shut"

For some women, the decision to keep silent was viewed as the ‘best’ way of dealing with certain situations. Woman 4 talked about previous incidents where she would remain silent towards her partner; she also would extend this approach to other people who tried to involve themselves such as neighbours or the police:
Yeah I'd dealt with it in the way that was best. There were incidents obviously previous where neighbours had heard stuff and police were called, but it was...I just used to keep my mouth shut and say everything was fine. (W4, p3:32-35)

"I had to pretend to enjoy it... to keep the peace"

There was a distinction in most women's descriptions of what they viewed as acceptable or unacceptable behaviour from their ex/partner. However, women viewed unacceptable behaviour within a hierarchy of behaviour where they may be forced to endure one form of unacceptable behaviour in order to avoid another. Woman 9, specifically describes in the excerpt below how on more than one occasion she complied with her partner's behaviour, and endured sex against her will as a way of avoiding other forms of escalating violence:

...he started to get aggressive, I had to pretend to relax and I had to give in the end, not that he forced it upon me but I knew what was coming with the aggression after if I didn't have sex with him... I had to sleep with him and pretend, I had to pretend to enjoy it make noises and I didn't and afterwards I felt sick but I had to do it because I knew that if I didn't and I kept saying no I don't want to, I don't want to...and to keep the peace to save an argument I just did it. (W9, p7:26-34)

Employing physical distance as a strategy

In circumstances where intimidating behaviour increased, some women talked of how they would physically remove themselves from the situation, either from within the confines of the home, out of the home temporarily or on a more permanent basis, and out of the area. These were not spoken about necessarily as being linked or progressive actions, but there were common characteristics apparent in women's use of physical distance, for example, to give one or the other breathing space or as an effort to get to safety; and for a number of women in an attempt to end the relationship.

"I'd know domestic violence could happen...then I used to just disappear"

One way of avoiding violent situations would be for women to move out of the way, usually within the confines of the home. Women would monitor any changes or triggers to particular types of aggressive behaviour. Woman 6 described how her ex-partners' behaviour would
change once he had consumed alcohol, and how this was usually a precursor to violence. She might, at this point move herself away from him, to another room, but generally somewhere in the house. She described that there were occasions when this would fail, and her ex-partner would follow her:

I knew what I were gonna end up with. He would be drunk, he’s always drunk and then I know domestic violence could happen. I could calm him down to a certain spot and then he will start going blacked eyed and violent and then I used to just disappear...that's how I coped... I would move away, upstairs maybe, but sometimes he would chase me about so to speak...it depended on [how drunk]. (W6, p7: 5-11)

"I was tending to go out"

Using a greater physical distance by keeping away from home, was one way women described they would respond to episodes of violence. Women explained how they would change their behaviour as a specific response to increased violence and intimidation. Woman 4 said she would remove herself from the home, this was also in an attempt to distance herself from the relationship; she described how this may have consequences later for her:

Yeah, it was becoming more frequent... I was tending to go out with my friends and try and live my separate life, it seemed to provoke him even more though at times. (W4, p2: 10-12)

"I had to leave...move to a different area"

A few women reported that they had wanted to distance themselves (and their children), to the extent that they moved area completely in order to escape violence and intimidation. Woman 9 described how she saw no alternative but to move area in order to escape her violent relationship, and gain control in other areas of her life. She viewed the resurfacing of her own self harm and drug taking, which she had kept under control for a number of years, was a direct result of increasing violence in her relationship:

So, because of all this I’ve had to like leave my family, my friends…I’ve moved from a totally different area to this area...So I’ve actually left a lot behind...In a way in a way I’m glad cos I started slipping into a routine of drugs to block things out, self harming... I’m not saying I didn’t care about my responsibilities but obviously something else were clouding my judgement because the drugs took over so I didn’t understand. (W9, p34-41)
Dealing with what becomes normalised behaviour

One way in which women reported responding to their situation was to rationalise and normalise violence and intimidation as part of routine, everyday life. It was often only in retrospect that some women saw themselves as doing this. Women described how they had drawn on internalised 'strategies' or ways to deal with their situation alone, but because violent and controlling behaviour had become the 'norm' it was less easy to identify ways of coping as other women had. Coping as such was not performed in response to individual incidents but as an adaptation to an ongoing lifestyle characterised by threats and risks.

"I would let it go, deal with it on my own"

Women considered that other factors played a part in violence and intimidation, such as alcohol or drug misuse, they described how they saw these as playing a part in aggressive behaviour towards them. Woman 6 did not consider what was happening to her was "domestic violence". From early on in her relationship, the behaviour of her then partner had become almost routinised. She accounted for this as behaviour as a result of alcohol abuse, not directed at her, and so excused this initially. She did recognise a point in the relationship where she felt controlled, but she would deal with this in isolation:

Erm, it started off in 2003, I met him in August 2003, he first beat me up in the Christmas of that year, now I thought it was because of his alcohol and with separation from his ex-partner with three children, but he already kicked out his ex-partner who had a three month old baby by you know by him, and I couldn't understand why he was beating me up or because...I mean domestic violence you never think of it at the time, I just put it back to alcohol...I did not report it though...No I let it go...I don't, I used to do this on my own...not involve anyone else (W6, p1:25-34)

It is most important here to recognise how and why women described themselves taking action, even in the most constrained of situations, adopting a range of strategies and 'ways of doing things'. As the findings show a range options women would draw on to deal with a situation were identified; making contact with justice or other agencies was not always considered to be the most appropriate course of action. Women believed that such a decision
could force them into more risky situations, which were beyond their control. They might have to consider staying, leaving or ending a relationship, the complex nature of the relationship, and the combined pressures they were experiencing (see earlier section): these were not always considered viable or suitable options, and not at this time.⁵

The impact of previous experiences of contact with the justice system

This theme further explores issues which contributed to women’s decision-making. Within this, women placed significance on the part played by past experiences on future decision-making, particularly concerning contact with the justice system. Women discussed how difficult it was for them to detach themselves, at times, from past experiences with the justice system, regardless of whether they consider them to be positive or negative. Women felt this reflection was relevant on two levels: the first to place violent and intimidating events in context and secondly, to say how this experience impacted on their decision-making.

Concerns relating to the confidence women had in their own, and others’ decision-making started to emerge here. The issue of who had control of decisions once an incident had been reported was important, as was how women’s choices were responded to from the outset. This was often viewed as a measure of how seriously women were being taken: women’s perceptions of how they were viewed impacted on how they might strategise in the future.

The value of experience in informing decision-making

Women who recalled past cases that went to court (some beyond the lifetime of this research, but in the case study area), commented on why they had made the types of decisions they had made over time, and also how their experiences had impacted on their perceptions of the justice system and on future decisions. Woman 5 distinguished between an unsatisfactory previous experience where she had retracted and the current case where, despite considerable
procedural delays and the prospect of going to Crown Court she was still proceeding with the case:

One case, two years ago, I retracted in court – he’d [then partner] changed \textit{(smiles)} there was one where I retracted early on before [I was to appear] in court, one other retracted at police station almost as soon as reported it... This case, I want to go to court, this one might go to Crown. There has been one Newton Hearing\textsuperscript{6} in the Magistrates’ Court, it’s been adjourned...it took 6 months to find him you know [to bring him to court]. (W5, p4:34-42)

On this occasion, Woman 5 became more prepared to take the case to court due to having gained a degree of personal confidence from knowledge of the criminal justice system and her aggressor’s behaviour in response to it. Other women, based on these past experiences were often too "scared" (W9, p8:30) to report an incident, let alone proceed with taking a case to court. The fear they had of pursuing a case through to the criminal court was linked to their own assessment of the risk attached to choices, such as the consequences such action held for women: in the main, this was linked to fear of further violence. Women’s desire to maintain some control was key; here, women perceived that their decision-making powers could be greatly affected, and it would be the justice process in this instance that would take this capacity away from them. For Woman 9, the consequence of reporting an incident to the police was that a case was then taken forward without her consent. She felt this had resulted in her having no control or input into further decision-making concerning her situation. Her own choice of outcome would have been for her and her partner to seek counselling together, and for him to start to understand more about his behaviour. Because she felt decisions were made against her wishes, she was left feeling wary of reporting in the future:

Before, yeah about four years ago he beat me up and he ended up going on remand in [prison], but I retracted my statement...they [CPS] carried it on and I think he stayed in there for about three months. I know that people say everything that he’s done, that it can’t be love, but there’s gotta be a reason why a man does the things he does to a woman in that possessive way...There has to be, and even though he treats me like shit I know that there’s times there that I know that...I wished we could have sat down together and got help with his paranoia. I’m not sure I would rush to the police so quick again. (W9, p7:40-46)
The above excerpt comments on the powers of Crown Prosecutors to advise on charges, and prosecute without a woman's consent. The consequences of such decision-making generated strong opinions; it was perceived by some women who had experienced it, or feared it, to be a negative power which had the ability to take women's choices away. This reflected the wider debate of the place and value of women's choice in such circumstances. In cases when there are no independent witnesses, women could be summoned, and often described themselves as 'reluctant' witnesses at court. The consequence of the CPS taking such action was also viewed sometimes as a dangerous option created by the justice system, which could place women in further danger. In the excerpt below, Woman 2 felt this course of action was not supportive of her decision, but focused on the gaining a successful prosecution and was therefore outside of her control:

They [the police and prosecution] just wanted to get their prosecution, they just wanted to get the charges to go ahead but there was nothing else, I didn't have support for what I wanted to happen. There was nothing in my favour really at this time. (W2, p9:16-18)

There were, however, women who, in retrospect, saw the power given to the Prosecutor to pursue action independently of women's choices at the time more positively. Woman 2 (quoted above) also described her feelings about a further case, where her experience and feelings were quite different regarding the decision of the Prosecutor. Here she felt the responsibility had been lifted from her, and that it was more likely her (now) ex-partner would possibly take action and respond to help, if a 'professional' was able to confront him. At the time she also saw this as way of moving towards resolving the difficulties they had:

I was glad that they were still taking it [the case] ahead, because what he did was wrong and he had always got away with everything and that's his big problem, he thinks he can get away with things. I wanted him to get professional help that he needed and I wanted somebody to make sure he got the professional help that he needed, rather than me saying to him you need to go and see the drugs counsellor, you need to see an alcohol counsellor. (W2, p7:10-15)

Decision-making became less clear cut for women who spoke of the next, subsidiary theme, of how changes in the law could affect choice when it came to using civil law over criminal
The (then) recent change in the law regarding breach of non-molestation orders and restraining orders, meant that these orders could now be served and dealt with in both the civil and criminal courts. As breach of an order like this could now be seen as criminal offence, which held penalties of non-custodial and custodial sentences, it was felt to have implications for women, and was beginning to influence how they might employ different remedies/strategies. The few women, who had experienced the systems old and new, shared their views on this relatively new change. In the past, when women were attempting to impact in some way on their partners behaviour by taking civil action, this had the minimum effect, which left some women feeling the value of retraining orders was in question:

He always used to wave it in front of me like this, shouting "this doesn’t mean anything". (W3, p3:15)

For women who had taken out an order in this way, or had been advised to do so, the new practice could be viewed as a benefit. For those women who had experienced this first hand, the expansion of breaches of such orders into the remit of criminal justice system was encouraging. An attractive feature was the seemingly more, punitive consequences of an order being contravened. One of these being that aggressors could be taken temporarily, or more permanently, into custody:

He had broken a number of separate injunctions for one case, now he may face going inside [prison]. (W7, p1:4-7)

Nonetheless, for those women who may, in the past, have used an order/injunction as a way of controlling a situation without the involvement of the criminal justice process and its sanctions, this new scenario was now viewed in a different light. At best this was seen as confusing, but for some women the option was ruled out because outcomes could not be guaranteed to be desirable. Woman 10 had described how she had been advised to take out an order from the criminal courts, in retrospect she felt that her ex/partner had been harshly treated:
...he’s inside at the moment, that’s for a breach of a non-molestation order...they can do that you know. I would’ve...preferred [another type of punishment] not that anyway. I’ll think twice where I go [which court]. (W10, p2:5-7)

How past reports of violence and intimidation were handled from the outset

The response to women, when they reported or considered reporting an incident was often used as a measure for them of how seriously women's decisions were being taken. Women reported this from the outset of contact with criminal justice system and as contact progressed. For some, the need to have their complaint recognised was more important than the need to prosecute, or the outcome of this. Woman 8 had taken two cases, in two years, to the Magistrates’ Court. The first was discontinued at court by the CPS; she stated that she pressed charges but the incident, an assault, was not described by anyone at any stage as a domestic violence case, or seemingly treated as such. The reluctance of anyone in the justice system to acknowledge her complaint was viewed by Woman 8 as a failure to recognise or respond to her experience of violence. She wondered if "...maybe domestic violence wasn’t as much of a big issue at that time [in 2006]"(W8, p1:7), she is unsure if it even went to court:

For what reason to this day, I still don’t know, I never received any feedback on it whatsoever...They did interview and he was taken in and everything but they never came back to me...I was devastated, it was terrible. Oh God yeah, my ex-partner was a very manipulative and convincing individual, I don’t know what they took from him, but it was really bad for me. (W8, p2:4-12)

Barriers to reporting: how women perceived how they were viewed by justice agencies

The perception that women were not viewed seriously by those in the justice process was attributed to women’s history when reporting incidents. Women perceived that such expectations and views of their decision-making essentially invalidated their experience of violence or intimidation, and could then act as a barrier to reporting an incident.

For those women who had reported a number of incidents to the police over recent months or years, a common feature was a sense that their actions were seen as 'time wasting'. Although
the women themselves had felt the incident warranted a response, and was serious to them, this was not reflected in the official response. They described a range of reasons why they thought this response was given, due to the nature of the incident, because they had not wanted to press charges, but wanted their ex/partner removed or spoken to, and because of previous decisions to retract. Women reported that the response often depended on the attitude of individual police officers. Woman 7 described how, in her opinion, her report (and willingness to take action) regarding what she considered a serious threat by her ex-partner was minimised and dismissed by the police officers who dealt with her:

To be honest I didn’t rate the police really, I didn’t feel like they were taking me seriously. One of the times, he pushed a knife through the letter box, now I saw that as a serious threat and the police just didn’t seem bothered. It was like the next day when they turned up the police just said “oh I’ll just take this and dispose of it” and that was all that they said about it. I felt like I was just being laughed at really, but I saw it as a threat. I just felt like they didn’t take that seriously. (W7, p7:29-40)

Her response was to approach her Outreach Worker from Women’s Aid. The worker voiced concern over the incident and how the police had responded. Woman 7 felt this was more helpful in validating the feelings she had, and reassured her that the police reaction had been unacceptable:

No, I think Gemma\(^1\) [the Outreach Worker] was gonna try [and speak to the police] and, but I know she is really busy and I don’t know whether she got round to it but I know she wasn’t happy about it when I told her. wasn’t happy about it at all. (W7, p7:42-44)

When women felt they had a positive experience of contact at this early stage with the justice system, the accounts show this seemed to be more as a result of individual officials’ actions, rather than a whole service response. Woman 7 described how, she had a more positive response to a later incident. Here, she attributed this being to an individual officer’s response, rather than a noticeable change in any policy response:

Yeah, but then it was the last one [incident] where the police officer was really nice, and I could tell that he liked [me] he stayed late on his shift and stuff cos he wanted to. (W7, p7:46-47)
The findings showed that many women felt like they could not bother the police or courts again because of the reaction to their past decisions; for instance, if they had elected to withdraw a complaint at some point in the process. There was disparity in women's priorities and those of the justice system. It was considered they were seeking help and protection, but this was at times overridden by the pursuit of prosecution. Woman 5 was not convinced any approach she made would be responded to positively in the future. She based this on how she was treated by the police in the past: she sensed her contact was seen as wasting time, something she was led to understand she should not do again:

I felt when I retracted the one that went to Magistrates about three years ago, they basically gave the impression not to bother them again cos they'd done a lot of leg work to find him and, I was made to feel really guilty. I have, rang 'em before now about things that cropped up when he'd been phoning up and threatening death threats and things like that, they basically didn't want to know, and I said to my mum I'm never ever gonna ring the police again about anything... Yeah like I was time wasting. (W5, p2 excerpt 31-48)

When the Crown Prosecutor approached and asked her to consider continuing with the charges, Woman 5 felt she was further admonished. The blame for the time and effort that had been put into apprehending her ex-partner and other preparation was firmly placed on her:

W5: Yeah yeah, he was sectioned actually, he (spoken louder) was sectioned. He had come with a knife and er he did a runner, and the helicopter was out looking for him, and then they found him and they sectioned him at [a mental health unit]...I retracted early on...hmm
MG: How did people respond to your decision?
W5: The CPS had come round to talk to me to try and make me change my mind again...and then that's when he says to me basically “don't bother us again, we've done all this leg work”. (W5, p8:28-37)

Perception of risk arising from past experience

The consequences or risks attached to contacting the police could come in different forms; this specific point is closely linked to women's perception of risk and consequence raised earlier in the chapter. Women described how they would consider potential risks and draw on their experiences before taking any action. A real barrier for women having any contact with justice agencies was the fear that this would result in women losing control of other aspects of
their lives. This was especially highlighted in relation to children, when other agencies then became involved. Woman 1 was wary of police involvement, reporting an incident and taking a case to court was felt to hold implications for her. By bringing the situation at home to the attention of the police, other agencies, specifically the Social Services Department, could become involved. She repeatedly made reference (throughout the interview) to how the threat of this happening, made by police officers in the past, was sufficient for her not to report incidents of violence when she might otherwise have done so:

I was scared of the Social Services Department [being involved], I was told by the police before that they could take the children away. (W1, p1:27-28)

**Women who had little or no previous contact with the police**

In contrast to those women who had a history of contact with the justice system, the consideration here is those women who described themselves as having limited contact. Their concern was the impact this had on their decision-making due to lack of knowledge of the system. For two of the women, this was the first time they had reported an incident to the police, although one woman described how she had some limited contact with them in the past when others had reported an incident rather than her. Women 4 had come into contact with the police when other people had called them out. She stated how she would be quiet and minimise the reported incident and avoid contact with the police. The case she talked about was the first incident she had reported herself in the ten years of her relationship. Although she intended for a response from the police, she had not foreseen it as resulting in a court case (see below). Woman 4 talked at length throughout the interview about how she felt her choices were affected:

On every level, yeah ... I just feel that they [the police and courts] have just mucked me around so, so much without telling me. (W4, p15:7)
Recent decisions: how women came into contact with the justice system

The view that the women's situations had come to the attention of the court by them 'taking action' and always by them making direct contact with the police, proved to be somewhat simplistic. This theme addressed how women's accounts demonstrated the importance of considering the process by which women arrived at this point, rather than focusing on any one decision. The women emphasised who they came into contact with following an incident, and via which decision-making process as important. If this had been due to someone else's decision, it was not necessarily viewed by women as a free decision: assumptions made about women's intentions were raised as important here.

Other people initiating contact with the police

When other people had chosen to contact the police seemingly on a woman's behalf, women responded differently. Women were either comfortable with this course of action, whether they intended for this to happen or not, or if this was never their intention, they reported that ultimately the decision had been taken out of their control.

Women reflected on their first reactions following a violent or intimidating incident; for most it was shock and confusion. It was sometimes hard to ascertain if, after this time women would have wanted to contact the police. In their accounts, women began to untangle some of the thoughts and feelings of that time and reflected on how they felt decisions were made at the time. Woman 5 talked about the hours following an attack by her ex-partner. She described being in shock and recalls how long it was before she made contact with anyone: she eventually made contact with her friend, who then took the decision to contact the police:

I could see me cheek out here, I didn’t know what he’d done but I wouldn’t look in the mirror, sat there for at least two hours... yeah, I was in shock, and in the end I phoned my friend who I worked with, that’s when she come round and she said he’s broke your jaw, he’s broke your nose, you’ve got a black eye all your necks like you’ve been hung up with a noose. That’s what happened, and I’ve never seen him again since... he’s always been jealous... I just would have sat there and bled to death I
think, but I rang my friend and she come round. She said she was ringing the police and she did do, she saw this once before. (W5, p4:34-43)

It transpired that the decision to phone the police was not one that Woman 5 would necessarily have chosen. She gave a number of reasons for her reluctance to go to the police. She was worried about the effect that this incident and any action would have on her son and the past history of contact with the police. She had retracted a number of times and was told by the police she should not “bother them again” and that she was “time wasting” (W5, p2:16). She showed a certain empathy with the police, but she sensed that some officers had expectations of such cases. Woman 5 was keen to put across the confidence she had in her own decision-making ability:

Me friend who came round reported it to the police and took me to hospital. I didn’t want to. This bad incident happened in December, at Christmas. ...not a good time...my son he would be [upset]. I wouldn’t have rang them, I wouldn’t have rang the police...Because of the way I felt, and I really can, I can understand the way they feel [about domestic violence cases]. my brother’s a police man at a police station up there, but I just didn’t feel like that, I just thought they’d just think I was wasting their time again you know. This was my decision... I can be assertive I’m not a wilting violet...

(W5, p3:1-10)

It was seen as difficult for other people who became involved to understand why women would not want them to call the police. No matter what motivations led them to do this, what was emphasised as important by the women was how this action made them feel, and how this impacted on their own preferences and decision-making abilities. Woman 2 explained how there were instances of more than one phone call made to the police in the past without her knowledge over the past four years. She explained how she had, in the last year had two cases in court. In both incidents she was not in a position to phone the police, as on both occasions she was under threat of attack. The points of contact are discussed below (shown as case 1 and case 2).
Case 1

Woman 2 described how, she had used repeated requests to ask her ex-partner to leave; she had not wanted her ex-partner arrested as this meant he would be put into custody. She felt that she gained some control of the situation herself, when at a later date she retracted her statement. She also described after this, having a need, for no other reason than curiosity, to know who had made the call:

So, I was asking him to leave, and the neighbours must have heard me asking him to leave and him refusing, and they phoned the police, I didn't want the police there because he had broken his bail conditions. He then got remanded in custody...I don't know who did it [phoned], because it could have been a number of people. My friend phoned up and she said he, she said she could hear him in the background, and she said “he’s there?” and I said “yeah, but I’m okay” erm, and my sister phoned up as well, so she knew, so she could have done it, but the police said it was the neighbours... I retracted the statement I made later on. I didn't want the police there you see. (W2, p1:4-15)

Case 2

Following a later incident, Woman 2 described how she had different feelings towards those that had reported. She was "glad" on this occasion that collectively her friends and colleagues had deduced that she was in danger and had called the police. She felt this was an acceptable action taken on her behalf, she was living apart from her ex-partner at this point, and so had distanced herself from him, her family and friends were aware of this. She stated that she was still "unsure" whether to continue with case, but did so:

Erm, threats to kill, he threatened to kill me and he phoned my sister and everyone on my mobile phone, he told everybody he was going to kill me and if the name was a male name he left a message saying he was going to kill me and then he was going to come for them cos he knew that they were seeing his wife. It wasn’t me that phoned the police, he rang a nurse, he rang a number of different people, and obviously a lot of the people who are in my phone are people who I work with and I worked nights at the time so he phoned, and I work in the same place, so he was phoning everybody in my phone and he phoned three different people that were all on the same night shift together, and they all got together and said something’s not right, so they phoned the police and the police arrived at 6 o’clock the following morning. Oh, I was so glad that night...Yeah (nervous laugh), I mean everyone knew he was very violent towards me and they knew we had been split up for a number of months, but he’d still been coming round. I was still unsure about going on with it, but I did. (W2, excerpts p1-2)
On occasions when women might not have considered pressing charges, but other people made contact with the police, some explained further why they had been willing to continue with the proceedings without doubt at this point. Here, and in the main, they had not felt that those who had made the decision to report had taken control without thinking about women’s wishes. Woman 4 recalled the process of decision-making coming down to her in the end. She viewed the process as being initiated by her friend and thereafter taken forward by her:

He kicked off [angry and violent], then he went out with the children that day and left me. I actually tried to have some time away, out with my friends. That evening that he kicked off again, and it was my friend that had phoned the police. She heard him on the phone while I was on the phone to her...So, it was when they came I mentioned about what happened that day, sorry, the early hours of the morning. They asked me did I want to, press charges, which I did. (W4, p2: 9-21)

Women who decided to contact the police directly

When women considered how they had chosen to go directly to the police, they described how they were often supported in their decisions: here, decisions were considered by women to be their own. In contrast to other cases described above, there was a distinction made here, in that the decision was taken alone, and so it was felt, with an element of control, and with the perceived and known risks in mind. When Woman 7 described how the police were contacted, she referred to a decision made in tandem, which involved her mother dialling the police for her on her request and her talking to them. A friend was also present, taking action. The description of her motivation combined with her account of her now ex-partner’s violent episodes, gives one underlying reason why this support was enrolled:

Mum rang police for me, I was too shaky, and I reported it. My friend was there too. I...Cos, he’s always he’s always smashing the windows so it was just a case of phoning 999...I’d had enough and phoned the police cos he’s obviously on his tag and his suspended sentence and his injunctions and he just doesn’t care. (W7. p2:22-28)

In the case of those women who made the decision to phone the police directly, and on their own, there was a clear statement of intent when they described how they did this. If the response was as direct as their enquiry, there was a sense of validation of their reason for contacting the police. In the excerpt below the confidence was seen as coming from the
response to the decision taken; the officers also felt that this occurrence was clearly unacceptable (and unlawful):

Yeah I phoned the police... the police charged him and they said to me it was enough evidence to go to court with... You know, with the statements that I made, which was a good feeling. (W3, p3:11-13)

Although women talked about being intent on contacting the police, they were also keen to show that this took a certain amount of determination and physical energy to do so. Women's situations varied, their aggressor could have been present, away from the site of the incident, or their location was unknown. The attempt to take action and break free from the control that women described is shown in this excerpt from Woman 8:

Yes, I reported it. I wanted to... I'd taken all my courage to go to the police station; he was outside trying to stop me. Barricading [stopping] me, actually getting in the police station. (W8, p2:25-26)

Woman 8 felt she was well aware of what was to come if she reported the assault. On the night of the assault she was followed by her ex-partner who tried to prevent her entering the police station. At the time she believed she had made her own choice to make contact with the police and had calculated the risks involved to take this action:

On that night of assault, when I met the domestic violence officers and they said to me then and there you know "are you prepared to proceed with this?" They said you know "would you be prepared to go to court would you be prepared to give evidence would you be prepared blah, blah...", so I said "yes yes, yes to all of the above" and then that's when that whole process began. (W8, p4:40-46)

The motivations involved in women's decisions

Although this theme showed women to have their own individual reasons, motivations and intention underpinning contact with the police, and subsequently, for some women, the court system, there were common and recurring sub-themes across women's accounts. As shown earlier in the chapter, decisions involved in any action being taken to manage violence and intimidation were usually made with a number of considerations. In this case, particular factors included whether this was the right course of action, and the right time for them; and
whether they felt able to do this. The motives described here were not ranked in any specific order by women, however, where the researcher has grouped motives together this was shown to illustrate commonalties in individual women's accounts. It will be apparent that women often listed more than one reason.

To take back control

Women discussed how they considered this route of action, at this particular time, as an opportunity to gain (further) control over their situation. Control was defined in different ways by women that were relevant to them. Woman 2 described the reasons why she made her decision to carry on with the charges this time. She saw this as a time of realisation. She wanted to take control of what she described as an on-going and violent relationship and that by going to court it would send a message to let her ex-partner know she felt his actions were unacceptable to her. Her motive to take control came at a time when she saw the severity of violence escalating in future if she ignored his behaviour:

Because he can't continue to treat me like this, and I think I've finally opened my eyes to how the last 4 years has been and how I can't continue to ignore his behaviour. It will just get worse He was back on that slippery slope, if he was back on the drugs then how long would it be? He'd just beaten me up and took my cash cards and if I just let it go then next time he needed some money for drugs would he just show up at the doorstep and (pause)... and beat me up again and he could end up back in the hostage situation there, at knife point. (W2, p16:41-45)

For some women, their actions signalled that they had mentally and physically reached a point of no return. The growing need to take control by taking action, was the motivation behind an often resolute attitude women described having at this time. Woman 7 she reflected on the amount of violence and intimidation she had experienced, and how there had been no comeback to this:

No, I was determined to it, because just like I said, I'd just about had enough and he got away with far too much. (W7, p10:36)
Making the move towards reporting a case, in itself, was seen as taking back control. After a sustained period of violence and intimidation in her life, Woman 4 described the ‘self talk’, and confidence required in herself and in the police to get to the stage of what she considered as seeking help from others:

I felt that after years and years, and years, of this I needed to be, to be the one in control after him being in control for all this time, and that’s why obviously I did this statement. But I think it was more a case of making a statement as well, “I’m not gonna take this anymore, you know, and it isn’t my fault that this has happened to me and, there are actually people there that are there for me and will you know will back me”. (W4, p4:46-49)

Wanting it to stop

For some women, the route they considered at this stage was taking official action: by so doing signalling their intention to take control back (and wanting the violence to stop). Women described how their intention here was unwavering, although for some women, the message had to be sent a number of times, and women could find themselves revisiting court. The steps women took sometimes resulted in a response from the aggressor wanting to stop, or the intervention of the justice system. Woman 6 saw a continued involvement with the justice system as offering a chance to her then partner, to address his behaviour: this was different from an intention that the justice system would directly stop him being violent. As other had women reported, although the need here was for Woman 6’s partner to stop the violence, she knew she had to be aware of the risks of repeatedly taking this action:

So making it official again...trying to get him to realise what he’s doing, making him stop, and maybe get something done about it, but you’re also weighing up... (pause) risks. (W6, p6:43-46)

The above quote suggests a balancing of symbolic and instrumental motivations with risks. The desire to stop behaviour was tempered by expectations of what the justice system could do in response. Nonetheless the motivation was so high for some women that they said they were going to continue to use this strategy. Woman 7 saw pressing charges and involving the justice system was a way to stop and put an end to her situation. She was optimistic that her
motivation would be rewarded this time; she was focused on the verdict, and was hoping for a more severe sentence to ensure this:

Every other time he’s done something, I’ve always in a way felt like he’s got away with it, like when he got his six month suspended sentence and the tag. I just felt like he’d got away with it because he didn’t listen all the other times and so I’m just glad this time he’s getting like what he deserves in a way. He’s not getting away with it. Yeah hopefully this one, I’ve said it every time but hopefully this will. (W7, p4:24-32)

As with many other women, the ways in which they would put a stop to violent and intimidating situations were taken with degrees of action. Woman 4 believed that having contact with the police should suffice. She described herself as "driven" to sort this out, and for her, having to face a response from the police, rather than from her would be enough to have an effect on her ex-partner:

Yeah, I was, I was *driven* in order for him to, to be dealt with [by the police]. (W4, p4:40)

*I wanted him away*

The driving force for contact with the justice system for a number of women was the hope that the aggressor would be taken away from a situation temporarily, or more permanently, in custody.13 This was seen as an appropriate course of action by the court in their eyes, for a range of reasons. Woman 9 explained how she wanted her ex-partner put into temporary custody so that she could distance herself from her relationship, and the risks it brought to her and her children. She thought that if she and her ex/partner were allowed to be in close proximity to each other, there would only be further involvement:

Yeah, in custody, just move him from my property...I used to think right we’re back together now we’re getting on plan it, I don’t wanna be thinking like that, either way my kids lose out and I lose out, but that’s how that’s how bad it was getting...I was, because we was both at risk of each other. (W9, p: 5-8)

Women also considered that custody would be an appropriate sentence for the severity of their ex/partners actions, and would offer time for ex/partners to reflect on their actions.

Woman 7, who had hoped from the outset, that her ex-partner (due for sentencing at the time)
would receive a custodial sentence. She felt that this might give him time to think and understand what he had done:

...not only does he need to be in custody, it might make him realise... (W7, p4: 35)

Protection of children

Women, who talked about taking action because of a desire to protect their children, described ways in which this was a critical aspect of their decision-making – it could be the only reason some women were taking action. Woman 9 described how she was forced to consider the risks to her children, when a violent attack on a friend by her then partner was ignited by jealousy, which took place in front of her children. Although she was torn in her relationship, the spiralling violence held implications for her own life, not least the safety and custody of her children:

My mate’s boyfriend gave me a lift home... he didn’t have chance to get through the door cos the door came off and he got viciously attacked [by ex-partner]. He’s very, very aggressive...This time I thought he didn’t know that the kids weren’t being looked after at my house, the kids could’ve been there, they wasn’t but they could have been, my kids have seen enough... This is what’s made me end up taking it further this time, because social services said they’re gonna put the kids on the register if not. (W9, p3:28-35)

Considerations shown for their children’s safety almost always took precedence over women's own safety. Some women described how their children witnessing or experiencing violence directly, provided the impetus for them to take action. Woman 8 explained how she had rejected behaviour from her ex-partner for the sake of her unborn child. The continued violence and intimidation during her pregnancy was instrumental in her then physically removing herself from her property and wanting to pursue pressing charges. She made mention of the fact that this had not been a priority for herself previously:

When I got pregnant things got a lot worse...Got quite bad, and erm I actually I knew that I had to, I had to get out, but I had no means of doing it before... I think what it was for me, it was always bad anyway, but when I got pregnant I was very aware that as soon as I had the baby that [violence] would be the next thing really, and that’s not something that I could’ve accepted...for some women it’s different but I couldn’t. 155
knew that, something that was more important than me in a way and I knew that I had to go. (W8, p2:37-43)

Revenge, retribution and settling scores

Although their motivations could overlap, there were women who simply wanted revenge, and for their ex/partners to experience some of the feelings they had, due to the behaviour they had been subjected to. Woman 5 was clear on her reasons on why she wanted to carry on with this case (when she had withdrawn previously). After a long relationship in which she had endured sustained violence and intimidation, she wanted the violence to stop, and she wanted justice to be done:

Revenge yes, I do want...After so long...well I had eight years of it so...enough was enough. (W5, p16:39-40)

Woman 5 had low expectations of what the criminal justice system could actually offer in terms of punishment, she was sure that this process would make her ex/partner feel uncomfortable and fearful. In the contained, but charged emotional statement below she states how she wanted her ex-partner to feel some of the mental and physical anguish that she had experienced:

I wanted to see him suffer basically...I wanted, I wanted, I mean even if it’s only a fine which he won’t pay anyway but just him to be inconvenienced and to have a sick feeling in his stomach which I know he would’ve done cos he’s a he’s a coward at the end of the day, he you know. Yeah and I wanted him to go through only a bit of what I’ve been through and that’s why there was no way I was gonna retract this time, as bad as it would be in court for me, cos I was warned it wasn’t gonna be pleasant. (W5, p7:14-20)

Other motivations

Some accounts of motivations for action focused less on expected outcomes from action, but were motivated more by the strength and emotional determination of women. For some, there was a sense of guilt attached to their decision, and conversely for others a sense of determination to act, though the common theme was the resolution to act in some way before the risk of violence and intimidation became worse. Woman 2 described her mixed emotions,
she reflected on how she had tried to help her ex-partner and work at their relationship, there was a feeling of guilt attached to what she considered was her only choice to take some control:

I felt I had no option...but at the same time, I knew that I had done all I could. (W2, p3:26)

Women described how there might be a trigger to them taking action: more often it was one incident out of a number that could leave them thinking they had no options left. Woman 5 had felt that the escalation from her ex-partner had impacted on her and her son deeply this time; in order to protect herself she felt that she was left with no option but to take a case forward:

Because it was the most serious time, he ruined me son’s Christmas. My son didn’t have a Christmas basically, cos I couldn’t go out the house. So that was that done, I just I thought I’ve got to do it, I know he’s been violent all his life with other people. I mean, I thought my number was up this time I really did, and I think he would have [killed me] (pause), if I wouldn’t of kept calm...I just thought no, I’ve got to go ahead with it. (W5, p6:44-48)

Rather than having an absolute reason or motivation, some women talked at length about the 'lead up' to any decision to act. Women often described how they had got to a point now where they were more able, stronger mentally and in a ‘better place with the way in which their life was managed. The motivation grew with what was viewed as a progressive process. Woman 6 described how hard it was to leave her long term situation, and how she had talked of how she could not take the violence and intimidation anymore, she mentions asking for help to do this, as has had on-going contact with an outreach worker from Woman's Aid. Her declaration of “no...no more”, and her strength to act on this was her motivation to take steps to involve the justice system and plan her escape from her situation:

It’s like I couldn’t get out of the situation of what can I do about him I mean he would he would turn up out of the blue at three or four o’ clock in the morning and just bang the door down, and I didn’t know what to do until this October (2007). I mean I said to Natalie (Outreach worker Women's Aid), I said to everybody for years and years help me out I can’t go through it anymore, I was gullible I took him back but this time it is a no. No (voiced raised louder). I don’t want this life no more. (W6, p3:43-47)
For some women, it was not only growing mentally stronger that motivated them to take action; they now had their own resources. Without either of these in place, women had felt unable to make changes. Woman 2 explained how this time, she was in a stronger position to withstand her ex-partners’ intimidation, and felt it was right to take this case through. She felt she was mentally more able to "move on", and had the means to do this, as she had more built up her own financial independence:

Part of me used to be nervous for him [when she had retracted before]... he’s a bully, he’s bullying me and now he’s getting annoyed that I’m not succumbing to him, not bowing down to his bullying anymore...I want to show him that he can’t just show up at my house and start screaming and shouting, he can’t just show up outside work. Since he went...I’m in a lot more of secure position now, I’ve got a full time job, I’m qualified now and I feel stronger, I feel in a stronger position and I feel that I don’t need to rely on him, so I can move forward. (W2, p8:37-45)

For those women who were more explicit in their intentions, but less willing to give an underlying reason, they described wanting the chance to press charges, with the intention of taking the aggressor to court, and for them to experience court. This was most important, as this was seen as the women's opportunity to have the chance to give evidence and make decisions on their own terms. Other women stated they simply wanted "to sort it out" (W3, p30: 4). The various motivations for action (symbolic, instrumental and other) and the consideration of risks involved were the two themes which pervaded the accounts of women of initiation or continued contact with the justice system on this occasion.

The limits on women’s power to decide

Women’s accounts of their previous experiences and of more recent decisions show how women perceived there were limits put on their decision-making: their motivation to ‘act’ or ‘take control’ was often overridden by the power of legal professionals. This theme shows how the course of decision-making, at the first point of contact in the justice system, did not always match the intended consequences of women’s actions. Women described how they experienced what they perceived to be limits put on their power to make any decisions beyond
this point. Some women likened this to the imbalance of power they saw in their own relationships.

It is worth considering here, why women felt such a loss of control so early on in their relationship with the justice system. Primarily, this was felt because they had taken the details of their relationship outside the confines of their home. Further to this, by entrusting this information, in confidence to others, they had often sought a specific course of action, or type of advice. As shown, it was not always intended that such action would result in a court case. In such instances, and for a number of reasons, there was often a disparity between what women had wanted to happen and the routine response of the system to a woman reporting. When Woman 4 described how she felt about her experience of early decision-making and how the police viewed and constructed her experience, resulting in a number of charges that she had not intended or was prepared for. The perception of these details by others as one serious offence, contrasted with what she saw as one incident in a longer line of other similar, or worse, violent and intimidating acts; her intention had been to stop and take control of this situation on her own terms. She was also shocked at what seemed like an avoidance of communication once she had expressed her concerns:

I did question a police officer about it because I had obviously told a female officer and she’d taken a handbook statement of what had happened, and then when he started using the terms ‘attempted rape’ alarm bells started ringing because...I never, I didn’t in my mind see it as attempted rape. To me something like that is really, really serious and it’s not for the fact that I didn’t think what had happened wasn’t serious, but I thought (goes quieter)... oh going banding around allegations like that...then my friends sort of sat down and sort of explained to me "well that’s why it’s called attempted rape", and I was like “yeah, I know but that’s huge you know”. I sort of the more I questioned the police officer about things the more he became a bit cagey and wouldn’t...[speak to me]. I said "why will I have to do an interview, why?". I hadn’t considered it to be honest with you, I didn’t at that point realise what might come of this...[court]. I had this view that it would be dealt with via the police in a police station, and he’d be charged. (W4, p4:11-16)

Some might question the awareness of Woman 4, of the seriousness and acceptability of such an incident in her relationship: this is not under discussion here. As stated, her motivation
was to stop this behaviour, and she felt that she knew her ex-partner well enough, that
stepping out of the confines of their relationship, and bringing this incident to the attention of
the police (alone), was sufficient action to control for this behaviour. What was important to
Woman 4 was the fear invoked from the response to her statement, and the action taken by the
police, without any dialogue or information to follow. For her, the notion of informed choice
was lost here:

Absolutely petrified, really petrified, and let down as well because I thought that they
would'Ve said right (pause) we're taking your statement this is how it's gonna be, now
if you proceed and that and he doesn't plead guilty in the police station it will go to
court. (W4, p4:24-27)

Women feeling their needs did not fit with the aims of the justice system, at this early stage
was not uncommon; the motivation that had driven women was at times rendered invalid, as
was the sense of being in control. Woman 4 had seen her own actions as an attempt to break
free of the control of her relationship, and she had sought an official response to endorse her
decision. By their actions, she saw the police as disregarding her reasons for coming to them.
They had changed the course of her decision-making without her consent, and she felt
strongly that they had disempowered her as a victim once again, which had implications for
her state of mind. She had been failed in some way as her intentions did not match those of
people in "authority", and increasingly felt she had no reason at this time to engage further
with this process:

At first I thought yeah I've got it [control], then it was taken away again and I'm
thinking, I'm a victim yet again. But I'm not a victim through my ex- husband; I'm a
victim through the police service. Because I was not informed and I had things
dropped on me. I'm thinking why? why? I then was going through, why am I
bothering? If these people, these authority figures are supposed to be there to help you
and that and their not actually helping you. You feel really, really low and rubbish
because of what they are doing, and because they're not obviously meeting their
standards. I thought then why am I continuing, why am I continuing to help them,
why should I cos they're not helping me? (W4, p8:31-39)
Thoughts and feelings once the police became involved

This theme constitutes women's thoughts and feelings once contact had been made with the police. One (on-going) area of concern for women, was how the expectations and perceptions of them as individuals, and women victims as a group more generally, became important as they began their experience/relationship with those in the justice system. The range of feelings women had when charges were pressed and they knew the case would go to court are also raised here.

How women perceived how they were viewed by police officers

Once women had made contact with the police\textsuperscript{15} a key motivator in their willingness to see a case through, was how they and their decisions were responded to. Women had reservations about how they were viewed, and the expectations those working in the justice system might have of women, and domestic violence cases more generally. Examples of the kinds of decisions women felt were expected of them, though not always fully understood, were generally those related to women retracting or changing a statement, and/or wanting to withdraw from a case due to go to court. In the excerpt below, the woman sensed an expectation from the officer. The lack of "surprise" was viewed as a wider expectation of women as victims of domestic violence. The opinion that prior knowledge of a woman's past decisions in such situations was used as a predictor for any future actions was also suggested:

I could sense that the lady from CID, I think she, she saw it [a retraction] coming, sort of matter of fact. She wasn't rude with me, she wasn't funny with me in any way, she just took the statement, but I could sort of tell that she knew; she didn't seem surprised or concerned. Of course, she would have known from the other officer I had met before, that I had retracted a statement in the past. (W2, p13:5-8)

Women were of the opinion that a lack of awareness of their situation played a part in how the police (and wider justice system) view was formed: this contributed to how seriously women felt they were taken (rather than the violence they had experienced). It was felt generally, that
the connection between the complexities in women's lives and their decision-making was underplayed. One example of this was the lack of understanding concerning the continued control placed on some women's lives by their relationship, and the risks and consequences in pursuing any legal action. There was often a sense that the choices women made were met with dissatisfaction and frustration on the part of professionals, notably in relation to retraction.

The use of retraction as a limited way of women exercising choice becomes increasingly important later to women as they describe their experiences as the case reaches court: when exercised by women there were often multiple reasons why this was done (see Chapter 7). Woman 9 explained why she had retracted her statements in the past. She described the hold that her partner had over her, but also how she had chosen to stay in her relationship for a long time because of how she felt about him. She sensed that because she had remained in the relationship, there was judgement of her as a person on the part of the police: this perception of her threw doubt on her character and on her reliability when she did approach the police.

She gave accounts of her experience of officers being aggressive and vocal towards her because of intolerance of her situation, which had got to the point of her making steps to complain:

He'd been arrested a few times through domestic violence, they [police] knew that he'd urinated on me and assaulted me in the past. What I did was I retracted my statement (pause) cos he is, quite erm he's quite manipulative. I can't even say it... You know though, I've been in love with him since I was sixteen. Obviously it's twelve years you know, what I mean it's a long time, he seems to have like some sort of control over me... But the police are quite, the police have attitude with me because of that... Seem to come across with attitude to me like... I'm wasting police time and things but they don't understand the situation, I think if they put themselves in the same situation. I mean some of the police officers that have come to attend the arrest they're younger than me, and they're quite aggressive and quite cheeky towards me; I have put complaints in before. (W9, excerpts p1:4-24)

It was unclear for women exactly how expectations were formed at times - whether it was purely on women's decision-making or based on the nature of dealing with intimate
relationships in a criminal justice setting: women described points when they thought support was lost and it was unclear why. One example of how this view could manifest itself was the experience of the system seemingly diluting the seriousness of their claim. Woman 4 described how one of the charges against her ex-partner had been "downgraded" which she perceived to be a reflection of her status as a victim of domestic violence, as well as the status of her case:

I don't think I looked convincing enough...personally I thought oh obviously it doesn't matter that much [when the charge was changed]. I'm the lowest of the low on the league tables, its (long pause), but and my injuries were quite bad, so, I thought oh if its gotta be higher than that! God, I'd hate to you know, know what they consider for it to be higher...they didn't explain, they just said that it been downgraded to a common assault, and I didn't at the time even think of asking, and nobody explained why it was like that, so, even though I had quite a, a lot of physical injuries. (W4, p3:40-50)

The police perception of women could seemingly shift at times. Some of the views expressed by police officers towards the behaviour of women's partners/ex-partners were seen by some women as a form of tacit support: this was more apparent once women had shown more motivation to engage with the justice system. For women who had a longer and more recent history of contact with the justice system, this contrasted with the perceived traditional police culture of 'non-response'. Woman 5 commented on the police reaction to her ex-partner's actions after she had reported the last occurrence of violence. There was a level of animosity towards her partner at which she felt, this time her situation was being viewed more seriously:

Oh yeah, they think he's a bastard, a bastard...the police [man]he wants him taken off the streets and...yeah they basically people don't want him around...

I felt more supported this time that people have taken it seriously. (W5, p13:19-23)

**Immediate reaction once charges were pressed and women knew the case would go to court**

The way women felt once the police had become involved, and they were told it was likely that this case would go to court evoked what women described as "sudden and intense feelings" (W4, 15:4), which resulted in some women feeling uncertain of their actions, and others having a greater sense of security. Those who described how they instantly regretted
the decision to become involved often did this because of the early response they experienced from the justice system. For others this regret came from feelings of insecurity and self blame, and not attributed to any action their ex/partner had taken. The excerpt below shows how Woman 2 described regret and blamed herself at this point (she would later change her statement):

No, this was in December and then when he got remanded I felt absolutely...I felt, like it was all my fault, because I was the one that had split up with him, because of the drug problems, and I just felt that it was all my fault and my son was going to be without his dad at Christmas, and that was my fault because I should have...I shouldn't have been shouting at him asking him to leave. (W2, p2:18-23)

In contrast, those women who were happy with the decision they had taken, and with the response they had received, described feeling more positive, even excited at this point. Women described that the reason they were feeling less threatened generally because their involvement had been a result from their own decision-making, and they had experienced a positive responsive to this. Woman 8 described how her more recent decision to report her ex-partner to the police, and their reaction to this, by his subsequent arrest, had left her feeling elated, in contrast to a previous occasion when she considered that the police or courts had not taken her report or case seriously, and she knew she was still at risk:

Er, well for a while it was, to be honest it was all good. I felt brilliant for a while because I was so, I felt so protected. I mean the police would come round to my house, well my parent's house. They'd just come in [and be] very attentive, it was a total opposite obviously to how I'd been treated the first time I reported an incident. (W8, p5:13-18)

Chapter summary

This chapter begins to explore how and why women came into contact with the Magistrates’ Court process. The findings show that to presume identical levels of engagement or, intention of engagement with the justice system when asking women about their experiences would be a naive starting point: there were variations in how women came into contact with the process. All the women’s accounts demonstrate how circumstances shaped their individual
experiences and required further understanding. The key theme running through this chapter is the importance of the role and nature of decision-making and within this the relevance of rationality and intentionality for women in the study in the early stages of contact with the wider justice process. This was a recurring theme in women’s accounts when reflecting on their ‘whole’ court experience, and so provides a framework for understanding their decision-making in later stages.

There were differences within and across individual narratives; nonetheless, the analysis and presentation of findings have shown there to be a number of strongly associated themes in the context of decision-making, which were of considerable importance to, but variously discussed by different women throughout their accounts. The first two of the seven themes (shown as sections) of the chapter relate to rationality, and the reasons which underpinned women’s decision-making. Similar to Lempert (1996; 1997) and Cavanagh (2003), this was examined in the context of women’s interpretations of the complexity of their ‘lived realities’, and in response to this context, the ways women would take action in order to manage the violence and intimidation from their ex/partner. Though this does not necessarily always describe or involve decisions made directly in respect of the criminal justice system, or other help-seeking strategies, it demonstrates the broader range of resources women drew on. These interpretations informed a “contextual framework” (Kelly:1999:35), which acted as a necessary consideration and insight into the reasoning behind the types of decisions women made when managing their situation, and in their decision-making more generally at this time.

Also connected to the initial discussion is the third section, which was the value and use of past experience in informing decision-making, directly here in relation to women’s interface with the justice system. There were a number of foci, which comprised the effects of positive and negative experiences of initial contact with the justice system (Hoyle:1998; Bennett,
Goodman and Dutton:1999; Robinson and Stroshine:2004), including how this affected their own risk assessment; and how women considered particular internal and external factors which may impact on decision-making in the future (Fleury-Steiner, Bybee, Sullivan, Belknap and Melton:2006). Women also emphasised how the perception of them, as victims and their decision-making by those in the justice system, impacted on their actions and acted as barriers to participation. A more nuanced understanding is offered through women’s experiences here, of CPS and court perceptions and attitudes towards victims. This adds further insight into an area which has focused more specifically on the legal actors and their approach to, and management of domestic violence cases (Cretney and Davis:1997a; Cammiss:2006). There are also some similarities to studies which look more closely at the response and demeanour of the police (Stephens and Sinden:2000; Robinson and Stroshine:2004) in shaping women’s perceptions.

The next three themed sections highlight recent decisions, the motivations of women and the limits placed on women’s power to decide. How women came into contact with the court process highlighted the importance of considering the context and ownership of this decision, and assumptions made regarding women’s intentions whether or not to be involved with the justice system. This is consistent with previous research which highlights differences in expectations according to what the aim of contact was (Hoyle:1998), while offering a deeper understanding of the effects of intention and action on women’s experiences, if the woman had personally instigated contact with the justice system, or this was done by others on the woman’s behalf (Ford:1991; Ford and Regoli:1992; Robinson and Stroshine:2004). The chapter highlights the differences in motivations and reasoning behind the women’s choices who had wanted contact with the justice system. These subtleties offer new insight to those who consider women’s goals in various ways (Lewis:2004; Robinson and Stroshine:2004; Lewis, Dobash, Dobash, Cavanagh:2000), and the concept of women’s justice and safety.
objectives (Holder: 2008). What emerged as important here, is what women want to achieve, and their action being considered as rational because it is of “value” to them (Felson, Messner, Hoskin and Deanes: 2002:619), and not whether any one valued choice is congruent with the justice system aims.

Women voiced concern over the limitations placed on their decision-making by the justice system in the early stages which largely disregarded their original intentions, producing some tension between women’s goals and those of the criminal justice system (Ford: 1991; Mills: 1998; 1999; Hoyle: 1998; Robinson and Stroshine: 2004). Similarities can be drawn with Ford (1991) and Lewis (2004) in relation to how women used the law as a ‘power resource’, in specific circumstances and for specific purposes; the chapter also shows how women wanted the law to respond, could change over time and result in amended goals (Lewis, Dobash, Dobash and Cavanagh: 2001). Women’s accounts talk of how their decision-making was viewed, regarding their ex/relationships and their choices at the time they came into contact with the justice process. This caused the women to perceive their rationality to be doubted, and their requirements of the justice system to be questioned. The conclusion is though, that women’s decision-making remains rational (Morris and Gelsthorpe: 2000), but a rationality that incorporates these reflected perceptions: the women are rational, but don’t always think they are seen as such. It may also be the case that expectations women have of their role in the system, and the outcomes that could or are likely to result, are not borne out once they are engaging with it, and this realisation results in women changing their orientations to the justice system. The reflections of the final section give a further, necessary understanding to how women perceived their situations were viewed, how important consistency was in the responses they received, and how this impacted on them at the time.
Although the themes are not equally present in all the women’s interviews, and cannot be generalised to all women who have contact with the police or court, the findings assist in building and adding layers of understanding, offering a wider interpretation of the context of women’s decision-making. In exploring women’s accounts of coming into contact with the Magistrates’ Court process, it can be seen how this is complicated by women’s experiences. The varying complex and combined pressures, and experiences which impacted on how women managed their lives, and would take action, set against the criminal justice process at this time, brought to the fore the dichotomy between agency and structure (Giddens:1984): how can agency operate when having to resolve rational (criminal justice system) decisions and what are perceived as non-rational (every day) decisions? The chapter also engages with the discourse that considers, what the extent is of women’s actual and perceived control (Fleury:2002) and legal power (Mills:1998; Miller: 2003).

The next chapter reflects the thematic findings raised by women in relation to how they experienced and perceived the time before or leading up to court. This time was not necessarily informed by procedural points within the justice process: as shown in this chapter, other complex events, influences, and decisions continue to play a part in the way women’s experiences were structured and defined.

1 It needs to be clarified from the outset (of reporting the findings) that women who took part in the research differentiated between the types of decisions which resulted in contact with the court and wider criminal justice process: these decisions did not always come from women themselves; where this is so, it is explained or noted within the text.
2 Also, in some instances early contact with the Crown Prosecution Service.
3 This research focuses on the Magistrates’ Court; women referred less to the Crown Court and the Civil Court.
4 There were instances of women who had cases in various courts in the past, outside the case study area and research timeframe, but generally, those that were referred to (unless stated otherwise) fall within both.
5 Other, additional strategies women employed involved decisions to contact a friend, a family member, a support or other, non-justice related agency.
6 A Newton Hearing comes about when there is dispute in the evidence of a case.
7 Since 1994, the Code for Crown Prosecutors has allowed for prosecution without the co-operation of the woman/original complainant, if there are “grounds for believing that the offence is likely to be continued or repeated, for example, by history of recurring conduct” (para. 6.4).
8 There is a discretionary context to this, for instance in court observations in the case study area where for example, the witness's mental health may be at risk. Nevertheless, women in the study were called to appear against their will.

9 The Domestic Violence, Crime and Victims Act 2004 made breach of non-molestation orders and restraining orders an arrestable, criminal offence, which can result in a custodial or non-custodial sentence (see Chapter 1).

10 See subsequent findings chapters.

11 Note that the names of workers and local agencies have been changed.

12 Women described withdrawing their support, or retracting their statement at various points in their contact with the justice process (and for a number of cases). For instance, almost immediately, sometimes just after reporting women retracted or changed a statement, also just before or during a court case.

13 The Magistrates Court has the power to give a custodial sentence for up to three months, some cases went to the Crown Court for sentencing where the tariff powers were greater.

14 It is noticeable that when women elected to recall instances of men's behaviour towards them, more physical violence was described initially. However throughout their accounts, behaviours are described in-depth by the same women, widening their definition and experiences of men's violence. It is possible that the focus was on the threat of, or actual physical violence, linked to established, more workable aspects of definitions, as these are seen as more tangible evidence, or indeed an offence in law (see Chapter 7).

15 As outlined in the first section, for many this was a repeated experience

16 Note, this relates to a different incident than previously discussed.

17 Downgrading charges was also viewed as a practice employed as way of achieving a higher possibility of securing a prosecution by Crown Prosecution System.
Chapter Five

Disconnection, anxiety and anticipation: the time leading up to court

Introduction

The thematic findings presented in this chapter represent collective areas of concern raised by women in relation to how they experienced and perceived the time leading up to court. This time was viewed as an important part of women’s experience and was highlighted as a period of detachment, resulting in women feeling isolated from the process. The specifics of the justice process were not always perceived as having a direct relationship to them: non-justice related events and feelings also helped structure and define women’s experiences.

The four sections concentrate on themes which manifested themselves in women’s experiences and resulted in women's expressed feelings of disconnection, anxiety and anticipation at this time. The first section, 'Feelings of disconnection: how women perceived their relationship with the justice system', addresses how women felt about the relevance of their involvement to the justice process. The second section, entitled 'A continued presence: the effects on women of other people's actions', concentrates on how, during this time, women were affected by the continued and often unwanted presence of their ex/partners, and friends and family of their ex/partners. 'The impact of other influences at this time', highlighted in the third section, looks at other aspects of women’s lives that influenced them, and at times took precedence over their forthcoming court case. Section four examines 'Women's growing feelings of apprehension and anticipation'. The potential positive and negative aspects for the women as the court date approached are touched on here.
Feelings of disconnection: how women perceived their relationship with the justice system

The way in which women described and understood their experiences in relation to the criminal justice process at this stage emerged as an important theme. What connects the range of experiences and explains how women perceived this period, is how women felt they were not involved or central to the process. It should be noted at this point that the women interviewed had different points of reference in relation to this time period, and these were not necessarily informed by procedural points within the justice process.

For many women the specifics of the justice process were perceived as having no direct relationship to them. One main reason women reported was because the process was seen at times to be progressing without them. Women described how they were left feeling disconnected from their experience, because they viewed themselves as uninvolved and/or uninformed. Woman 2 explained that in her (most) recent experience she had been distanced from events since the time of early decision-making, to the time before she went to court; by which time her ex-partner had attended a number of hearings. She felt everything was out of her control, with no information or involvement: it seemed the process was progressing regardless of her. Even though she was instrumental in the inception of the process and was sure she had a stake in it, she felt irrelevant to it:

I felt kind of taken away from it, the police, the court case...everything going on...it was just taken out of my hands and it was all going on around me...out of my control...I wasn't told anything...but it was about me. (W2, p 4:7-9)

When women described how they felt uninvolved and somewhat out of control, there was a shared sense of isolation from the process, which was seen in part as a symptom of the time spent waiting to go to court. There was nothing tangible for them to do in relation to the court case, yet this was viewed as a really critical time by the women. They described themselves as particularly vulnerable to external pressures (outside of their relationships), which increased their levels of anxiety and affected their self-worth. Woman 4 spoke of how she
experienced feelings of isolation as she waited to find out what was to happen next for her. The focus, she felt, was not on her as a victim: she was excluded from the process, which made her frustrated and fearful, and something she was not prepared for. Woman 4 drew comparisons with other women's experiences of this time that she knew of, where women had resorted to withdrawing their statements. She discussed the options she considered women to have, these involved women accepting their situation to a degree, and waiting until it was their "time" to be included. The latter would be indicated by some form of contact from the justice system, or by women appearing at court:

With no contact or information you do at times feel very, very isolated and that first few weeks of every night you're going to bed...it's not a nice feeling at all, it really is quite traumatic in itself, waiting for daylight hours to come and trying then to get on with the next day. It seems like it is not about or for you any more...some women just aren't geared up for this. You can accept that and wait until it's your time, but I know there are women that just give up and end up going back into that relationship, or then get frustrated like I did. (W4, p16:1-11)

As they waited to go to court, a further concern stemming from women's feelings of separateness was how they found it increasingly hard to relate to what was going on after the time of arrest until such time as they were required at court. For many women, this left them feeling as if their reason for being in the justice process, and their part in it, had been lost. The 'progression' of the case was determined by other people who had a part to play in the process. This sense of detachment was borne out in a number of ways. Woman 5 recounted how she found it hard to relate in a positive way to the justice system during this time, and how her sense of purpose seemed to disappear. She had waited a considerable amount of time to go to court due to a number of delays; she viewed this time as being 'controlled' by the justice process and her ex-partner.

The first event Woman 5 described (below) was in relation to the disappearance of her ex-partner after charge: she viewed his behaviour and actions as playing a part in determining "when" and "if" (W5, p11:15), the case reached court. She believed that the role of the police
in locating him partly contributed to the delay, but saw her ex-partner as playing a key part in how the case proceeded: whether or not this was done intentionally, his actions were controlling her life (also see next section). The second event was viewed more directly as a procedural delay, when her personal medical records were mislaid, which included photographs of her injuries: she described this aspect of her experience as unearthing feelings of vulnerability and vivid memories from the past, when she decided to press charges.

Woman 5 saw these events as linked, and combined to delay her case coming to court by six months. She viewed this time as agonising, when she was forced to revisit the past, and when she felt distanced and excluded from the present process. It resulted in her confidence being eroded, and she felt her own individual story had become remote:

They had to find him first, and they lost my medical records at the hospital and all which didn't help matters...It kept reminding me of how I felt [when I pressed charges]. I know I was in a daze, I can remember, I felt just horrible...they did take quite a few [photographs]. That did delay things as they didn't what to charge him until they had them [medical records]. When they [the police] finally found him, well he handed himself him in, then, they didn't know what to charge him with...meanwhile I wait and doubt, because my side of things is further away than ever. (W5, p15:17-26)

A continued presence: the effects on women of other people’s actions

Women described how aspects of their personal lives had sometimes taken over. One prominent illustration of this theme was how women saw the time before court as affected by the continued presence of aggressors in their lives. This ‘presence’, was usually in the form of intimidation by former or current partners, but could also involve their partners’ friends or family. Such experiences had consequences for how women felt about court process and contributed to the sense of isolation they described feeling at this point.

The continued presence of aggressors in women victim’s lives

The continued presence of ex/partners was regularly described and seen by women as an unwanted pressure, usually in the form of intimidation and harassment, and in some cases physical assault. They described different times when their ex/partners had taken direct and
indirect action towards them in the time before court. Here, the ‘presence’ was described as continuous, whether at a closer or more distant physical proximity. When women in the study described how they viewed this continued influence, it was in two main ways, more usually as imposed, and less often as necessary, but cautiously accepted: women's understanding and examples of these views are outlined below.

The imposed presence of an ex/partner

The description of an imposed presence came from women who felt the control they had sought to escape by distancing themselves from their ex/partner was continuing, by what they considered to be, a presence of a forced nature. The women that described their experience in this way had, generally, taken action to detach themselves completely from their ex/partners. Most women had contacted the justice system to declare their intention in a more "public or official way" (W4, p4:2), and to demonstrate that their ex/partners behaviour and actions were unacceptable to them (see 'the motivations involved in women’s decisions in the previous chapter). In their accounts, women spoke of how they still encountered a continued presence, either directly or indirectly after this, and how they had felt they were not in a position to do anything about it.

The women who considered themselves to have taken the position of wanting no further contact from an ex-partner in an attempt to “move on” (W5, p14:42), talked of having experienced further intimidation in the time period before court. This left them having to revisit feelings which they linked directly with the violence and intimidation they had suffered previously, causing women to think they had returned to having little control of their lives. Woman 3 described how her ex-partner's behaviour and actions had affected her during the time before court, and how it evoked a deep sense of guilt. She also gave her opinion on how her ex-partner perceived his own controlling behaviour as acceptable:
He would bother me... he would ring me up quite a few times on my house phone, and ring me up on my mobile and say things that would make me feel guilty. He used to ring me up to make me feel as though I was the baddie and you know like that there was nothing, nothing wrong with what he was doing... I felt terrible, just mixed up, like is it me? Is it him? What's going on here? ... I feel like he messed with my mind, messed with me completely. (W3, p 6:1-9)

Woman 3 continued to reflect on the confusion that her ex-partner had created in their relationship. She had seen the forthcoming court case in the Magistrates’ Court as a positive influence for her, and a way of resolving her recurring feelings of doubt:

When I was in the relationship with him he was always right, [and] I was always wrong. I used to think is it me? Is it him? Is it me? So I doubted... all the time, and I think the fact the court thing was coming up; it's made me strong. I thought (pause) let’s get to court and get these decisions made instead of this feeling this doubt all the time. (W3, p 6:40-46)

There were instances when women made a direct association with the imposed presence of their ex/partners, and the lack of restriction put on them by the justice system (police or courts). Expectations of what protection the justice system could and would offer, emerged as an issue in women’s accounts to a greater or lesser extent. Woman 5 spoke of her disappointment in relation to the conditions of contact set by the court for her ex-partner, and the police response to this in her most recent (and on-going) case. Her main concern was in relation to the (bail) conditions she thought would restrict his actions, these were proving ineffective, and she felt let down by the justice system. Woman 5 expressed this in her description of his actions, she was dismayed at the perceived endorsement of her ex-partners' freedom of movement, which had resulted in his continued physical presence near to her home. The intimidation and restricted movement were coupled with the threat of further physical attacks:

The only thing [bail conditions] that’s against him now after all this is that he’s not allowed to speak to me, or ring me, he’s allowed to go past the house and camp outside the house, he’s actually been to the front door and put a card through the door, and when I rang the police he said “that’s not part of his bail”. I said “what he can actually sit outside my house?” he said “yeah as long as he doesn’t speak to ya”... he’s been up and down the road in a taxi you know and I felt proper intimidated yeah. I get out of the car at night when it’s dark and I’m thinking is he round, and he’s quite
entitled in his rights to do that apparently as long as he doesn’t speak to me. (W5, p5:16-19)

The intensified nature of the continued presence of an ex/partner, for instance by using wider ranging forms of harassment, was shown to further impact on the way women led their lives at this time. Women described how their movements were considerably restricted as a result: they explained how the nature of the harassment was instrumental in them changing their own behaviour and actions towards other people. Woman 8 believed that her life had been impacted on to such a degree by the actions of her ex-partner, that it had affected her relationships with significant people in her life. He had delivered ominous information to others in contact with her, which resulted in Woman 8 thinking she had no option but to detach herself from her circle of friends, work colleagues, work place, who were related to this occurrence. She described this episode as a defining moment; she perceived that any contact directly or indirectly from her ex-partner would harm her further:

Yeah, he went round to a lot of my friend’s houses, he tried to get me in trouble at work, people I work with; I’ve had to stop speaking to at least half my friends and I can’t go to certain places ever again...because of this [I know]I can’t see him ever again. On the day when I made pressed the charges when I said I’m prepared to go on that on that day that’s when I made a lot of decisions like that and cos I have to. (W8, p6:1-8)

The necessary (but cautiously) accepted presence of an ex/partner

A subsidiary theme came from women who expressed that they genuinely accepted that the relationship was continuing in some form at that time; they described how their ex/partners presence was seen as (almost) necessary. Women spoke of how, to some extent they had normalised some of the behaviour they had experienced at this time. They had expected and accepted that there would be a continued presence, but could not specify what form or frequency this would take as they had no control over this.

Here, women did not wholly accept the behaviour of their partners, hence the caveat made by women who said they were cautious of this situation. The women that spoke in this way had
come into contact with the justice system because they had concerns about further threats of violence. For the women who, for the most part, had wanted to continue with their relationship in some way, as shown in the account of Woman 9, the need to proceed, but with caution, was always at the back of their minds. It was the long standing controlling and abusive elements of her relationship which motivated her to take action. She reported her partner to the police to remove him from the home and into custody, but not with the intention of him being given a longer term custodial sentence. Despite her own fears, she still had concerns for her partner, and had of her own volition, made direct contact with him: she considered she may still have had a future with him:

I went and visited him on Thursday...to take his son up, he’s [ex-partner] in a mess he’s just... I’m not putting him where he is to be spiteful, I’ve gotta think of my future if I’ve got any left of it with him. I feel like out of sight out of mind at the moment, if I don’t see him or don’t hear from him I’m alright. My heart rules my head sometimes and he’s my weakness he seems to just like...he’s got some control over me, I get scared, I wish I could just switch it off, but it just doesn’t. (Woman 9, p6:24-34)

When imposed forms of contact by ex-partners were considered to be a more or less accepted as a component of a relationship, women described how it could be problematic for them to then challenge any unwanted actions. Women were tackling aspects of their ex-partners behaviour they did not feel comfortable with, but saw this as a difficult thing to do alone in this context of a continuing relationship. It was in these circumstances that women employed a wider range of actions or ‘ways of doing things’ as discussed in the previous chapter (see ‘the decisions involved in managing violence and intimidation’). At the time of the interview, Woman 2 was waiting to go to court for a second time that year. She saw herself as beginning to challenge the continued presence of her ex-partner, as she distinguished some behaviour as causing her more anguish than others. She explained how her confidence to request her ex-partner to stop his intimidating behaviour, together with her intention to take this further, came from having a range of support for her actions from her own (civil) legal adviser, and work place support:

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He'll phone up, but I just hang up, but when he phones up he’s been crying, he’s done this before, but I had not contacted the police because I know that he will get remanded in custody, and he’s been at the end of the road in his car, because my sister’s been round and seen him. He was sat outside work waiting for me, but because I have started divorce proceedings and things, I got my solicitor to write him a letter basically saying that we’ve got video footage of him sat outside work. I work in a medium secure unit, so the letter said this and that the cameras cover every angle of the unit, so we’ve got full evidence of him sat outside work, and if he continues with this sort of behaviour, then I will contact the police. (W2, p8:12-22)

_Intimidation by proxy: the presence of family and associates_

In their continuing experience of violence and intimidation, women described the part played in this, by family and friends of their ex/partners. Some women believed they were less at risk of harm from their ex/partner at this time, and more at risk from significant others known to the man, such as his family or friends. The view could be taken that such actions were simply the ex/partner enlisting support, and as a result, still having a constant and indirect presence in women’s lives. However here, women mostly defined this as direct action, in more and less subtle ways, where family or friends would take things into their own hands:

I did feel a risk from him probably the first couple of weeks [after the charges were made], but then when somebody that works along with IDVA came and made the house more safe and secure, they fitted extra locks and panic button and things like that, which in itself made me feel more secure in my own home. I knew he feared what was happening, and if he [ex-partner] breached bail he was automatically on remand. Anyway, so it wasn’t him... he sort of stuck to what he was told... it was his family that directly had a go at me. (W4, p6:7-18)

Woman 4 further explained the impact of the direct action of her ex-partner’s family at this time on many aspects of her life; this was due to the fact that unlike her partner, his family did not have boundaries imposed on them. The intimidation resulted in her changing her own behaviour and actions, and restricting her movements because she felt at risk. She described how aspects of this behaviour impacted on other aspects of her life, for example, in relation to her custody of the children and her ability to get housing:

I had a lot of problems with his family, it was his family that phoned social services, making allegations about myself. I was [also] set in line to rent a property from a friend of mine who’s a local estate agent, and his [ex-partners'] mother went in and
said all sorts of I don’t know what, he [friend] still won’t even divulge to this day, and it ended up in me consequently losing the house. I had his brother sat outside my house one night. Yeah, a lot of it [trouble] was obviously them...the fear if I bumped into them doing my shopping or just going somewhere was awful...there were probably about three of his family members involved. But obviously they had no bail conditions; they could do whatever they wanted to. I felt, the safest place was in my own house. (W4, p5:30-43)

More subtle and controlling forms of intimidating behaviour were seen to be employed by the aggressor’s family. Women described how this behaviour was often not recognised as such until much later. It was not viewed as harmful, but accepted at face value at the time. Woman 2 described how, on a previous occasion in the last year when she was waiting to go to court, her only perceived support at the time was from her own family. Her emphasis however was on her ex-partner’s family, she had also viewed their presence as positive, but later recognised more subtle forms of intimidation and controlling behaviour, specifically from her mother and father in-law in the interests of their son:

The majority of the time I was in contact with his [ex-partners] mum and dad. Most of the time, they were the only people I was listening to... His mum kept saying “oh, he’s so poorly, he’s so ill, he needs to get help, he’s so sorry for what he’s done”. I was confused, and they knew I still cared about him... and because of my son...they kept chipping away... I thought they cared but...you know, I don't speak to them now unless I have to. (W2, p17:3-15)

When women perceived a direct link between the intimidation they were experiencing from their ex/partner’s family and associates, they believed themselves to be more vulnerable. Women reported anxiety and a heightened perception of the dangerousness of their situation. Woman 9 described how she was progressively more controlled in her day to day life, when she realised her ex-partners’ friends were monitoring her whereabouts. She viewed this as action taken in direct response to the requests of her ex-partner, who was in custody until the (current) court case had started: she recalled threats he had made in the past, and she felt from his reactions when she visited him, that he was aware of her movements:

He gets people watching me; he's got bouncers [at a club] who know me in [place name] ringing him up that morning...he told me when I [visited him in custody]... what I'd being doing and who I was with. It made me think; just say I haven’t been
with him [ex-partner] for ages. Imagine if I did go out and meet someone and I did take them home and have a quick whatever. This time it was a friend, we fell asleep. He’s admitted that if this happened, he’d come in and kill us both. (W9, p9:26-28)

The continued presence of ex/partners and their significant others highlighted the overt and covert ways in which elements of control, intimidation and violence were used persistently and intensively towards women at this time. Women illustrated that such actions influenced their thoughts and feelings concerning their own self worth, their actions, their immediate and long term safety, and their confidence in the justice system.

The impact of other influences at this time

When women talked about how the time before court was for them, they emphasised other aspects of their life, which at times had taken precedence over their forthcoming court case. This themed section addresses pertinent issues women experienced at this time, which reflect the ‘complexity and inter-connectedness of influences on women lives’ raised in the previous chapter. The aspects of women’s lives that caused concern at this particular time, are presented in order of their salience to the women, these were predominantly: concerns for the welfare of children; the growing concern and fears for their ex/partners’ welfare; and the need for some women to respond to their own mental and physical health.

It is important to note here, that women felt there was an important underlying cause of their concern and associated feelings; this was the cumulative nature of events they had experienced. These events were broadly described as: the violence and intimidation they had suffered; the initial (early) decisions that had been made to get to this point (see previous chapter) and subsequent pressures they experienced in the time before court (as discussed in this chapter). The aspects that influenced women's lives were viewed as different from, and not necessarily of secondary importance to, direct legal concerns. Ultimately women viewed
these influences as taking priority, and so were viewed as important in structuring and defining this period.


text

Concerns for their children

For women who had children, there was a sense of responsibility and concern for how the build-up to the court case might be affecting them. Part of the apprehension was how this experience might impact on both the maternal and paternal relationships children had. Women described having their own feelings of guilt, and how they viewed guilt was also put on them by their children regarding the actions they had taken; elements of which were seen to be directed by ex/partners (W3, p5:14). Woman 2 was concerned by her young son’s relationship with his father in the run-up to the court case. Her concern and level of guilt was all the greater because this was the second case in a year that would reach court. In the excerpt below, she separates out the violence that she received at the hands of her ex-partner from the relationship with his son. She felt guilty and anxious about how the case and its outcomes could affect the relationship between father and son:

Even now, he still has have a very good relationship with his son...I am more focused on their relationship, especially now after this year. Even though he’s been violent towards me on so many occasions, he’s always had a really, really close relationship with his son...it worries me what might [happen]. (W2, p3:34-38)

An additional concern for women as they waited to go to court, was how this experience might impact on the relationship they had with their children. Some women described how they were viewed by their child/ren as the instigators of the justice process. The combination of this association by children, with the general effects of the build-up to court presented themselves in a number of ways. Woman 4 described the period before-court as a "pressurised time" that impacted on all three of her children. She knew they had all sensed a change in her, however, she was especially worried about the damage that her bringing the case to court was doing to the relationship between her eldest daughter and herself. The
daughter was not only affected by the violent incidents, but she viewed the court case as a threat to her father, and Women 4 felt that she blamed her mother for the situation:

Yeah, the children obviously saw mummy wasn’t the same person and that has impacted them hugely. My eleven year old was aware of something [happening] because she was witness to some of the incident that happened, and she had been witness to quite a few incidents previous to that. I tried to explain to her as best as I could, but she’s always been a daddy’s girl, and she had just seen this as me being horrid, and I was trying to get daddy away ...But she has learnt to deal with it and she has a better understanding of things [now]. But it has affected you know all of the children in some way. (W4, p6:37-46)

Concerns for their ex/partners

A number of women spoke about how they had held growing fears for the well-being of their ex/partners. It may be perceived that those women, who had concern for their ex/partners, were thinking of the future risks and ramifications for themselves, but few women talked of fears for themselves openly when they discussed the time before court. Instead, they addressed self blame and doubt over the decisions they (or others) had made, to report an incident that might result in going to court. These doubts were expressly based on the concerns they had for their ex/partner.8

Regardless of a forthcoming court case, the complexities of the situation were shown not simply to be characterised by the legally specified relationship between the defendant and victim. The depth of feeling and concern women expressed for their ex/partners during this time is an illustration of this. In her account, Woman 2 described how she managed to almost eradicate the series of violent episodes she had experienced from her mind, as she became more concerned with how he would deal with the possibility of a period of imprisonment. She had previously retracted statements to the police, but on this last occasion had felt sure she wanted charges brought against her ex-partner, but again could not escape the concern for his welfare over her own; in hindsight she regarded her view as nonsensical:

I wasn’t really thinking about me (spoken quietly), rather than for me, I felt quite nervous for him and worried because I knew that [he could go to prison]. I just
couldn’t imagine him being in prison, he’s never been there, how would it affect him? It sounds really, really ridiculous now. (W2, p3:43-47)

In her account, Woman 2 showed the depth of her concern for her ex-partner. Her focus was on their relationship and on his vulnerability, rather than him being an aggressor and despite her being a victim to him. She focused on his addictions as the underlying reason for his violence towards her:

Because he was only ever aggressive towards me when he was under the influence of [drugs or alcohol], and I thought “oh my god he’s just going to get eaten alive in prison”. He’s not a nasty person and, and even though it does sound like he is, he isn’t. (W2 p3:4-14)

The effect on women's health

The matter of health was raised specifically, and in passing, by women in reference to this pre-court phase. Nevertheless, there was a great self awareness depicted in women’s accounts of the effect that such health issues had on their lives at this time. How women managed matters relating to their own physical and mental health was shown, not always to be based on whether they should take any immediate or eventual action. These concerns were of less importance than other matters.

The care and concern over physical injuries was more often replaced by more dominant issues of anxiety attacks and longer term mental health issues. The way women described how they had changed their behaviour and actions to manage violence and intimidation, especially when they felt there was a continued presence (see previous section) was discussed alongside the issue of women’s mental health. Woman 4 was dismissive of her physical injuries; she focused more on the reasons for a deterioration in her mental health in the time before court and since then. The increase in her anxiety which had resulted in panic attacks was seen to be as a result of the anticipation of the risks and ramifications attached to her decision-making.

The effect of living in continued fear had forced her to restrict her movements:
I went to my doctor because of my injuries; later on I returned and explained it all to him, he could tell obviously that I was in a state and prescribed me diazepam. I needed that for quite a few weeks in order to just get through every day. I'd wake up in the morning and have, I still have panic attacks now, but I was waking up in the morning and I couldn't breathe and just having to take pills just to get me through each day and then having, I remember the first time I went out shopping [leading up to the court case], having to take a couple of pills just to go out with, I had two of my friends with me, I refused to go out with one, I had to go out with both of my friends and continually looking round and watching and... (W4, p6: 27-38)

Women gave reasons for what they considered to be a varying focus on aspects of their health. Some women found this experience to heighten awareness of health issues, though for many, the result was that health issues were pushed into the background. In the main, this was usually because many women felt they had other priorities, and due to this they had less concern for themselves. As a result, women described how they would minimise or delay any thoughts of action regarding their own health issues:

There was so much going on before...too much, to think about doing [anything about my health]...I used to have severe panic attacks, I was on diazepam. I have had a few panic attacks whilst waiting to go to court again... Part of me still thinks maybe it would be a good idea to go [to a counsellor], but things are a bit calmer now...Talking through sort of, what's been going on over the last 4 years sometimes seems like a good idea, but another part of me thinks maybe, I should just move on now. (W2, 15: 45-51)

A number of women said they were uncomfortable talking about health issues, particularly mental health matters. In respect to the court case, women were wary of such issues being more widely known and possibly being used deliberately in court against them. Woman 8 said she had growing concerns about how her mental health, having previously experienced a breakdown (during her pregnancy) and specifically how knowledge of this might have been used against her in the court case:

To be honest my main concern was that he, they [ex-partner and defence] were gonna make me out to be an idiot or losing my mind or all of the above...I was expecting this very together person to appear in court, trying to make me look... I was expecting a real fight on my hands to prove [what had happened]. (W8, p5: 33-35)

One short term solution offering some respite for women, and time for them to consider their mental health, was when remand or temporary custody was used and ex/partners were
contained. This could be enforced by the police at the time of arrest, and until a first appearance in court was due. In some cases, if those in the justice process saw fit, this could be for the duration of the court case. Regardless of the length of time, it was a period when women described how they could take stock and take care of their health. Woman 9 felt that by her ex-partner being placed in remand after arrest and until the trial produced a temporary improvement of her mental and in turn physical health:

I have been upset and quite, quite (pause) frail at times, not eating not sleeping. I’ve really only just started eating in the last few weeks, that’s only because he’s locked up [on remand]...when he’s out I’m on constant nerves. (W9, p22:22-28)

Women's growing feelings of apprehension and anticipation

As the court date approached, women described both a growing sense of anxiety and hope. Some women referred to this as the point when their experience would become increasingly more “real” (W4, p15), but nevertheless they remained detached from this experience. Within this theme, it seemed that the women felt that positive outcomes were possible, but only if other factors could be overcome - these factors are often associated with apprehension relating to their own performance at court.

Women described how they began to think more directly about appearing in court, not only about coming face to face with their ex/partner, but more specifically here, a continuing concern for how they would be perceived was raised, and how their situation would be understood by those in court. The excerpt below is an example of how women described how they felt in relation to being a witness. The main concern here was how she would come across, and whether she would give a full and accurate representation of what happened. This was a worry that pre-occupied women's thoughts as they realised that their court date was looming:

There was different things running through my head running up to it coming to court, like just how it’s gonna go, how it’s gonna come out, you know what you want to say.
but you're worried in case (*pause*) you don't get it all out in court, how it was then [at the time of the time of the incident]. That's how I felt, you know coming up to the court... what would they [in court] make of me? All a sudden it was not far away.

(W10, p4:1-4)

For some women, the overriding sense of anxiety they experienced, was tempered with a sense of anticipation. Going to court was viewed as a way that their situation would become more controlled. The excerpt below demonstrates this. The real sense of guilt and anxiety that women described is also shown here, worsened by the continued harassment some women faced as they waited to go to court. In this case, and at this point, there was also a feeling of expectancy, which was described as having an effect on the woman's determination to see the situation through:

He was still hanging about me. Every time a letter or anything came through the post he put the guilts on me. I felt guilty, but relieved inside because something was gonna happen and something was gonna be sorted out... I knew I wanted to take it through, but I didn’t know whether I actually could if I had to, stand up in court... I knew I would get all frustrated and panicky, I thought my words would get twisted. (W6, p10: 20-28)

**Chapter summary**

This chapter reflects how women experienced the time leading up to court; themes are linked to women's sense of disconnection from the operation of the law. Throughout women's accounts of this time, it was crucial how they viewed themselves and their lives in relation to the criminal justice process. What connected women's experiences was the way in which they felt detached and peripheral to the process, whilst simultaneously experiencing the threat or actuality of men's violence: this was the "contextual framework" women's various experiences operated in (Kelly:1999).

The first theme explores the feelings of disconnection women described having at this particular time, when the specifics of the justice process were perceived as having no direct relationship to them. This is consistent with other studies of victims of domestic violence (Holder:2008) and indeed other victims. The effect of being linked with the wider structural
justice process, which is progressing to all intense and purposes, without victims, played a part in the uncertainty of the women's role (Edwards:2004), experienced as a loss of voice and control. Women's accounts demonstrate ways in which detachment from the justice system, particularly at this point, is experienced for victims, who are seeking to manage or escape a violent relationship. This deepens the knowledge that the experience of the court process in relation to gendered violence from known men is distinct and qualitatively different from other victim experiences (Cammiss:2006; Jordan:2004; Sanders and Jones:2007).

The time leading up to court is shown for many reasons to be a critical time (Dobash and Dobash:1998; Vallely, Robinson, Burton and Tregidga:2005), not least because of the particular risks and situations women outlined as a result of their involvement in the justice system, and in relation to this period of hiatus, but also how it could affect women's support of the case (Robinson and Cook:2006). Consistent with legal studies, but here based on women's accounts, is the importance given to the way in which cases are managed, for instance women's role and status early on in the case (Cammiss:2006). Emphasised here quite specifically, both individually and collectively in women's accounts, is the direct effect of the justice system decisions at this time on women's lives; one example which is consistent with other research is how this is exacerbated by the absence of explanation and access to information (Bennett, Goodman and Dutton:1999; Anderson, Boyle, Cook, Hartley and Roberts:2001; Holder:2008). These findings further question the effectiveness of more recent broader and specialised changes in policy and practice in this area (Robinson and Tregidga:2007): for the women this continued to be an unresolved area.

The second theme is the continued presence, violence and intimidation from ex/partners (Ford and Regoli:1998; Dobash and Dobash:1998; Jordan:2004) and their associates (Ptacek:1999). Highlighted here, are "various forms" of control men employ (Dobash and Dobash:1998:160)
in different situations; this was assessed by women in the context of an ongoing court process. This included men's abuse or manipulation of the legal system to this end (Ptacek:1999); here similarities can be drawn with research which has considered the messages that are sent out by the court process (Fleury-Steiner, Bybee, Sullivan, Belknap and Melton:2006) regarding the intention to protect women from these kinds of behaviours. Highlighted here is how the issues raised in the chapter are compounded, and the sense of isolation and 'dual' loss of control is worsened as women waited to go to court. What is further emphasised in this chapter is the importance of the court officials and the police being aware of the impact or limitations of their decision-making on women's lived reality as the case progresses, and the need to respond to the nuances of women's situations.

The third section contextualises and builds on the theme of the intersection of complex issues and experiences women faced (also see Chapter 4): this became a critical time when they felt vulnerable to external pressures. Vital insight is gained into the types of influences and priorities for women in the study, and how, in the context of domestic violence, this period was structured and defined for them, which could detract, or focus their attention on the court case. Here, these were shown to be, particular concerns for children, regarding the effects of the progression of the court case on them and its impact on the women's (and the father's) relationship with their children. Although this brings a different dimension, it complements work on mothering in the context of domestic violence (Radford and Hester:2006). Women also discussed the effects of waiting to go to court on their health; in the main, mental health issues were mentioned, and for a few, how this could be used against them in court. Finally, women had concerns for their ex/partners, the issue was not reprisal (Kelly:1999) in this context, but how they would handle being at court and the outcome.
The final theme returns to the feelings that typified the time leading up to court, that being a detached and less tangible experience, which resulted in increased apprehension and anticipation. As this period drew to a close, some women described how they began to think more directly about appearing in court (Sanders and Jones: 2007; Cretney and Davis: 1997a), and about the prospect of coming face to face with their ex/partner. How women would be perceived, and how their situation would be understood by those in court, was raised as part of an on-going theme in the findings (see Chapter 4) which addresses the women’s concern over the perceptions and expectations of others.

The next chapter continues to focus on the same period of time; namely, the time before court. However, here, a particular collection of issues are presented that women raised in relation to how they became aware of, and experienced, a wider involvement of professionals in their lives.

1 The time discussed in this chapter is considered after early decision-making and before court.
2 This included the prosecution, the defence, or the defendant.
3 Delays were not uncommon as observed in the court in the study however, the length of time and nature of the delay talked about here, that is, the aspect which related to the lengthy disappearance of Woman 5’s ex-partner, was less commonly observed.
4 Also see later section in this chapter concerning other influencing factors at this time.
5 Some aggressors will have bail conditions from the time of arrest. These may be subject to review during the court case, for example, they could be lifted, kept or altered.
6 Independent Domestic Violence Advocates are referred to here as IDVAs (see Chapter 1), although some local areas have modified the title slightly to reflect their own service policy. The IDVA service in this study did not have an ongoing presence in the Magistrates’ Court.
7 This has been shown as a common experience for a number of women. See the previous chapter for more in-depth discussion about women who had multiple cases in court over the course of the year.
8 See previous chapter.
Chapter Six

What is appropriate? How women experienced contact with a wider group of professionals in the time leading up to court

Introduction

The overarching theme in this chapter is the appropriateness of the involvement of a wider range of professionals in the women's lives, in the period of time after early decision-making, and before court. This was primarily in relation to agencies outside the justice process. These professionals included those from wider services, mostly support agencies working specifically with victims of domestic violence, or professionals perceived to have only peripheral links with the justice process. Consideration is made of the various dimensions that constitute an appropriate agency response for all the professionals involved, from the perspective of women in the study.

The first thematic section, 'How women felt about coming into contact with a wider group of professionals', explores the confusion associated with a perceived increase in contact with professional agencies, and the importance placed by women on the context and nature of these introductions. Section two, 'Women's perceptions of risk assessment', addresses how women felt about the place and process of risk assessment. This encompasses the definition of risk that such assessments were based on, and the mixed feelings about the associated outcomes, which frequently impacted on their relations with professionals. Section three, entitled 'The appropriateness of wider involvement of agency professionals', starts to unpack the dimensions of the concept of appropriateness and addresses what responses were deemed most useful for women and their situation at this time. The fourth and final section of the chapter, 'Identifying the theme of appropriateness with regard to contact from justice related professionals', continues the operationalisation of the concept of appropriateness,
and examines the nature of the contact and involvement at this time from the police and those working or based in the court.

**How women felt about coming into contact with a wider group of professionals**

This section focuses on two sub-themes: the first relates to the sense of confusion associated with initial contact, the second, begins to address the importance placed on the perceived ‘appropriateness’ of the introduction to professionals.

*The confusion associated with such contact*

Women associated their experience of the time before court as a time of confusion. It was not unusual that women talked about "being in a daze" (W5, p6:12) when discussing how they felt about a wider involvement of professionals. When referring to this period (also see Chapter 5), women found this to be a time of heightened anxiety and anticipation more generally, and the prospect of more professionals accessing their lives was seen to only exacerbate this further.

For women who had not previously experienced this kind of contact, it seemed to add to their general sense of confusion. Because this contact was not always thought to be helpful in their situation, women quickly developed ways to lessen their confusion, and make matters clearer. For example women related how they consciously identified themselves with one particular agency or worker:

> I couldn't take it all in, if I'd taken it all on, I mean, I wouldn't have known which way I was... I think they all belong to one place ...I mean Women's Aid, the Outreach and the [police] Domestic Violence unit. I think they all connect from Witness support to the courts. I have been offered help this time, but I have stuck with one ...the Women's Aid Outreach worker. (W6, p19: 37-45)

The women talked about actively taking some control, by deliberately restricting their support to the agency with which they were comfortable and confident they could meet their needs; this more straightforward choice tended to be selected on the basis of some basic qualities.
such as helpfulness and reliability. Contact coming from a range of professionals was at times felt to be overwhelming and not necessarily a good thing:

I don't think there should be support from everywhere, because you don't want to be overwhelmed with too much. I think the Health Visitor came round, the Domestic Violence Officer, she came round on occasion, but she was always really busy so that was a bit confusing when she did come. I think that the support from here [IDVA service] was unbelievable. If I phoned up in the morning she'd [worker] get back to me. If she couldn't get back to me straight away she'd leave a message on the voice mail thing with information, with where it [court hearings] was up to. That sort of (pause) straight forward support I suppose was really important. (W2, p15:6-14)

Confusion was sometimes exacerbated because the involvement of new and different agencies may challenge the women's previously held definitions of the situation. For instance, Woman 3 was disconcerted by contact from professionals she associated with victims who had been physically abused; a group she did not align herself with. Eventually however, she felt the professional responses validated the experience she had spoken about:

I actually didn't think I'd get this much help to tell you the truth...I didn't know Women's Aid would be involved because I always assumed it was for women who were battered wives, you know that kind of thing, hitting people...I saw me as different, it was more mental [abuse]. I felt a bit out of place because I thought it wasn't for me...I didn't go there. I had help from IDVA, I'm glad; it does make me feel there was something not right going on. (W3, p19:20-26)

The importance placed on the nature of introduction to professionals

In their accounts, women regularly based their opinions of formal introductions on the way this process was handled by professionals. When some women first came into contact with agency professionals, they described how they found it hard to begin to talk openly and quite often felt uncomfortable about how their life circumstances might be perceived. It was important how women viewed reactions towards them during any initial contact: this could for some women, determine how, or if, they would engage with these professionals.\(^3\) For instance, it was important that the women did not feel under pressure from the agency to act in a certain way or take up the support; the decision was left up to them:

At first it was quite difficult to talk to other people, especially when I took him back, he actually moved back in [when I retracted in the last court case]. When I came to see Natalie she must have thought I was just the most obnoxious woman she had met,
because I was saying "everything's fine and oh and he'd never touch me again and he's [then partner] promised me the earth." She was really supportive of that and she said "if you're positive and that's the way you want to go ahead then that's fine, but just keep our number and remember that we're here if you need us, and if there is anything that you need". I did go back to them. (W2, p5:42-49)

Once a reliable relationship had been established with one agency, the women were more likely to be comfortable with being 'referred' on to subsequent sources of support. For instance, Woman 8 was happy to be guided by the Women's Aid Outreach worker onto support from IDVA, as she considered their existing relationship to be a constant source of support:

From the first time [assault] and until now, I had Natalie at Women's Aid who's a lovely lady and I would go to see her at the Outreach Centre. When I went there I was obviously very distressed, and she was very concerned about me at that time, but I was very positive and she was confident that I was gonna be okay. When I got assaulted [the last time] when I was pregnant, she referred me to IDVA. She said to me that she was concerned about the risks because he was following me and stalking me, I was okay, in agreement with this. (W8, p7: 21-31)

Woman 8 met with her assigned independent advocacy worker on the day of the interview, after over 8 months of contact by phone. She felt that this type of contact was appropriate for her at the time and that she had received the help and support she had needed. Woman 4 also felt this way:

... it would have been nice, yes like, in an ideal world it would've been nice to see her face to face, but unfortunately it is not an idealistic situation so, you know, obviously the things that Gemma's done has been absolutely fantastic and I, you know, she has been my rock at times, she really has, definitely (W4, p5:28-32).

Because many of the women had regular contact with the court system in the last year (as outlined earlier in these findings) this brought with it a wider involvement of non-justice professionals. Women spoke of how they viewed their experiences in that time to be qualitatively different. The capacity of women to contrast their varying experiences of services, led to some providing their own insightful analysis regarding the amount and quality of support they had received. In the excerpt below, the woman's better experience of support in the current case highlighted the isolation from support experienced previously. There was
an element of dissatisfaction at this, and the need to avoid reliance on, or expectation of such a response:

I've had better support and kinds of support this time round. Before now, when I waited to go to court or dealt with it away from court there was no support at all... no information. Nothing. I just got on with it cos I've had to do...I can and do that now if I need to. (W5, p15:38-41)

The women also analysed their experiences in comparison with the experiences of other women. Their accounts showed how they were aware of other women's experiences in respect of the involvement of professionals. Observations tended to be a comparison of their own perceived risk factors against support received. For example, here one woman concluded that her friend was more at risk than she was and needed more support. Although the friend had stated that the increased number of those professionals "trying" to support her was seen as bothersome. She felt that this level of increased support may be necessary in her friend's case:

I had heard of another place that helps, my friend come across them she's in the same situation. All I think is we should be treated the same, but if it's more like my friend, she nearly got killed. The support is there for her but at the moment she is feeling so intimidated by everybody trying to support her, it's driving her potty, but maybe she needs it after what happened to her? (W6, p21:47)

**Women's perceptions of risk assessment**

Many women associated initial contact with an agency or professional, with some form of assessment procedure. Assessments were not always viewed as linked to professionals assessing their risk levels. It seems that women could experience a number of assessments with different agencies, this kind of procedure was considered to be a routine fact finding exercise that was often kept on record but with no end result. The theme explored here relates to women's perceptions of risk assessment: it was the current elements of 'risk' in women's lives that women perceived as being important to agencies. The definition of risk on which such assessments were based, was viewed as coming from the professionals, as opposed to from the women themselves. Because of this, women were left with mixed feelings about
how risk to them was viewed, and this frequently impacted on their relationships with professionals.

**How women evaluated the process of risk assessment**

Although viewed as something they seemingly had to go through (and for some, more than once), such (risk) assessments evoked a range of feelings. For most, the evaluation of details of their lives was seen as an invasive process that gave a level of access to a part of their lives that they had previously dealt with privately; women did not know what this might result in.

The reasons for such regularity of assessment did pose a problem. Some women described how they had been through some form of (risk) assessment more than once since coming into contact with more professionals, and the repeated nature of this contributed to the level of intrusion that women felt. Woman 8 believed that the validity of her claim was being tested. She described how she was subjected to having to explain and re-explain her situation at what was a bad time for her. It was a difficult and demanding process, but nevertheless this was something that she had to go through in order to get help:

> ...I was aware that at some point I was assessed, I'd filled out questionnaires before, once at the council, once with Women's Aid and then when the police came round I had to fill out another one in terms of the severity of what he had been doing etcetera. They told me that IDVA deal with things is it over 14 or 13 points? I don't know, but I qualified...She [the IDVA] wanted to know if I'd been to the police, she wanted to know the in’s and out’s, etcetera, she had to consult the police and see if it was true what I was saying... at the time I was a complete mess, I mean, I was five months pregnant. I was not good at all, but I was just focused on the fact that I couldn't do this on my own. It was the only way out of the situation that I was in at that time. (W8, p3:27-36)

The criteria that assessments were based on, to determine the level of risk to women, and in turn what kinds of services they may need or receive, also created difficulties for women. This was especially so when, on reflection, they applied their own perception and understanding of risk against those of professionals. When and how concerns were raised, and when this required action, was viewed as an issue for debate. Woman 4 voiced her point of view...
strongly knowing she had been introduced to her contacts due to her being considered at a higher risk. In her opinion all women had the right to access all services if they required them. She was concerned about professionals' ability to know what the reality of women's situations and their mental state was at this time:

I think any domestic violence case is a risk, and should be classed as a high risk; I don't think that happens though. I think those organisations or agencies do not know the mental state of the women that their dealing with, now it could be the first time or the twenty-fifth time that a particular lady has been hit or abused in some other way, but because maybe she's not as mentally strong as another lady, she might not be better equipped to deal with that. I think personally such support should be there for any forms of domestic [violence] controlling behaviour, monetary abuse because obviously everybody's different and everybody has their own sort of levels of dealing with things...mental state. You can't assess somebody's mental state or their capability of dealing with the situation just by ticking a few boxes on a piece of paper. My view is that it might be that they might not be a high risk from having harm caused to them by a partner, but how about the harm and risk they might do to themselves? (W4, p18:1-18)

Women's beliefs about such (risk) assessments differed; this can be seen in the two examples shown here. Regardless of both women having been in an abusive relationship for a similar (and lengthy) period of time, the views of Woman 4 and Woman 5 were polarised. The opinion that any situation of violence and intimidation should be classed as high risk, as expressed by Woman 4 (see above), was challenged by the views of Woman 5 (see below), who believed that the longer women were in a relationship, the higher the risk and the more violent that relationship would become, and that therefore risk is not static but can change over time:

It would be nice to have them [IDVA service] all over but... I'm supposed to be high risk, but it gets high risk... as the years go on basically it gets worse, it doesn't get less, it gets more [violent] I think so, I really do...I don't know how they [agencies] decide. I think it doesn't start out that bad but the risks with who you're living with grow and grow. They don't lessen, I've been there, it started off as a slap, the very first time, eight years ago. (W5, p18:8-14)

Women had different understandings of why their assessments took place and what they were to be used for. For many, it was the involvement with the justice process that was seen as the catalyst that would necessitate an assessment, and result in a subsequent involvement of other agencies. The agencies' perceptions of risk in women's relationships were, it seemed, based...
on a number of factors: the women considered that the severity and frequency of violent and
intimidating incidents to be among the reasons why they may receive some form of help or
support. In the excerpt below, it was the focus on the severity of violence from her ex-partner
that had determined an approach from the Independent Domestic Violence Advocacy Service:

It was approximately two weeks after the incident that they risk assessed me about this
[violence]... they seemed more focused on one of the incidents more [than the
other]...that's what brought me here [to IDVA] I think. (W4, p4 21-22)

When women made comparisons with the experiences and responses they had undergone
previously, they questioned the direct link between risk assessment and contact with services.
Individual examples of contact were seen to trigger a range of additional contacts; this was
not necessarily related to risk. Some women described how they had received limited help or
support, or no help at all, on previous occasions when an incident of violence or intimidation
had come to light. As illustrated below, once women had been involved with more agencies,
and following involvement with the criminal justice system, women reported being referred to
a more specialised support agency:4

Around the time of the case last year I didn't get any contact off anybody. It was only
following the last case, and a couple of months later I was contacted by the Health
Visitor that's linked in with the domestic violence team... she then put me in touch
with IDVA. I am in between cases now [at the time of interview]. I have withdrawn
my statement before, when he assaulted me again, I was back in touch with them
[IDVA]. (W2, p5:2-9)

The responses to risk were not always perceived to be about the women, or their vulnerability:
it was other aspects of their situation which determined whether they should then be offered
support. The process of risk assessment brought with it referrals to other agencies, and for
reasons other than the legal case: frequently, this was when children were involved. Here,
many women perceived that any wider formal involvement of professional here had strong
links to them, rather than themselves:

They [Independent Domestic Violence Advocacy Service] got in contact with me; you
had to have go on this register or something. Well, I had a social worker involved cos
we've [ex-partner and Woman 5] got a child... Yeah he came down and then he
decided that the [Social Worker] deemed it soon enough to put him on this system,
that MA [RAC] system5 whatever you call it, apparently you can score points. All this
Conditional responses: the willingness of women to engage

A subsidiary theme emerged that support was only provided with a number of conditions attached to it, particularly related to the cooperation that they showed with the professionals’ demands. The level of commitment required from women to abide with agencies’ requirements, was perceived to supersede the needs and requirements of women. Women may have had different points of view, but they described how they were generally quite accepting of this process. For some, showing commitment was felt to be a pre-requisite to having a more mutually based arrangement:

I feel if you're gonna go to court, and if you're gonna go the whole hog, if you really stick your neck out then you deserve that kind of [IDVA] support. I think anybody who is undergoing that type of abuse deserves that support, but if I'm a woman who was in a relationship and I'm not leaving it and I'm in it, then it becomes very hard to support them doesn't really? I think it's really hard there's only really one kind of support I can see that is beneficial and that works both ways: I mean I know at Women's Aid women go you know and they just go there for someone to talk to, not always to do anything about it, confront it. (W8, p20: 1-28)

There were women who thought that to engage with professionals and their systems, were signs of giving in to those in authority, and not taking action on their own terms. Although on the face of it their relationship with professionals improved, the feeling was that this relationship was limited, as it came with conditions which were established on professionals’ terms, and based on expectations professionals had of women, either in the cases of particular women or assumptions about women in this situation:

I've been in touch with Women's Aid here really from being in the refuge but I've never like stuck to any meetings or turned up or... because before I had no support whatsoever in my old [Local] Authority... if they know you and you've got an issue with your family they treat you like crap... the courts, the police, all those who have authority, and who work in that place [previous Local Authority]. I've been [in contact with] with authorities a long time; I mean I was in care at nine years old...I come from quite a chaotic family you see. I fear what they [Social Services] can do to my children with what's been [going on], they've have already taken one away. But Women's Aid is totally different here, well cos I've started to show up and stuff, well I suppose I have to. Gemma and...[the other workers] they've helped me out, they're
gonna get some counselling for me, and trying to get a nursery place...I think he [youngest son] starts in a couple of weeks. (W9, p17:11-26)

The appropriateness of wider involvement by professionals

The women in the study were candid about what they felt had been most useful for them and their situation at this time. As shown throughout this chapter, the recurring theme of appropriateness of support was drawn on in different ways by women. This section presents examples identified by women that, when considering their experience of a wider involvement of professionals, recall varying levels and aspects of appropriateness.

Contact provided in an accessible form

The kinds of messages that agencies and professionals conveyed was one important way women felt helped them determine how accessible and useful agencies were. Dimensions of appropriateness of response for women included how comprehensible, user-friendly and understandable professionals were. For instance, Woman 8 distinguishes between standard and specific approaches to her as an abused woman and found this specific approach more appropriate:

I got what looked like standard letters off Victim Support, but I never went to see them...I think it was just because it [the situation] was so specifically domestic violence, and I had specific organisations such as the Independent Domestic Violence Advocacy Service and Women's Aid, so I felt like I had people who understood more about what I was going through and what was going on. (W8, p15: 9-15)

Women defining their own needs, and within their own frame of reference

Women described how, if professionals allowed women to define their own needs, within their own framework of reference, it often resulted in them experiencing a more positive, or appropriate response. One specific area of need that many women discussed was the desire to feel more in control of their situation: for many, this meant feeling less exposed to risk. Quite often, women requested or felt they responded better to more practical support rather than any involvement of advice or counselling. Woman 2 described how others taking steps to make
her feel safer in her home in the shorter term, and in the lead up to a court case, was helpful in
allaying fears and the risk of attack:

It's not just about [emotional] support: when we split up for the second time at the end
of April this year, and he [ex-partner] was coming round and he was breaking into the
house. Natalie [Independent Domestic Violence Advocacy worker] put me in touch
with another agency who sent somebody round from a security company, they put an
alarm system on my house, extra bolts on the doors and put a new double barrel lock
on the front door for me because he [ex-partner] obviously had taken copies of keys
and things... He'd broken in through a window under the garage, and they came round
that night and secured the house. All I could think of was last October when he broke
in, he was actually sat upstairs listening to conversations for over an hour and a half ...
and I didn't know he was there, so after this last time I needed to feel more secure.
(W2, p13:19-36)

Women did not necessarily avail themselves of all professional responses, but did at times
integrate their own informal support networks as well. As such the women may include
informal support from family and friends within the scope of her definition of what was closer
to appropriate involvement for her:

I've had different bits of support along the way, Women's Aid is one of the main ones,
and they've known me right from the very beginning this time and at other times. My
Health Visitor actually has been good as well, because of the police contact every time
something's [reported incidents] happened; the police have actually sent something to
my Health Visitor so she knows to get in contact with me then. So Women's Aid
definitely, the Health Visitor and even this lady from the Housing she's supported me
more on obviously trying to get a new house, but while I was waiting to go to court
she's also been there to talk just to talk to you, she's quite friendly and she just comes
round for a chat do you know...then obviously friends and family...they all help in
different ways I suppose. (W7, p14: 39-50)

**Having confidence in professionals**

Women explained how professionals became more credible for them when they demonstrated
their value and trustworthiness, and responded to women's needs, possibly where other justice
agencies had not responded. Women described the process of gaining trust happening in a
number of ways: this could happen slowly, over time, or in a moment of immediate need.
Professionals were often put to the test when women felt they were at risk. The willingness to
respond, where other justice system professionals had not, was key to women feeling
professionals had gained their trust, and filled a gap where other professionals had not
responded. Women judged agencies in terms of how seriously they addressed specific instances of intimidation:

When he [ex-partner] was on inside [on remand] he sent letters to my daughter who is five with things written on like 'rest in peace'. The police said "there is nothing we can do". I went to IDVA who helped get it stopped. They thought it wasn't right, more to the point, and did something about it. (W1, p1:11-15)

At other times women deemed the most appropriate source of advice to come from an already trusted agency, even if not directly related to the case itself. Based on this premise, the choice made by women may, or may not be, objectively what was best, according to professionals’ perceptions, but deciding who, what, how and when the support came, proved useful and gave women a feeling of being in control, and that their needs were being responded to at the time:

I had a letter from the Witness Care officer (pause) I think it were, I don't think I remember, but I didn't go, the place I kept going on to was my own solicitors as they kept giving me advice... they don't do criminal you see, she said "they won't involve us", but she was really useful at different things... finding stuff out, because they knew where I was up to. I felt better talking to her. (W3, p7:20-26)

**Wanted: the most suitable kinds of information advice and support**

Women in the study did not always see the agencies they came into contact with at this time, as responding to their needs. Rather they provided what they thought women should want: appropriateness was achieved when professionals’ responses reflected women’s priorities. Here, the involvement and/or actions of professionals was viewed as suitable for a range of reasons, being negative, unhelpful or unwanted, and thus, often not viewed as support at all.

Women felt, at times that action by professionals failed to recognise what women actually needed, leaving them with the feeling that the service offered, and the agency itself, were inappropriate. Being offered a restricted and/or unsuitable response could leave women in the same exposed position, and seemingly with no alternatives:

I got put in touch with Women's Aid through that risk assessment thing, not sure who does that... the police? I was offered the refuge by the police, this time last year, my son was 14-15 at the time so not allowed in, and so I wasn't going to take them up on that was I? So, then it was where can we go? (W1, p1:4-8)
Women spoke of a continuous process of professionals offering what they perceived women might and should need, rather than responding to what women themselves knew they needed.

In her account, Woman 1 viewed that many would think she was offered positive support, being presented with range of options, however, she felt none of these were suited to her needs, and were thus inappropriate. The final alternative offered was a longer term option of relocation, suggested because she was considered to be in danger by the professionals she had come into contact with. She viewed the idea of leaving her home, and local area, as wrong, and unhelpful for her life circumstances. The significant people in her life and her support mechanisms were where she wanted to be at the time:

There was talk, a suggestion of, about changing identification and, or just moving. I couldn't do that though... I have a strong link with my family, my sister has mental health problems, I couldn't go, I couldn't leave. Relatives and friends helped and supported me. (W1, p1: 8-11)

This (albeit rare) example demonstrates how inappropriate support could even encourage women to sever the most significant existing support, suggesting a lack of empathy.

**Appropriateness with regard to contact from justice related professionals**

This chapter has, thus far, focused on women's principal experiences of the involvement of a wider group of professionals. Any contact at this time was described by women as mainly coming from outside of the court process, or from those perceived to have only intermittent links with the justice process. The time between decision-making and court was shown (see previous chapter) for many women as a time they were distanced from the justice process and those with an integral link to it. However, this section of the chapter examines how women felt about the contact and involvement offered by the police and those working or based in the court, particularly in relation to the appropriateness of that support.

*Contact from the police*

Women questioned what guided contact from the police and considered whether the system could reflect what they considered useful. Once again women placed the timeliness of contact
as a dimension of the appropriateness, describing situations when the justice system appeared out of sync with their expressed needs. For instance, the apparent absence of contact from the police after the time of arrest might lead women to be increasingly anxious about aspects of the court case. Woman 6 was worried what the status of the case was, what the implications this had for her life at that stage (for example, her safety), and was nervous about her forthcoming appearance in court. Despite the eventual response, the perceived breakdown in contact, even with her own attempts to contact the police, had allowed doubts to fester regarding appearing in court:

I didn't want to drop this [charge], but I didn't hear nothing for a while. I wrote a letter and nothing... again. I didn't know what was going on. Then I had to ring again in August, it was like three or four weeks in between and not hearing nothing... When PC [name given] turned up he knew that I did not want to retract the statement but I couldn't face of going through court that was my problem. I just couldn't think of seeing him there and what kind of attitude he [ex-partner] would have, and the fact no one had spoken or contacted me... well... it just made... [it worse]. (W6, pi0:12-20)

Contact from workers linked to the court regarding pre-court visits

One way in which some women perceived they were getting closer to the court process, and their appearance in court, was by taking up an invitation to visit the court beforehand. The women who were offered and accepted a visit viewed the experience in a number of ways, but ultimately, they saw this as gaining access and information regarding a system they had felt distanced from. It was hoped, overall, that being allowed in court would give their experience greater relevance to their lives, and importantly it was viewed as a chance for women to feel more informed and in charge of their actions.

As women came closer to appearing in court, the court visit was useful to gain some insight into how the court proceedings would be carried out and how their safety would be provided for through the physical arrangements of the court building and court room. This reassurance may be in part provided by seeing where they would physically be in relation to the aggressor on the day of giving evidence. Although the information given on the visit was not entirely
accurate, for Woman 8 (below) when it came to her day in court, it did go some way to allay her fears:

I went on a visit to court but I had like one week to go [until baby due]. I met the woman [Witness Support Worker] and I went in the Witness Support area...They told me which doors to go in...I was really pleased to go on that, I mean that was informative because I was massively concerned about bumping into him in the street, what he might say what he might shout, and I knew I was gonna have him [son] and I wanted to know that there was no way that he was gonna see him basically. So they reassured me and they were lovely, I said I was breast feeding and they told me where I could be, who was gonna be there on the day, and said "this is the court you're gonna be in"; on the day it all changes (laughs). It's nothing like what they say but it was very reassuring. (W8, p8:1-15)

Women described how, feeling more confident about going to court, allowed them to feel more in charge of their actions. Below, it can be seen how women could become extremely anxious, especially when it was their first time in court. In order to gain more confidence, their emphasis is placed on knowing about the court protocol and expectations:

The Witness Support Officer, it was a lady but I can't remember her name... she showed me round the court, she told me how I was gonna sit and everything, quite helpful that because I knew what to expect when I got through the door, and how they [court officials] would be with me... I hadn't been in a court room before at all... I just needed to know sort of, what would be happening so I felt better about the day. (W3, p9:10-15)

Consistent with their view of coming into contact from other professionals (see first section), the way women were approached and informed, and how this opportunity fitted in with their lives, were considered important when thinking about going on such a visit: this could also impact on how they felt about the court appearance more generally. Arrangements which seemingly took this into consideration were more likely to be perceived as successful by the women:

To be honest it was all quite quick, I only went on the visit on the Friday and I was in the court on the Monday... it could've been sooner really but, Witness Support, I think it was, they only phoned me that week before. I said "well I can't go on the Thursday I've got a baby and I need to get back for my other daughter's school, can I not come tomorrow" so I went on the Friday. I am glad I went though because she [the Witness Support Officer] thought it was in a smaller court, and when I said like he was in custody, she said "oh it mustn't be in that court then" so then she like looked it up. I said "I'd never been in a courtroom before", so it was reassuring to go and see where I'd be standing and where everybody else would be...(W7, p4:1-15)
However, women did not always see this preparation for a 'live' court situation as useful.

Woman 7 went on to describe how her literal interpretation and trust placed in the information given prior to her appearance, resulted in her feeling unnerved, as she stood face to face in the courtroom with her aggressor:

...although he wasn't actually stood where they said and I could see him, which really threw me... I felt sick. (W7, p4:16-17)

Chapter summary

The particular collection of issues concerning women's experiences with a wider involvement of professionals is designated a separate space, due to the emphasis women placed on these issues. The dominant theme in this experience was what constituted an appropriate agency response from the perspective of women in the study.

The nature and impact of the increased contact and the confusion this brought about was seen in the first two sections. In their accounts, women referred to their involvement with a wider range of professionals at this time, which included support agencies working with victims of domestic violence, or professionals perceived to have only peripheral links with the justice process. Nonetheless, recurring perceptions about the involvement of professionals across the board emerged. Although, some agencies were considered in line with women's choices, the wider involvement of professionals in this case was not necessarily always seen as increasing women's options or protection and safety, as research with advocates suggests (Robinson and Tregida:2007); rather they were at times seen as confusing or inappropriate to their situations.

In this case women generally did not do the seeking, but the findings are consistent with research that concludes women would normally rather select agencies or professional for different purposes or needs, and each decision would come with different expectations (Holder:2008).
The definition and perception of risk by professionals and the use of assessment emerged as a theme: women discussed how their situations were routinely risk assessed and the impact this had on them. Interestingly, and consistent with debates in wider policy led literature (CPS:2007/8), the efficacy of risk assessment was raised here: women’s accounts encompass issues which address the importance of the basis of definition (Robinson and Tregida:2007), and the legitimacy of women’s perceptions in this process (Hoyle and Sanders:2000). Here, the process of risk assessment itself was being judged on the grounds of ‘appropriateness’, rather than just the agencies or workers. Although it is apparent how particular agencies had a clear connection and value for some women throughout their experience, of critical value is when women also considered how their experiences and to an extent, their narratives, were shaped and re-defined by professionals in their daily practices, in order to fit into a wider structure and professional discourse (McDermott and Garofalo:2004; Thapar-Bjorkert and Morgan:2010).

Women’s perceptions of a wider involvement of professionals in their lives during this time were assessed in terms of the concept of appropriateness: this was drawn on in different ways, but there were some strong common themes. Similar to those studies which focus on enabling and disempowering aspects of support services (Hague and Mullender:2006), and justice interventions (McDermott and Garofalo:2004; Robinson and Tregidga:2007), the women signalled clearly that they wanted access to support they felt they needed in order for it to have any relevance or bearing on their situation: the perception of the problem and the response to it had to be defined on their terms. This chimes with research which stresses the importance of women’s interpretations (Cavanagh:2003) and how decisions should not be made based on what the agencies think victims need or want (Robinson and Stroshine:2004).
The chapter shows that where agencies and workers demonstrated an appreciation and understanding of how women viewed their own situations and needs, these were considered appropriate and as a result, women had more confidence in professionals. Retaining some control and feeling empowered, especially for women who held little power in their relationship and the wider situation, was vital to the shared abstract notion of appropriateness, and raised issues relating to professional practice. A similar point is raised by Hague and Mullender (2006:568) when considering how agencies need to understand the "hidden forms" of power they possess when a range of advocacy and inter-agency services are working with victims/survivors, and applicable here, how women's experiences could be shaped or considered disempowering. Some of these issues were unambiguous where more mainstream services were discussed, and more complex when agencies more traditionally associated with support for victims of men's violence were involved, where more sensitive approaches had been shown. Here, there were some similarities with other research, such as the negative effects of "well-intentioned" assistance (Lempert:1997:290), which was not always based on women's choices and therefore not considered meaningful or appropriate in the opinion of women.

By highlighting the importance placed on the experience of contact with a wider group of professionals, the chapter further illustrates the issue of distance or detachment from the justice process (see previous chapter) and those with a more direct link to it. The final section examines women's assessment of the contact and involvement offered by the police and those working or based at the court, in relation to the appropriateness of that support.

The next chapter focuses on women's experiences of their time at court. This chapter reflects how women's experiences and frames of reference were, to a large extent, structured by the legal process and the decisions and actions of others.
1 Note that all agency worker names have been changed with their permission, to protect the identity of the workers.

2 Women commented on how such contact resulted in a high volume of information giving and gathering; this was often viewed as being "too much to take in" (W1, p2:2), and added to the sense of confusion.

3 Some women described how they had even considered retraction at this point if wider support did not seem to be there.

4 Due to limited resources, the IDVAs in the case study area were not always in a position to offer support to all women considered to be at 'higher risk' (see Chapter 6). Women may have been referred to agencies such as Women's Aid, or those with specific services and information.

5 Most agencies in the case study area had their own risk assessment procedure. A high number of agencies, including IDVA, also used a more central risk assessment tool. Multi-agency Risk Assessment Conference (MARAC) meetings were held regularly. Here, the inclusion of women's set of circumstances usually occurred in the case study area after more than one incident is recorded, or as an incident came to the attention of an agency within the year. Resources also played a part here. This intervention should be reviewed regarding its effectiveness with the victim (SDVCP, 2006).

6 For some women feeling more in control of the situation meant they were more likely to stay and not flee their homes.

7 Such as Women's projects, Women's Aid, (and in some cases IDVAs) who were perceived as concentrating, on the whole, on other aspects of women's lives.

8 The role of Witness Support Officers includes support to victims and witnesses in court and a 'court familiarisation visit' which should be offered to those "who may be called to give evidence ... before the hearing to learn about court procedures" (Moore and Blakeborough, 2008).

9 Just under half the women were offered the chance to visit the court beforehand.
Chapter Seven  At court

Introduction

This chapter concentrates on women’s experiences of their time at court; it also includes reflections on decisions made at court while the court case was progressing. Women in the study related their experiences of being at court in a fairly strict temporal order, demonstrating the extent to which women felt their experiences were largely structured by the legal process, and the decisions and actions of others: this sense of order is reflected in how the findings are presented. Running through the chapter are themes associated with the legitimacy of women’s status and the feelings this engendered, which reveal how women thought about their immediate experience of the court process, either in direct interaction with court officials, or as a result of the court process.

The first section begins to chart the experience 'On arrival at court' for women, and addresses issues such as how women felt when they went to court intending to give evidence, and found out they were no longer required in court; and how women were affected by their initial dealings with court professionals. The title, 'Being in court' spans sections two and three, and concentrates on the day women were in court. The importance placed by women on their 'Feelings on entering the courtroom', and on how it was 'Giving evidence' are the main foci here. Section four examines issues raised by women regarding 'Understanding the roles of those working in the court', and what relationship court officials had to them. The fifth section looks at how women felt 'On leaving the courtroom', and explores women's vivid memories of the period immediately after testifying, and the importance women placed on this aspect of their court experience. Section six offers insight into how and when women experienced ‘Feelings and reasons for going to court more than once during a court’. The last section’s focus on the impact of decision making: section seven section looks at
'Decisions made during the court case'. Here, the points of decision-making are not restricted to times that women were at court; rather they were discussed by women in the context of during the case, and how women accessed and understood such decisions. Section eight highlights 'Effecting change: women's decisions to retract during the court case', and examines why, for a number of reasons, women made the decision to retract all of their previous statement, or changed parts of their statement.

On arrival at court

Themes that emerged from this section focus on how women experienced events and feelings on arrival at court, and the initial meetings with court professionals, including the questions and decisions that women faced at this point. As shown in the previous two chapters, the anxiety women reported before court was often combined with anticipation, as the desire to take part in the court proceedings and give their account of the incident became increasingly imminent. It was not therefore unusual when women reached this point, to experience a range of emotions in response to discovering they were no longer required.

Women no longer required

Women highlighted how they felt when they went to court intending to give evidence, only to find out they were no longer required. They learnt of this as they waited, usually in a separate witness waiting room, and generally just before the court session started, or during session breaks. There were several reasons why women in the study did not appear in court on the day they had expected to, but for most in this study, it was because their ex/partners had changed their plea.

Those women who did not get the opportunity to testify in court described experiencing a range of emotions. For some women there was often a sense of relief when they finally learnt
that, after so much emphasis and pressure being laid on them as witnesses, they were no longer required to give evidence. Although the underlying reasons for women being informed they would not have to testify were similar, the reactions differed when women discovered this:

When I went to the Magistrates [Court], I didn’t have to appear because they [the Crown Prosecution] basically just showed his solicitor the pictures ...He had to sign the statement admitting to it. He let me read me statements and took it away, and it was just like they knew what they were going to say. His solicitor said “we’ll accept what you’re saying”. At that point I was relieved...it had taken so long [to get to court]...I think if he would, could’ve seen me in court he might of tried the sympathy vote...I thought a lot, I thought I might bump into him, but he kept his distance... (W5, p10:29-37)

Woman 5 was particularly apprehensive about being at court, having waited to be a witness for an unusually long period of time when her ex-partner disappeared "on the run" (W5, p5:11) after the incident. Her greatest fear was being in close proximity to her ex-partner, so the way the decision came about that day, was considered a satisfactory result for her.

In contrast, being denied the opportunity to give evidence after reaching this stage, also resulted in women continuing to feel disappointed and excluded from the process. The sudden elimination of women from proceedings, following the courts acceptance of the defendant offer of a late guilty plea, added to women's feelings of exclusion from the process. Woman 7 was "nervous", but comfortable with a situation where she would give evidence: at this point she had felt included by the justice process. At the last moment she was simply told her ex-partner had entered a late guilty plea and she was no longer needed; she described how she was left feeling shattered at this sudden outcome:

It was weird getting all ready...I was nervous, but I was glad to finally be [going to court]...and then (pause)...because he’d [changed his plea]... nothing. I was gutted. I am not sure what happened right then. (W7, p2:15-18)

As outlined above the added disappointment for women was the court response to a late guilty plea, which could be perceived to be an endorsement of defendants’ actions and choices, and
acted as a barrier to women finally being allowed to take part, and having some status or role, in the court process.

Individual women would often experience a mixture of emotions: women talked of their instant relief on being told they did not have to give evidence, but also of the subsequent frustration at not being given a legitimate chance to speak about their ex-partner's actions towards them in a court of law:

At first I was happy about this, but then quickly felt like I wanted to tell them what I thought of him, I wanted to tell everything I could, but I was not allowed...I mean for lots of reasons I would have liked to [give evidence]...to them [Magistrates']. (W6, p12:34-40)

As shown above, the ease with which women could lose their very specific role in the process was highlighted as an area of frustration for them. This frustration was about the withdrawal of a perceived 'right to speak' in a case that had initially involved them, they could lose that right and that role in an instant because of the decisions of others. The example of the court processes acceptance of late guilty pleas showed how women could be given 'conditional' status, which was dependent on external factors (for example, actions of defendants and court officials), rather than a reflection of an intrinsic right within the judicial process. As with other women, Woman 7 found it hard to grasp how a decision could be made regarding a case that she was involved in, and one she was willing to be witness for, but ultimately was not accorded a role. She was disturbed by the court officials' ability to make decisions when they had not made contact with her, which gave her the message that her involvement was never really secure or worth very much:

It was like it didn't really have anything to do with me really, because they were hearing about me, my name...from him, from other people [at court]. It was quite a weird feeling really just knowing that (pause) decisions are made, in such a way. Things are just accepted about someone's life that they haven’t even met or spoken to. I felt like it was it could have been anybody do you know? They didn’t know who or what they were dealing with...what does that say about me? (W7, p13:22-39)
Perceptions and expectations: initial dealings with court professionals

Women emphasised the first meeting they had with the Crown Prosecutor, who was most often the first person they had met in relation to their court case. They reported that it was hard to assess what their role was. The meeting was described as being a brief encounter, with someone they had never met before, and it usually took place just prior to going into court. Women described how demands were put on them as they were directed, asked questions and told information, in an often hurried and unfamiliar manner – all of which would often have a bearing on what was about to happen. The expectation surrounding women coming to court, from court professionals, was an increasing concern for women in the study: these perceptions were most keenly felt at the point when they were at court, the initial meetings with court professionals made women immediately mindful of this. The genuine nature of women's claims, and their determination to see the court case through to completion (as with women's earlier experiences of the justice process) was seen to be the aim of the nature of the questions they associated with Crown Prosecutors:

They knew [I had retracted in other cases] because the Crown Prosecutor had come down to meet me and the first thing he said, which made me shocked, was “are you still carrying on with this?” It’s probably with me dropping statements in the past, or other women...Maybe it’s that, whether that was something they ask every time I don’t know, but no I said “oh no, I’m here and I’m carrying it on”. Bit shocked at that really. (W6, p17:1-15)

The initial dealings with court officials left some women feeling uncomfortable and anxious about giving evidence. The style of approach and the nature of the challenges, especially concerning their own decision-making thus far, left women exposed, further highlighting the fragility of their decisions. The sense of powerlessness they experienced in the face of
'expertise' (those with a higher and secure status), and the system, drew their attention to the issue of their own status in such a setting. One example of this can be seen where women had felt they were involved in decision processes regarding arrangements at court. Woman 8 explained how, her choice to give evidence behind a screen was overturned by the Crown Prosecutor, which she felt invalidated her own decision, unnerved her as she proceeded into court, and demonstrated the relative importance (or not) of her needs and concerns versus those of the justice process:

They [police from the domestic violence unit] actually made a point of ringing me and saying "are you breastfeeding your baby, do you need another room? Do you want a screen?" I said yes to both, most definitely. Yet on the day, I was told by the CPS man "I think it would be better if you don't have a screen, so we can see the emotion"... It was the only thing I was adamant about...I was scared to death; I had said I never wanted to see him again... This was a real bone of contention, because I said "I am not, I can't...I don't want him to look at me whilst I'm talking, cos he's gonna be waiting and wanting to look at me". I had this young man [Crown Prosecutor] and he said to me, “well I think it would look better if you didn’t have a screen”... that’s what he said to me. He said that using a screen [to give evidence] can be quite (laughs), can make it look very “prejudiced.” Because if I need to make it seem it was a man for me to be scared of, it could give the create an impression I was trying to show him as a bad man... he [the Crown Prosecutor] was trying to be very careful what he said. Obviously he was very intellectual and articulate, he knows about the law, and that’s fine, I mean you know I’m an intelligent person myself, but this was about my life... My friends were like “wow, if you want a screen, you want one, and they should have to get you one regardless of what they want to prove. It was a bit like having the rug pulled out, I mean that's a terrible thing to do. That's really tapping into all your feeling, like you haven't got a point of view. (W8, excerpts p10-11)

Women described the pressure to concur with what was deemed acceptable from the court professionals' perspective. In the excerpt above, Woman 8 had stated how she considered herself to be a "vulnerable witness", she remarked on the certainty with which she had made decisions prior to going to court, and how easily these were taken out of her control and changed to suit the needs of the those "in the know" (W8, p12:2). The disregarding of her decision and expose her vulnerability for the sake of proving a point was considered in retrospect, a shocking thing to do. Another illustration of wishes being disregarded was raised, when Woman 5 reported how she had explicitly said she did not require a screen, but this was provided for her as the procedural wheels were in motion when she arrived at court.
She had felt that being seen to be different implied culpability on her part, and she did not want to be physically distanced from the court proceedings, rather, she felt, it should be her ex-partner who was distanced and obscured from public view:

I go there, and I was gonna go behind the screen, but I didn't really want a screen, I had nothing to hide. It wasn't me, it should've been him behind the screen, cos he should have been shamed but I was gonna have to go with whatever they wanted me to go with, but you know...I wasn't happy. (W5, p11: 30-37)

As such the issue is not whether it is right or wrong to have a screen (their views differed on this), but rather to not have the choice disregarded, on this and other procedures, and in particular at the last minute.

This section gives specific examples which echo feelings expressed by women about their experiences at court. Later sections of this chapter will address the conflict existing between the court practices and women's desire for, and/or expectation of an active role. The following quotations reflect how women were trying to make sense of their role and status, both on arrival at court, and when in the courtroom, providing interesting insights into the use and construction of the term victim:

...It makes me wonder if they [court officials] have taken me seriously as a victim, or the violence more seriously, some would say that bit doesn't matter, but I think it does... (W7, p11:47-49)

I didn't know what a witness was, I thought I was a victim...of course, I worked it out for myself, but at first I couldn't understand. I feel I am a victim in this. (W3, p8:1-4)

**Being in court: feelings on entering the courtroom**

Women distinguished between how they felt on entering the courtroom and giving evidence; the former was a focus in itself. This theme addressed how memories and feelings engendered by the atmosphere and people around them in court, sometimes took precedence over, or certainly influenced the time women gave evidence - whether this was a positive or negative experience.
When speaking about entering the courtroom, one aspect that women remarked on was the atmosphere in the courtroom they appeared in. The décor and the stark nature of most of the courtrooms (old and new style), were thought to project a level of formality in the Magistrates' Court, which the women felt was unrelated to, and detached from them. The description women gave of the atmosphere at court, included most of the people they came across, usually separated into groups of court professionals with perceived decision-making capacity, and others (such as, security staff, friends and family of the defendant and members of the public). The court was described as a cold, non-inclusive place: the arrangements and physical distance between people were partly to do with this, but women also felt the court officials had less to do with them, which resulted in them being uninvolved in the proceedings. Woman 1 contrasted experiences in the Magistrates' and the civil court:

...Before [in the Civil court], it was nicer, it had flowers and there was a round table...nicer, much more relaxed. The solicitor was there for me. This one...the Magistrates' Court, well, it's not as nice is it? Colder, not relaxed at all...less for me, certainly in that one. (W1, p2:33-38)

The atmosphere in court added to the sense of isolation some women had felt throughout their experience of the wider justice process. Women reported that their presence signalled an apparent degree of involvement in the process, however, a number of women described this as if they had just been "dropped" (W3, p21) or "parachuted into the [on-going] court proceedings" (W7, p15:22). Here, not only the courtroom, but also the people in the court were thought to have no relevance to their situation: women reported feeling almost like strangers in "their own court case" (W8, p12:4). As such, they found it hard to feel comfortable or engage with what was happening around them. Typically, Woman 8 described how she did not fit in, or belong in the court. Even though she had support in the gallery, she felt somehow estranged and that her presence was not valid:

Horrible, it was terrible... It was very sterile, and I know that's how courts are and that's fair do's but... It was upstairs, my friends came in [the courtroom] with me but that didn't make me feel any better. I just felt really silly. To be honest I felt stupid in the court, like I wasn't supposed...I had no reason to be there. It was terrible; I didn't
want to see him. I didn’t want to bump into him so she [Witness Support], said “we’ll look after you in the witness room”. (W8, p10: 29-34)

In contrast, the women who felt more positive about being in the courtroom attributed this to being more confident generally about what they were doing. There were other factors that helped in this, one of which was making sure they could control for some things in the court. One way of doing this was by developing a strategy to handle the situation (not unlike how they had developed strategies for managing situations in their relationships: see Chapter 4).

An example of this was how some women gained confidence from having some support in court. The fact that these people knew their circumstances, as others did not seem to, was also an important point of validation. Woman 6 described how she had felt very positive, the difference for her this time, was that she wanted to be at court, and her past experience (as with women taking action at other times when in contact with the justice system) influenced her decision to accept or recruit support to do this:

I felt great, much more confident this time. My next door neighbour came with me, because my two friends, who have supported me before, were at college. The police officer, the one who turned up on the night of the incident, he knew my history and was there at the court; he has been brilliant... (W6, p21:12-16)

Women reported how they guarded themselves in what was considered a hostile environment. Enlisting support if it were possible (as shown), for some women proved useful, however for others it was seen to offer limited or momentary confidence: ultimately however, all the women agreed that giving evidence was a situation they had to face alone. The excerpt below reflects how women had felt, and demonstrates that in spite of having some support, the pressure of the situation left them feeling anxious and isolated:

Women’s Aid came with me for moral support, everyone else [I know] works and Mum and dad were on holiday. A friend was obviously looking after my children. I had no idea what [to expect]. No matter what, you are on your own really though, you know that, when you’re in there. (W3, p16:18-22)

One additional aspect that increased women’s apprehension of being in court was the frustration they felt at the restrictions placed on them. This impacted on the way they were
able to behave or present themselves and their case details generally. If women did fail to observe protocols of court, it left them feeling in the wrong, added to their sense of isolation and in some cases even resulted in their physical exclusion from the court. Woman 9 described how just being in the courtroom and all it entailed was frightening to her. This was made worse when personal details of her situation were spoken about in open court, and in her opinion, presented out of context. She reported having no opportunity for recourse during the proceedings, and described how on one occasion, she was left feeling so anxious and angry that had felt compelled to speak out beyond her testimony. This resulted in her being excluded from court for what was seen to be an emotional outburst and unacceptable behaviour:

The courtroom freaks me out...it scares me, everything about it. I just don’t like it...when they speak [court officials] it...I wasn't allowed to speak out but... I ended up storming out once and I got arrested for contempt of court...it weren't nice...I’ve had to tell myself to be calm this time. (W9, p22:3-7)

**Being in court: giving evidence**

On the whole, women’s only direct experience of being in the courtroom was the day they gave evidence: the chance to testify (for most) was seen as their opportunity to tell their side of the story. As seen in the previous sections, for many women, this day turned out to be a "scary and surreal" (W8, p 25:14) experience, and somehow unrelated to them. In addition to simply being in the courtroom, this theme addresses how women experienced other factors contributing to their anxiety, which related to the difficulties and frustrations experienced when in the act of giving evidence.

**Fear and frustration: how women felt when giving evidence**

Women described giving evidence as "scary" (W8, p25) and "terrifying" (W10, p18). The way legal procedure seemed at times to take precedence over the evidence the women were giving, impacted on the way women were allowed to make their own, effective
contribution: for some this was considered impossible. A main concern in how they presented themselves was how they conveyed details of an incident and in context of the wider relationship (to illustrate the connected nature of these complexities). Woman 3 was keen to get all the details over in court, and was confused as to why she could not do this. The on-going debate in court appeared to be focused on what was permissible evidence: the way in which this was explained just increased her anxiety:

I gave evidence in the court, he was there. Witness Support told me not to look if I didn’t wanna look, but that was hard work, because I had to keep looking forward like that, I had to keep looking at the judge, you know the judges. They [the Magistrates] sat in front, and the clerk sat near there. She [defence] said “you can’t remember back?” which made it a bit awkward, it hadn’t even started. I wasn’t allowed [my statement]...I thought oh my God I’ve got nothing with me how am I gonna remember everything and I started panicking. She stood up and said I don’t agree, she shouldn’t have her statements. The clerk looked in a book and said "no, she’s allowed them" under section whatever, but that was when I thought, oh it’s all I need, it was just frightening... I could only answer some of the questions what the solicitor was throwing across... Well I suppose that’s the way they are solicitors, I was thinking “what’s she talking to me like that for?” I was told that she would cross examine and that, but till you experience it and realise the reality of it... all the things that were going on, they would talk amongst themselves to one another across the room and I wouldn’t understand that, but when they was talking to me, to my face, I understood what they were saying to me then, I think I did anyway. I felt terrible like I was the accused. I’ve never been to court before and it was the experience, and what the people said to me. I wanted to come out with it in court and be honest that day about the whole time, it was not me he’s just harassing, it was me friend, me family too...it didn’t come out proper how I wanted it to (nervous laugh). It was really frustrating, upsetting...from when it [trial] started, I didn’t feel well, with everything that’s gone on. (W3, excerpts from p10)

The experience of Woman 3 demonstrates the barriers to the effective delivery of her evidence. The aggressive nature of cross-examination which made her feel like she was the "accused", the procedural debates going on around her and the presence of her aggressor – all combined to cause frustration and a high level of anxiety, and failed to facilitate the process of giving evidence.

Women reported feeling under threat when questions were asked of them, some of which were unexpected. At times the nature of the questions was deemed unnecessary and even
inappropriate, they seemed to be for the benefit of the legal argument, but were making matters much worse for women. Woman 3 felt uncomfortable with the defence’s attempts to question her state of mind at the time of the incident, and her ability to deal with problems in general, including those to do with her children. Having all these issues aired in public did not sit well with Woman 3; this was not what she went to court to discuss. She was left feeling that she had not put the facts across and had to trust that the prosecution would do this:

It turned around because he was saying I can’t look after my kids and things like that and the problems that I’ve been having... I just thought oh no. it’s not going right for me. It did not feel right in there; it was less about us at that point...I was upset, there was other things that didn’t come out while I was there out of the statement and I wanted that to come across in court while I was there, so me and the prosecution went out the door and he said leave that to last and he said “that will be told in court”. (W3, p14:3-14)

Mirroring the experience related to earlier, of women being “no longer required” to give evidence, other women described how last minute changes to the circumstances around giving evidence with little communication, had increased the level of fear and anxiety. Woman 8 (who eventually gave evidence on the day she was at court) described what was seen as an attempt by her ex-partner to control or interfere with the proceedings and belittle her, knowing how vulnerable she was:

When I went to court to give my evidence, I was very, very nervous; this was the big day, what I’d been working towards. He didn’t turn up. I was waiting for this shiny new pin to arrive in his suit to totally make me look like a complete idiot, and was gearing myself up for it. I was so annoyed... with him, he knew what he was doing...I felt isolated in the court itself, but that a lot had been done for me before I reached court, by the police, by a lot of people, they’d really helped me... the least I can do is properly go through with it, because I think they [court officials] were concerned that women obviously don’t always go through with it. It was quite, quite strange. (W8, excerpt p9)

At court, as circumstances changed beyond her control, Women 8 explained how she was able to deal with how she was feeling. She described channelling the sense of responsibility she felt to those who had supported her thus far, in stark contrast to the experiences in the court itself, this gave her the motivation to carry on; partly this related to her desire to challenge the perception of unreliability of women generally, who give evidence in such cases.
Court officials’ reactions towards women in court

Women reported that in court they were often affected by the way they perceived the reactions and views of officials to them. The women were very conscious of how these reactions gave clues to whether they had convinced all those on the bench of their evidence and the level of distress the incident had caused:

I knew that they were Magistrates, well sort of knew...one lady was smiling and nodding in a very sympathetic way, then the one gentleman in the middle was not happy with me at all...Well, he was just...some of the things that I was saying, he didn’t agree with or he didn’t think I should be allowed to say... you could just tell. There was this guy [Crown Prosecutor] who I’d never met until then who was representing me or whatever, was asking me questions about the state of him [ex-partner] when he arrived at my flat. I was saying “he was very drunk and he was drunk on drugs, and obviously in a mess when he arrived at my flat”. I said in the two years that I was in that relationship, out of all the times I’ve ever seen him drunk, in my opinion, I would say “he [drunk]”. But you know he [Magistrate] had one eyebrow up and one eyebrow down (laughs) it was bad. It was like it one was kind of impartial, but there was one lady who was quite, she was nodding and I was, I felt, encouraged to continue, but with the other guy (sighs) ...I had to talk to them. (W8, p12:8-18)

Consequently though, women often thought that they were being judged at various points during the process. This was particularly heightened when at court, when women were in front of the bench giving evidence. On the whole, women perceived that the court officials would have a certain pre-conceived ideas about victims of domestic violence, which may influence their decisions from the outset. Woman 4 described how she believed that Magistrates used some kind of 'type' of woman as a reference, and could "sense" this when she was in court:

I mean they [the Magistrates] see it all the time and they probably look at a victim and they can look and say you know, oh “yeah look, she's genuine”, because they've seen it. You can sense it; I think they get to see a pattern with people and judge women from that. (W4, p12:34-38)

Although, on the whole, women were not comfortable with being in court and giving evidence, there were instances when court officials seemed to try to ease their anxiety. Many reported that ushers in court were "kind" (W6, p20) or "supportive" (W1, p3), and in some instances, tried to prepare them for what was about to happen. However, women spoke more
of those with decision-making power. The excerpt below shows how the expectations of how Magistrates and District Judges would be on the bench were dispelled when women had a more positive experience of giving evidence:

They were very nice, the clerk and the three judges, oh I can’t remember now what they were called, judges? They said “are you alright?” and I said “yeah”, they said “take your time and remember all that [happened]”, and that helped. They weren’t harsh; I was expecting them to be very (laughs) harsh. (W3, p11:5-9)

Because women felt, for a number of reasons, threatened by the situation they were in, they often reported how they had to ‘block out’ what was going on around them, in order to get through testifying. How they were received at this point by the court officials did stand out for some women, but ultimately, they wanted to say their piece and leave. Woman 7 had previously not made it into court, due to a late guilty plea being entered, so how she presented herself once she was giving evidence was important to her. This was made easier by some of the court officials, by their manner, rather than anything that they said to her; however, the most positive aspect for her was being "allowed" to give her account:

They [Crown Prosecutors court support staff] were really good with me, his barrister... he could have been worse... After, I was relieved just that it was over. It is it’s a scary thing to do and they try and catch you out. I know like the judges [District Judge/Magistrates],they didn’t actually speak to me this time to me, but they saw me and obviously saw my like reactions and the way, you know, body language I suppose..... so it was nice to know that I was being given the chance, being allowed put my side across... just to get my opportunity to be listened to. (W7, p9:31-50)

As with the case for other women, not all aspects of being at court were positive. For Woman 7, the responses outlined above did not represent all that she experienced at court. There were many facets to this day, some of which were unanticipated. The unexpected sight of her ex-partner and members of his family meant she focused on shutting out anything or anyone outside of the questioning. She described this experience overall as "horrible" because of coming face to face with her aggressor when giving evidence.
Understanding the roles of those working in the court

Although not a major source of anxiety at court, the lack of awareness of the roles of the various actors at court emerged as a theme. Women reported how there was no clear distinction between the roles of different court personnel; all those in the legal system seemed “clumped together” (W4, p12:17). As this included decision makers, some women were inclined to see everybody involved as simply being there to judge them. In this perception, there was seemingly no one there to put forward their perspective: women were concerned how their interests would be properly represented in court. One way in which this was accentuated, was when the CPS had continued with the case, after women had withdrawn. Regardless of Woman 4 retracting her statement, she was called as an (unwilling) witness for a second charge to be dealt with. She failed to see how the CPS were addressing her interests or protection; rather she felt judged by them:

I just thought they [CPS] were there to decide whether I was telling the truth or not, and the others [Magistrates]. I don’t feel that they’ve actually done or served their purpose on my case anyway. It was the CPS that made that decision to pursue, obviously off my retraction; I just felt that you know these people aren’t working alongside me at all; no one was out to protect me. They are kind of clumped together, I don’t know, maybe it’s wrong but I still see that even now. The Magistrates, the CPS, everybody within that legal system will be looking in at me, you know thinking “oh we’ve got another one here”. Some of this is probably within me, but I do feel it a lot. (W4, p12:18)

Women described not knowing who they were dealing with, due to a lack of a formal and clear introduction, and a presumption that they knew who officials were was on their arrival at court:

I didn’t know who this fella was who kept coming up and down stairs to me, didn’t have a clue who he was. He could have been from the CPS, an Usher, but I don’t really know who he is to this day, he didn’t say. I’m not used to going to court or dealing with this kind of [thing]. I hadn’t a clue what was going on… I still don’t really know what happened that day, it was all quick he kept running up the stairs and running back down, he was an old man that’s all I know, he looked an old-ish man to me… I don’t know (laughs), I didn’t know the system, or what the CPS were for in relation to me. (W5, p11: 7-22)

It is clear that Woman 5 was uncertain of the identity and role of the court officials. Perhaps more important, however, was her comment above that she did not know who people were "in
relation" to her. Women's anxiety was increased because they did not always understand their
how others in court related to them, and who, if anyone, were 'on their side'. The quotation
below from Woman 3, similarly underlines how not knowing who the personnel were, meant
that women were often unsure of their own place or relationship to court officials. She was
not sure who the Crown Prosecutor was at first, or what his role was in relation to her; she
still was not sure if this meant that he was "there for" her:

Is it the Crown Prosecutor, the one on the desk? Or the one near me? ... I thought he
was really nice...I didn't see his bit, I was told "you don't have to" I said "no" at the
time, but I wish I had now. He said to me "I'll be more forceful with him [than he was
with me]" but he wasn't when I was there. He was alright, but was he there for me? I
didn't really know. (W3, p11:11-18)

On leaving the courtroom

When describing their experience in court, women were keen to say how it was for them
immediately after testifying. This emerged as an important theme in their court experience,
and held vivid memories. The main feeling women reported as they stood down from
testifying was one of relief, but there were other immediate feelings that women expressed
(not dissimilar to those expressed at other points of their wider experience), such as distress,
disappointment, isolation, and continued sense of being in danger.

Women vaguely recalled being told they could remain in the courtroom, but this did not
register for various reasons: they described being in a daze and needing to take themselves
away from the situation. Testifying was considered the end of their involvement with their
situation on a number of levels; and women said they did not feel the need to stay to the end
of the court session. Women also thought that any offer to stay was not conveyed with any
real expectation that it would be taken up, which was probably one reason why it was
something women said they generally did not do. As such then, the memory of leaving the
stand (rather than the courtroom) was symbolic, viewed not only as the end of their
contribution to the court case, but perhaps also, the conclusion of their relationship. Although
remaining in the building Woman 7 was overwhelmed by the sense of closure to
“everything”:

I just turned and walked away from the stand (pause)... We went to the [Witness Support] office after giving evidence, and then I went home straight after that. I was given the option to stay in the court if I wanted to ... we went back downstairs and had a cup of tea. I was so upset. I think that’s why I cried then, cos it was just the relief when I came out, it was just the relief that it was over for me. Everything [was over]. (W7, p5:18-29)

Other women reported how they felt compelled to leave the court building immediately after giving evidence for more specific reasons, sometimes when very distressed or felt they were in immediate danger (W8, 15:23) and/or because they were unhappy with the way things had gone in court. Woman 3 left the courtroom straight away, rather than stay to hear her partner because she was angry about her experience in the witness box. She explained how she was treated badly, and was made to feel, somehow culpable in relation to the offence, rather than the victim of it. Later she regretted leaving, and would have liked to have seen how her ex-partner was treated in court:

I went home; I just left it [the trial]. They said I didn’t have to stay there. I felt like I was not the victim, but the accused or whatever you call it, I thought I was the accused one the one who was against, what do they call the other side? So I wish I’d seen his side and I’d seen my prosecution do that to him, but I didn’t see all that. But now I look back on it, and I wish I’d seen him [give evidence], you know the way the prosecution spoke to him...treated him, I really do. (W3, p11:18-25)

The women who reported distress and feeling in danger as they left court, saw themselves as largely unsupported by the justice process and court officials, and fulfilling a requirement, and nothing more. They felt uneasy in this role, as the system did not afford them any kind of protection. There was a sense that they had left the courtroom as they had entered it: hurriedly and in fear. Woman 8 explained how she had expected it to be more formal at court, but for her, this had translated into a “cold” atmosphere where she felt there was nothing for her, her treatment as a witness had left her feeling excluded from the proceedings:

I felt like I ran in and ran out [of court] upset and scared. They were very cold, I mean Barristers and solicitors and Magistrates are, that’s their role isn’t it? I just felt... marginalised. I think there needs to be a lot more support for women on the day. I kept thinking how the Magistrate kept pulling me up on what I was saying,
but maybe that was because there was no defence, so maybe he was being a bit careful. I think in terms of the court it was kind of a very big build up and then (pause)...nothing. I suppose I felt even more deflated, when I came out of the court I actually saw him on the street and I had to hide, I saw him just near the courts. So he'd been, he was around but he'd not been in the court, so that was very hard cos I'd put myself through all that and he was swanning around in his everyday life. I was so angry and upset. (W8, p15:15-25)

Woman 8 had, like most women in the study, described how she built up to this occasion; in her case she had wanted to go to court, but was fearful of being face to face with her ex-partner: he was not there. Her original concerns were realised, as she saw him near to the Magistrates' Court building as she left. Although scared, she was angry and discouraged that, after her ordeal, he was still able to go about his daily business unrestrained. She viewed his blatant behaviour outside court as dismissive of both the court case, and her.

**Feelings and reasons for going to court more than once during a court case**

It was relatively uncommon for women to have had more than one visit to court during a court case, however when this did happen, women talked about the reasons for this and how they felt about it. In the main, the reasons for returning to court were directly related to administrative delays and when evidence was disputed. A number of women discussed how they attended court under duress from their ex/partner. Women also reflected on why they generally chose not to return to court.

**Feelings associated with returning to court**

When women reported how they had been requested to return to court during their court case, their focus was often not on the legal process. As shown in the chapters which address the legal process, this had little relevance to women until they gave their evidence. Their experience thus far did not generally instil confidence in women. It was the underlying feelings and thoughts women had about court that were uppermost in their minds, such as, how they would prepare for this, and how safe they would be. For Woman 9, her previous visit had not come to anything, and so she was unhappy and fearful of returning to court. The
lengthy and bureaucratic nature of some court business was proving ultimately dangerous for her:

I went twice [to court] last time; it had to be adjourned because he was... summat to do with legal aid or something. I was pissed off, because I had to go back. I hate court, but I was there, psyched up and scared. We were even having to sneak through the back, at the same time we did this his [security] van was parked up. I don't know (pause)...I was told this was a better way in. I just don't believe in safe...anywhere. (W9, p11:23-30)

Woman 9 also described how uncertainty of her being protected by the court, and her status as a witness was further questioned. Having confidence in all aspects was important to women: the way arrangements were put in place related to their concerns for their safety and status within the process. Woman 9 was told the entrance she was taken in through was thought to be safer, but it actually made her feel as if she was culpable in some way. This was worsened by the sight of a security van and probable proximity to her ex-partner – this perception of sharing 'his' space confirmed her lack of confidence in anywhere being safe.

Returning to court under dispute

Disputes relating to evidence or outcomes in court were given by women as reasons for having to attend a further hearing. The reasons for such hearings, and women's part in them, were not always explained well, and they saw this as an extension of their ordeal of being under scrutiny by the defence. Woman 5 was requested to return to court on a number of occasions (following her first appearance at court), due to a dispute in the evidence she had given. She was frustrated at the lack of information as to the purpose of the Newton Hearing, once known, she perceived all those involved in the court case, as doubting her word:

He [ex-partner] had a Newton Hearing which I had to attend [Magistrates’ Court]. Adele [Independent Domestic Violence Advocate] explained it all, the in's and out's to me about that, so I had to give evidence again...But then now they've come back again saying well "no, no" so it goes on again now. It's been adjourned yet again for another Newton Hearing, but this time, at Crown. I have to go to court again; I have to see him again! What is he...[doing]. (W5 p2: 1-6)
In addition, Woman 5 described her anguish at her (current) case having to be moved to another (higher) Crown Court, which meant another occasion where she would have to return to face her ex-partner. She did not view this as an attempt to show the level of seriousness accorded by the court to the case, but for the defence to take issue with her testimony, and her ex-partner to put her to the test, and exercise his control.

*Returning to court under duress*

Although not directly related to the women’s appearance to give evidence a few women included other aspects of their experiences of being at court, such as attending court under duress: a specific instance of control by their ex/partner. When this did happen women outlined several reasons why, this related partly to their aggressors making them feel they were to blame, or alternatively, it was to suggest to the court that the conflict in their relationship was resolved. The women that reported this happening did not feel at any point, as if they had a choice in the matter: primarily they experienced humiliation, whilst their ex-partner aimed to maintain control. When women described this, it further illustrated the theme discussed earlier in these findings, of a continued and often unwanted presence of ex/partners (see Chapter 5). Woman 6 explained how she had been made to attend court, often at each hearing during court cases by her (then) ‘on and off’ partner. She described the nature of the continued threats and intimidation at this time and how this would often lead to violence. Woman 6 described how she was usually expected to sit outside the courtroom or in the car outside the court building, and how, on the last occasion she was threatened prior to sentencing and told she was responsible for his sentence:

> I went to Magistrates’ [Court] with him....It was one of these if you don’t go your neck will be broke so to speak so every time [every court hearing] I had to go. I actually took him to his last hearing at Magistrates, and sat outside, while he went in. I was sat next to him and he went “my life’s in your hands now”. I thought wow hang on, my neck’s been in your hands many a time. I used to sit outside [the court], while he went in pleaded guilty, not guilty and come out, and then go home, I was like a chauffeur. I sat outside I wasn’t allowed by him to go inside I had to sit there wait for him to come. (W6, p10: 41-50)
Woman 6 described the coercion she suffered this time, and how this was highlighted for her as it was in public. She made connections with the scenario being discussed in court which addressed the exact same behaviour she was enduring at that point (unbeknownst to others). Woman 6 felt she was continually bound by the threats her ex-partner made; she feared there was no alternative to this situation:

I felt really awful, I mean when I used to take him to any of these courts I felt like a little person sat in the corner, like don’t move, gotta sit there wait for him to come out...if I said anything or do anything I knew what the consequences could be when I get back. (W6, p3:15-19)

**Considering attending court at other times**

When women expressed that they would, in retrospect, have liked to have attended other hearings throughout the court case, it was usually so that they could have heard outcomes such as bail conditions or sentencing, although women did discuss how it was more about "just being there" (W10, p3:38), and to have a presence during their court case. Some women only found out at a later date this was something they could have done. However, as seen below, women reported that doing this may be in some way detrimental to their case:

I was told if [by a court official] if I went, that it would not look good, and could be seen as intimidating to the defendant. (W10, p4:14)

Generally the reasons women did not return during the court case were put down to, fear of seeing their ex/partner, being "frightened of the consequences" (W3, p18:5), or worry that it may project a sense that they may be "interested in them in some way" (W10, p3:15). Woman 8 discussed her regret at the time of sentence because she was fearful of her ex-partner, but later viewed the opportunity as positive:

I didn’t go to hear the verdict, I was too scared to see him; I mean it’s funny because, as time goes by, I’d relish the opportunity. (W8, p16:38)

**Decisions made during the court case**

When women talked of how decisions were made about the case, they made reference to several points of decision-making that impacted on them. These points of decision-making
were not restricted to times when women themselves were at court; rather they were discussed in the context of the progression of the case (often when the defendant would be present). The emerging theme here was how all aspects of decision-making could have an impact on women in some way, and how accessing and understanding such decisions was thought to be essential; failure to recognise this brought women back to the feelings of uncertainty for them being (a witness) in the process.

Accessing information from decisions made at earlier hearings

Generally women were not present at earlier hearings, but for many, outcomes of these were seen to have a direct effect on them: for example, when bail conditions were heard, set or changed, or when a warrant was made at court for the arrest of an ex/partner. Women also emphasised how simply having the choice and means to access outcomes was important to them.

Women were not always aware of all the hearings that took place, but even when aware of the hearings, finding out about decisions made was not so straightforward. Women reported that they struggled to find out who should tell them what had happened and when, or where they themselves could obtain such information. Being informed of what was happening meant women felt more in control, and were more able to make decisions in their day to day lives, regarding her health, finances and home circumstances:

In between hearings it would have been useful, just to keep me up to date on what was happening really, because I was just in limbo. I was sort of a mess financially, I was a mess emotionally, and I also didn’t have a clue what was going on... He went to court on the Monday, but nobody told me what happened and nobody from the Magistrates Court phoned me to tell what had happened and what the verdict was... I didn’t know he’d been bailed, so he could have easily gone out that night, got drunk and come round to my house...His mum phoned that evening and said, “oh can we speak to [named little boy], he [ex-partner] is sat next to me”...Oh, I was absolutely furious, slammed the phone down, I just hung up (goes quiet). I phoned Tina [IDVA] the next morning as soon as she came in at 9 o’clock and said “what’s happened?” And that’s when she phoned the court and she phoned me back later on and she said "it was adjourned to another date two weeks later and he’s been bailed to his mum and dad’s address". I think someone should have phoned me really, as soon as he’d been let out or at least that evening to say he’s out! I think the court, or at least either the police or
the court, or someone should have rang after court, because they bailed him to his parents address which is literally five minutes round the corner in the car from me. (W2, p9: 27-45)

Woman 2 gave an example of the failure the justice system to sometimes grasp the importance of outcomes from hearings. This failure to communicate resulted in her being unprepared for a potentially dangerous situation and an unwanted presence. The implications for women arising from the lack of priority accorded to communication of outcomes, simply confirmed that they were not seen as important or integral to the process, and so they felt distanced and at risk from it.

As shown, the lack of timely information regarding decision-making was important to how women could prepare or organise their lives during the court case, and for some women, this mattered whatever the status of their relationship. In contrast to the first example, above, the reason for such interest for women was because they wanted to, as far as they could, take into consideration the movements of their ex/partners, whom they may see on a regular basis in day to day lives. Here, the restrictions or conditions set by the court were seen as important in order for them to be prepared, and have some sense of control. Woman 6 was taken by surprise and was confused when she learnt how the bail conditions had been lifted on her ex/partner. She was living in an 'on and off' relationship where, for the most part, her ex/partner would force his way into the home. She needed to know what she had to face, and whether he was restricted in the access in anyway:

There wasn't no bail conditions they had got dropped for some reason and I found out it's because when he told the solicitors that he's here with me, and they weren't no need for bail conditions so they dropped the bail conditions. I didn't know anything about this...he's around because he forces his way in most of the time. They don't understand. I needed to know things like that, it takes you by... [surprise]. (W6, p3:8-13)

For those women who felt less threatened by the lack of urgency that justice (related) agencies attached to the communication of outcomes, they thought it was only right they were still kept up to date with decisions, which would validate their status in the process. Woman 8 wanted
to find out the outcome of her ex-partner's hearing and contacted the court in order to clarify what had happened, and also for peace of mind. She was able to feel happier when she knew the outcomes of the early hearings, which determined the whereabouts of her ex-partner once out of temporary custody:

I rang the court. He was not to contact me in any way and to obviously spend the night at his bail address, this is okay. At the time I was living at my parents and I was fairly confident because our property was tagged with the police, so they would come all the time to see that I was alright and I felt very confident that there would be no way, he could get to me. But what I was very concerned about was when I moved into my house on my own... I still needed to know what was going on. (W8, p13: 21-30)

The longer term outcomes were a concern for some women. One way in which women dealt with this, was to monitor the decisions of the court throughout the court case. For some women, how the on-going case was managed by the court, reflected how seriously court officials viewed their case, and influenced their expectations of outcomes. For example, bail decisions set were taken by women as an indicator that the court did not view their aggressors' actions as serious:

Like I said before, they obviously don't think it's been that serious cos of the bail conditions that they first placed on him. This just allowed him you know... all this time to get on with his life. What does that tell you about later on [in the case]? (W5, p14:15-17)

For women who were less concerned about how they might access information from hearings, the main issue for them was one of choice, and having the option to seek or by-pass information as and when they wanted to. Women reported wanting to make use of this option because they were unconcerned, or considered the hearings at these stages irrelevant to them, or for more specific reasons. In the example shown here, the decision was taken by Woman 8 not to enquire after every hearing what the outcome was, as she felt she had begun to over-invest emotionally in the court case. She had been intent on the justice process bringing her ex-partner to court to be dealt with, and she had to step back to avoid any disappointment and to prevent any further damage to her state of health:

I've had to just detach myself a bit from court. I mean there was a warrant out for his arrest as well at one point because obviously he didn't attend court. I became involved
in really wanting the police to arrest him, and ringing the warrant line and saying “God, he’s here, can’t you arrest him?” , but I had to stop it because it was consuming me, he had got me so annoyed at the whole thing...it was really affecting me. (W8, p10: 7-20)

When trying to understanding the decisions at court, at whatever juncture, women often said they felt that they simply had to trust in what they heard from Crown Prosecutors and other court officials. They perceived them to be more informed than themselves in the decision-making process at court, and so invested in the process.

Woman 5 invested in the experience of the Crown Prosecutor, she was told that the decision at court would be in her favour and she described how she was elated at this point. What followed was quite different:

He [Crown Prosecutor] said “we’ve got him”, and he made me feel better, what he was saying to me he whispers “well they know it’s very serious”. He give me a lot of hope you know, and then I got a phone call two days later saying that they were asking for previous to be took into consideration, cos he’s got a lot of previous. Which I thought oh fantastic...he’s looking at the minimum they’re saying six months and I’m thinking fantastic! It all got adjourned again...I felt proper intimidated ...I’m thinking is he around again... how can they not believe [the evidence]? (W5, p5:15-27)

Although women were, on the whole, appreciative of the fact that court officials cannot claim to know which way a court will decide, the course of events described above had thrown Woman 5, who was left feeling disillusioned and uninformed as a result. Frustrated at the decision made, and in the absence of any further contact from the Prosecutor; she turned to support workers outside of the justice system for an explanation of the outcome of the decision, and then took it upon herself to find out more:

I don’t understand the in’s and out’s of the system you see, the negative thing was when I got to this time, was this Newton Hearing...which he’s already had one at Magistrates’ [court]. I don’t really understand, they don’t explain anything to ya... I do know now because Natalie’s told me but nobody else has bothered telling me...When I first heard about a Newton hearing I went on the Internet, and I’d read up. I really didn’t understand it, it’s too technical, legal...I understand it more now it’s been explained to me, but I can’t get me head round it basically, I think it’s all a farce. (W5, p9:12-23)
This demonstrates a disconnection between the information the women believed they needed, and the information court professionals thought that the women needed or, at least, that which was actually provided.

On the whole, women were not usually in court as the verdict was given, or at the time of sentencing. They discussed how they found out what happened in court, and how they reacted to the outcomes.

*How women found out about verdicts and sentences*

Women's feelings about how they came to know the outcomes at the latter stages of the court case often reflected their court experience as whole. The frustrations associated with this had produced uncertainty about how the final outcome handled. Because women felt they had been left out of the loop completely until now, the verdict became less of a priority. Although she knew the verdict, Woman 8's focus became the way she had found out, the lack of information surrounding the process, and how her ex-partner was dealt with at this time. Even though her case had come to completion, she was left feeling unfulfilled:

> I had to find out about the sentence from the worker at IDVA. I've not received a letter or from the court to say anything. I still don't know, I still don't know when he [ex-partner] attended court, but I'm assuming that he has attended this time, because they've given a verdict. But I don't know if he appeared to receive that verdict or if that's been made in his absence. I'm assuming that he did show at some point in order for this to happen. I would've liked to have been told. (W8, p16:1-25)

The expectations of the outcomes of the court case were generally low. How women were dealt with regarding information giving, and how they were treated prior to, and when in court, became a way of measuring progress which had a bearing on how women perceived the case. Woman 7 seemed unsurprised by the verdict, and in order not to be disappointed, she was not expecting a more severe sentence to be given:

> I was told he'd been found guilty, and he would be going on the 15th of November to Crown Court. I've sort of set my mind on him getting away with it again [without custody], in a way, so then anything else that he gets is better than what I'm expecting
do you know. He’s been kept in custody from the beginning, so we’ll see. I found out about this, when I ended up getting three phone calls after the hearing. The barrister phoned me, then Natalie [Women’s Aid Outreach] phoned me, and then the police officer actually phoned me as well. Women’s Aid phoned me all the other times. Natalie will ring me next time. (W7, p10:10-38)

By this stage in the proceedings, many women viewed they had to be proactive and less dependent on the process due to frustrations about information giving and their negative experiences at court. The excerpt above shows how for Woman 7 the level of support came as a surprise when she was contacted by three sets of professionals about the outcomes at court.

The way in which women had been treated at various stages of the court process, left women feeling that the process gave out signals, usually by lack of contact, that the outcomes were no longer relevant to them. For women who had retracted their statement, the feelings described here were exacerbated as decisions being made were still connected to their lives. Woman 2 reported feeling this way when she retracted her statement in a case earlier that year; she had come to find out via her ex-partner’s father, whom she considered not to have her best interests at heart at the time:

I only sort of heard it second hand through his (ex-partner’s) father. He took pleasure in telling me… It was just a case of he’s got community service and he had to pay some fines. Cos I retracted I don’t know what charges were brought in the end, I was not aware of it, throughout everything I never had any information back from the court, ever. This time I will ring up Tina [IDVA], I wouldn’t go near the court for the sentencing, I’d just hang on and ring Tina she will ring straight after court. She will find out for me. (W2, p3:19-25)

For women who had experienced problems with communication and access to information before, this was too important to leave to chance. This time, Woman 2 had decided she would go direct to her own contact, the Independent Domestic Violence Advocate. She considered her a reliable source that could access such information because of her professional status: she could also offer support.
Women were frustrated as to why there was not a more consistent way of informing all women about outcomes at court (and at each stage). For many, this was seen to have a low priority in the system, and for women, the decision-making process lacked meaning if decisions were not equally accessed by all parties. There was a constant reminder from women that the dynamics of the relationship between aggressor and victim, and so, the nature of their case could well mean that decisions could carry consequences: "I mean, it's not like we don't know each other here" (W10, p8:2). Woman 4 was frustrated: she knew of one outcome from court, but she was unsure what was to happen with a remaining charge, from which she had retracted her statement. She was critical of those officials she felt should have been passing on information to her, and felt this was neither a consistent or prioritised process. She suggested a more continuous link (person) assigned to all women from the outset, would be helpful to them accessing and understanding outcomes:

I know what has happened with the first charge, the common assault, Janet [IDVA] found out. The other (pause, spoken quietly) sexual assault, is outstanding...well Janet is still trying to find out what is happening. Since I was put in touch, she's been my rock, she really has. I just wish it was all over. You know, I just don't understand why there isn't a resource or funding made for this, all women to have an Independent Advocate or one person allotted in this whole thing...I lost a son, I have seen this work on a level... Because obviously you have a Witness care unit, now obviously they're not doing their job, they're not following it through but I do think you know, you ring up and speak to somebody you don’t know. I think there should be somebody that comes to see you, sits down with you; you know talks things through the whole process. You’ve got their number, if you need them you know, they’ve got your number, to keep you informed. It’s not ideal, very hit and miss, there’s nothing you know. (W4, p9:32-45)

The lack of meaningful responses shown in the lack of consistency and effectiveness women reported was seen as an omission by the justice system in relation to the treatment of victims of domestic violence. As Woman 4, highlighted, the gaps in any response to her were met part way through her experience of contact and support from outside of the justice process; she did not necessarily see this as the agencies' role, but something they would do (also see Chapter 6). Woman 4 did feel she had experienced a more positive aspect of the justice system in response to the painful experience of losing her son, who was killed in an accident.
She thought there were features of the response she experienced at the time that could be mirrored for victims of domestic violence. Overall, the women reported a sense that the importance afforded to provide them with information about their case was very much a low priority.

*Reflections on motivations in response to final decisions*

Women considered how their reactions to the final decisions at court were based not only on the verdicts and sentences, but also their original motivations (as outlined in Chapter 4) and reasons for contacting the justice system. Women reported how they had envisaged taking their private conflict, effectively, into the public domain, was to invest in the decision of a "higher authority" (W2, p:25:17), of the legal system to meet their needs. Other women felt that an independent voice represented what "others" viewed as acceptable and unacceptable norms of behaviour. Either way this was perceived as taking control and the need for validation. Women had believed that the conclusions and an appropriate sentence, would add validity to their own claims. It would allay the doubts that had been put in place by ex/partners:

> At the time I thought he deserved what he got, and you know at the end of the day it's those in the courts that make the decisions, not me, or him [ex-partner] and that's the way I see it...They are trained aren't they, I mean they know, and me and him could go on forever like this. It was positive, positive for me because I always had doubts in my head; I always wondered is it me? He put that there. (W3, 16:1-14)

Investing in the court process with the aim of getting a positive outcome for themselves and their ex/partners, was a consideration for a number of women who went to court. This was not done, necessarily with the intention of the outcome being the most severe sentence, but for women to show their ex-partner there was intent in their actions. In the case of Woman 2, she wanted to demonstrate that she was able to detach herself and take action, her focus was on what she thought, and hoped would happen, which would validate her claims. She had felt let down by the outcome:
He's always got away with everything and that's his big problem, he thinks he can get away with things, so I wanted somebody to make sure he got the professional help that he needed, rather than me saying to him "you need to go and see the drugs or alcohol counsellor"? I first took it to court because I wanted to show him how far I was prepared to go, which it was all the way, I wanted him to see me not caring about him, because I think he probably saw me as a bit of a soft touch, and I probably was a bit of a soft touch. If someone said from a Magistrates' Court or a judge said you have to attend this every week regardless whether you like it or not, then it might, if he attended every week and he saw other people that have the same sort of problems and the sort of trouble they've got, then he would start to realise what he had done... (W2, p7:10-24)

Women accounted for their lower expectations of the final decisions, as the result of the guidance provided by the justice process, either directly through their own experience, or indirectly through others'. The latter was described as being from other women, or from a range of professionals, such as court officials, support or Local Authority workers. Woman 8 had been advised it was better to have no expectations by the Prosecutor, and because of this, accepted the final outcome. On reflection the process of taking the aggressor to court became her focus:

They [CPS] told me that he probably wouldn't go to prison; they told me that right at the very beginning, so I didn't have any expectations, so I think the final sentence that he eventually got, I was happy with it. I did wonder if I was more focused on taking him to court. (W8, p9:32-45)

Alternatively for those women who did focus on the outcomes of the court process despondency came from a disappointment with the sentence given and any belief that the process could have changed anything:

I think the sentence is wrong, I think he deserves more. I think he ought to, be put away. Yes, I wanted him out of my life, out the way. The only thing I could get up there in my head was put him away, but that wouldn't have done no good because that wouldn't learn him anything in there; it didn't learn him last time...and he used to say to me "oh, I've learnt a lot from that". (W6, p17:23-30)
Effecting change: women's decisions to retract during the court case

Some women reported how there were rare opportunities to exercise choice and effect change in their situation; retraction was seen as one way of doing this. This theme encompasses a number of reasons as to why women retracted all, or changed parts of, their previous statement. This tended to be because women felt they had "no option" (W4, p15:6) in response to frustrations with the justice process, rather than always from pressure, or to force a reaction, from their ex/partners.

Women who had reported an incident of violence or intimidation to the police with the intention of taking a partner to court and then later retracted part or all of their statement, discussed how they were not ready or willing to take the step to go to court. Women felt that they had to be comfortable with what they had done and said, but they doubted that the justice system could respect or be flexible enough to respond to this. The quotation from Woman 2 below provides an illustration of how women, in order to effect change in the process being carried out, were influenced to take some action, even though the options open were heavily restricted:

Looking back on it now it was right, cos what he did that night it was horrific; I still think I had no option back then but to do what I did, I wasn’t ready...I had retracted parts of my statement, and I knew that the new statement obviously wasn’t true. I went to court and said “I didn’t feel threatened that night, and I felt that he would have left if I wanted him to”. I amended my statement so they [the prosecution] couldn’t go on with threats to kill. I don’t know what they thought. They took the case forward though. I was nervous of going to court because I knew I’d sort of have to ... remember which bits I’d ...I think I was worried that they’d think I was just wasting their time. (W2, p4: 36-46)

There were occasions when women had considered that the justice process may respond to their underlying reason for changing their decisions, and the case would be discontinued. However, women reported that regardless of their wishes, the procedural wheels were often in motion and apparently beyond their influence: not only might the case continue, but there would be a degree of coercion if the Prosecution considered there was a case, and further, if
the woman was called as a witness. Following her decision to retract her statement at the police station after the first hearing, Woman 4 was unaware that the Prosecution had then taken the decision at the next hearing to continue the case. She was not informed by the court, but by a support worker whom she viewed to be outside of the justice system. She was fearful of the consequences of the decision by the court, and her own decision seemed to have little bearing on the court decision making process:

Prior to the second hearing I'd gone into the police station and I had given a retraction, and then there was yet another hearing...for him to attend. I thought the CPS would take on board my reasons and it would be discontinued; he pleaded not guilty again, obviously that's when they set the date for trial; they said they were going to pursue regardless of my retraction. Nobody spoke to me from the court; it was Tina [Independent Domestic Violence Advocate] that brought it to my attention... Oh, I felt absolutely petrified, just overwhelmed that the CPS haven't taken on board my reasons for wanting to retract, you know for fear of my own safety, as well as my children's around the family members. (W4, p7:21-40)

When women talked of why they chose to retract or go on to support a case, there were a number of considerations, one of which was a concern over the ability of the justice process to respond fully to women's needs. Woman 5 doubted that the justice process had the capacity to deliver an appropriate level of a sentence, which for her meant custody for her ex-partner, or protection for her. This, combined with the thought of what she would have to endure by going to court, made her consider retraction:

I did think of pulling out at this point. I was thinking to myself, nothing's gonna happen to him, I'm gonna put myself through all this of going to court and nothing's gonna happen. I knew about there's no places in prison for people, so I'm thinking, well what's gonna happen to him nothing you know. Why put myself through all this anguish and pain and have to stand up in court then, but then I talked myself back round. Well, I've had to do to haven't I? It's only me who can. (W5, p8: 1-9)

A more common concern for women was the perceived importance of successful prosecution in the performance framework, rather than consideration for their own needs. This perception impacted on their decisions to retract and how they felt as they moved through the system. It was seen to detract from them, and any possible meaningful outcomes. Woman 4 expressed how she had not been viewed as an individual, but rather part of a bigger picture which was focused on successful prosecutions:
I have felt, all along I’ve just been a number, they [in the justice system] haven’t seen me as a person you know? I am yet another statistic on their performance board. (W4, p8:12-14)

Because of this underlying pre-occupation, the choices women had were seen to be reduced by the system, so their motivation and reasons for coming to court became less important. The space and ability to make choices became narrower too, when women considered that the involvement of other agencies in their decision-making became the concern of a wider, institutional agenda (see Chapters 6 and 8). Woman 4 explained how at the time she retracted, she felt trapped and controlled by the “system” (defined as all agencies). The pressure she brought to bear in relation to a number of issues in her life as she saw it, were not unconnected. She gave an example of the authorities saying they would take her children into care if she did not continue with the court case:

My Health Visitor came round to my house, I think it was the Monday after my retraction with a social worker, because of the incident that had happened with his [ex partner’s] mother making allegations [against me]. Even though they were proved unfounded and so on and so forth, they still have to stay involved within the situation and he came round and he just basically slated me. I was like "oh my god", you know because, he was like “if you retract then we might have to consider putting the children on the child protection register” and I was like “oh my god” because he was questioning my ability to protect my children myself, (goes quiet). Me having to retract is me protecting myself and my children, obviously from my ex’s family, not for the fact of me just wanting an easy life, because I never ever took that decision to retract lightly, it wasn’t just something I thought, just that I’m going to retract because I just can’t be bothered. It wasn’t a case of that I was thinking of myself and first and foremost my three girls, and how things were going to affect them. (W4, p8: 20-45)

Chapter summary

The common feature observed across the themes in this chapter relates to the problems women associated with their status and legal power within the court system. This was seen to be an uncertain status, governed by the priorities of the court and to an extent affected by the actions of their aggressor: with a seemingly ever-decreasing choice, women viewed there was little chance to exert agency or be heard in this situation.
Themes highlighted in relation to being at court reflected many of the issues raised in the wider experience of coming into contact with the court process and its legal actors. Despite their engagement and presence, women felt their decisions at court were constrained, overlooked and limited in impact. They likened this to the sense of “coercive control” (Stark:2009) and lack of validation they experienced in different areas of their lives. The court is shown to be operating to its own agenda of norms, values and recursive practices: the net effect was a sense of isolation. Women drew on their own strategies to deal with the emotion and anxiety they associated with the occasion.

The initial experiences of being at court were shown as an important feature for women. Most perceived the court to be a hostile and scary environment, which is consistent with research on witnesses experiences, but also concurrent with the literature is how this intimidating atmosphere is particularly heightened for certain groups (Ptacek:1999; Mirchandani:2006; Sanders and Jones:2007). Other contributory factors illustrate how women experienced an unreceptive or restricted response from the outset: an example is the lack of consistency and value afforded by some of the Prosecutors to women’s wishes, in terms of them wanting or declining any arrangements or ‘special measures’ that can be made available when vulnerable witnesses give evidence in the court. The ability, generally, for things to change quickly, especially prior to or at the start of a court session, and without explanation was a factor in all women’s experiences, and often held consequences for them. Some of these examples have been shown as common features in women’s experiences of domestic violence cases, such as no longer being required to give evidence due to late guilty pleas, and compromises being made on charges (Cretney and Davis:1997a; Hoyle:1998; Grundy:2000). These decisions or practices operated generally between the prosecutor and the defence lawyer, and in the women’s opinions, appeared to be influenced by, or benefitted their aggressor: none of the processes were affected by the women. The lack of inclusion and right to know for many
women threw doubt on their status of their role and validity of their presence. It was evident that women's anxiety was exacerbated by the confusion over the relationship the court officials had to them, and their expectations of officials, in turn demonstrated in the brief meeting with prosecutors just prior to court, and from their experiences in court. This was predominantly down to grasping the implications of the adversarial system, and how it operates in relation to domestic violence: specifically that the prosecution was not acting on their behalf or representing their interests, but required their commitment, as the process was seen to be in the interests of women and the prosecution (Cretney and Davis:1997a).

The recurring theme of the perceptions and expectations of others (also see Chapter 4), was particularly evident in the court setting, where women's claims and the rationality of their decision-making thus far were questioned. The way in which women were treated or the non-verbal cues they received were indicators of this; the demeanour of those of the bench was changeable, from supportive to officious or detached, demonstrating not just personalities, or professional attitudes (Ptacek:1999), but having the capacity to change at will. Women perceived this to be due to the way they acted and decisions they made in relation to the case, prior to and during the court hearing. Some women also suggested this built on preconceived ideas and expectations of victims, a particular finding which chimes with those of Cretney and Davis (1997a) who studied court officials' reactions to domestic violence cases, and other empirical research in this area (Hartman and Belknap:2003; Cammiss:2007). These findings also have some parallels with women's experiences of court officials in cases of rape and sexual violence (Lees:1996; Konradi: 1996;2007), attributed to a culture of scepticism that exists (Kelly, Lovett, and Regan: 2005) towards such cases. Finally, the women's accounts add weight to the argument that there continues to be a construction of problematic images of women as victims and witnesses (Mahoney:1991; Randall:2004).
Women highlighted how alone they felt when giving evidence, regardless of support some may have arranged. Accounts detailed how they managed the situation by drawing on their own strategies to deal with the emotion and anxiety of being in court, a technique that sits closely with the emotional management some rape victims describe using (Konradi:1999). Importantly, and in agreement with the limited research in this area, women contended that their demeanour and actions were often judged, as they came face to face with, or were in close proximity of their aggressor, and when disclosing aspects of their “personal suffering” (Ptacek1999:147).

As demonstrated above, a strong theme throughout the chapter was the questionable status of women’s role and position as witness in the adversarial court system. This was further illustrated when women talked of the frustration over the way their version of events was presented in court. There was invariably a marked difference between this and their own narrative, due to the restrictions placed on them by what was pertinent in law, to the charge made (which may at this point have been changed). As with other studies, women valued their account being actively listened to (Mirchandani:2006), and believed (Fleury-Steiner, Bybee, Sullivan, Belknap, Melton:2006). With no right to redress, or personal counsel, there was little or no opportunity to place this in context or give more precise detail, thus losing the more accurate version, “full facts” (Cretney and Davis:1997a:151) or impact. This experience is not disputed by socio-legal scholars researching this area, but is seen as raising “discrete issues” for the treatment of victims of domestic violence (Cammiss:2006:704). The insight gained here, adds to the knowledge to the value of giving space to hearing women’s own narratives (Cammiss: 2006;2007).

Women sensed that despite an obligatory statement after giving evidence, there was no desire shown from officials for them to stay in the courtroom. On reflection some had wanted to,
whilst others said it was symbolic in many ways to leave, or did so because they were fearful. Being present in court at other times of their own volition was mostly discouraged: a decision which was thought to hinder the 'image' they were portraying (Madigan and Gamble: 1991; Randall: 2004). Where women reported positive aspects of being at court, these came from isolated, individual responses, and were not typical of the experience of the women at court as a whole. Women’s perceptions of themselves as agent- victim- witness, was an active consideration, giving insight into how they viewed their relationship with the court; the fact that these statuses co-exist appeared to be seen negatively in relation to their role within the process, and separate to the nature of the offence being discussed. Because these particular views are borne out of women’s experiences, they add considerable depth and validity to the discourse surrounding the conceptualisation of women as victims and agents (Randall: 2004; Burman: 2010): certainly an under-explored area, worthy of future research.

The later themes which directly addressed decision-making highlighted a perceived lack of understanding of women’s complex situations: regular practices left women distanced and not integral to the process. This failure to appreciate what was relevant and important throughout the case to women, such as their right to access and understand ongoing decisions (see Chapter 5) meant that final outcomes sometimes had less meaning. Often what women saw as a positive outcome, in respect of the changing status of their relationship, taking action at various stages to withdraw their support in order to effect change in their relationship, or to send a message to the court process, was thought to be misunderstood. The reaction to this withdrawal of support could result in women being compelled to give evidence, and/or at worst being criminalised for their actions. As shown in research carried out with court officials (Cretney and Davis: 1997a), these types of action are considered to be in conflict with the justice process and its practices, rather than the way it was considered here, as a rational choice in the context of women’s lives or due to the limitations of the process.
Although women did not talk at great length about retraction, they saw this as a focus for the professionals: this particular finding extends research which explores women’s reasons for taking different forms of action, and how it has value for them (Robinson and Cook:2006; Madden Dempsey: 2007). For those women who saw themselves as investing in the court system, their experiences generally led them to have low expectations of what it could achieve (Cretney and Davis:1997a). Verdicts and sentences were described as sometimes meeting those expectations, or were disappointing and frustrating. For some women, outcomes were said not be central to their motivations; here the intention was more to establish a point of principle to their ex/partner.

The lack of formal recognition and status for the women within the normative legal procedures and protocols over their needs, and how they were perceived by legal professionals, undermined the legitimacy women felt they were afforded. This issue is discussed as an interpretation placed on the women’s concerns by the system, emerging through the objective responses of the court but also the more subjective interactions the women experienced. Although the terminology is not something directly observed in women’s discourse, what are present in women’s discussions are their perceptions of the legitimacy of their situation and actions.

The next chapter focuses on how women reflected on the end of contact with the court. The key issues were the ways in which this time was defined for women, the value of the prosecutorial process in addressing all the concerns that the women had, and how women would go on to manage and organise their lives.

1 Women were often not present on these occasions.
2 The unpredictable nature of their ex/partner’s decision-making at such a late stage, had led some women to think twice about what might happen if they went to court again.
Women also described how this, and past experiences of being in the justice process influenced how they thought they should act, once in the court building, and in the courtroom. The Magistrates' Court in the case study area had one courtroom which had a deliberate obscured view between the defendant and witness; there was also a courtroom which had the facility to provide a video link from a nearby, separate room into the court. Quite often this would relate to administrative delays where full information was not made available in the court and there would be an adjournment until a later date. Women also discussed having to return when there evidence was under dispute for a Newton Hearing. A Newton Hearing takes place when there is dispute about the evidence of a case; it usually means the defendant agrees to an offence taking place but not in the exact same way as described by the witness. Evidence can be heard from both sides, a conclusion is reached on the matter where a substantial doubt still persists, and benefit can be given to the defendant. The researcher observed a number of Newton Hearings throughout the observations in the case study area court. Here women defined how they described being 'at court', this could include being in the court building, in the courtroom or waiting outside. For some women, this decision was considered to end their court experience; however for others it triggered a further involvement with the court process, often with a return visit to court under duress.

Women reported few instances of Victim Personal or Impact Statements being taken, and were not reported as used in the presence of women in the Magistrates’ Court in this study. It was court officials rather than women that discussed the very limited use of “bad character” evidence in some cases in the Magistrates’ Court, made available under the Criminal Justice Act 2003. This does not necessarily mean this was used in the cases of women in the study, and was not reported as such by women.
Chapter Eight

Finishing Points? How women felt towards the end of contact with the court

Introduction

This chapter focuses on how women viewed their experiences towards the end of their contact with the court. The first section of this chapter addresses the theme of women’s ‘Unfinished business at court’ due to fact they were still linked in some way to the legal process, and their ex/partner. In section two, women address ‘Pressure from ex/partners after court’, and how their experiences, and ex/partners’ reactions had impacted on them. The third section ‘Moving On’, shows how some women had begun to make changes to their life circumstances in order to move on. In the final section, ‘After court: reflecting back on the whole experience’ women appraise how they felt after court, and in terms of the totality of their court experience.

Unfinished business at court

This theme identified how many women saw themselves as having unfinished business in the context of their court experience: this was generally described as such, because women either saw there were outstanding details to be dealt with, or because they were due further involvement with the court process. The former usually meant that women were unaware of the full or final outcomes from court,\(^1\) and the latter that another case was still on-going or yet to start.\(^2\)

As a result of the circumstances, women described how there was ‘no identifiable endpoint’. Women discussed how they were anxious, and unsure of what the status of their case was; a
reoccurrence of feelings of disconnection with the court process. They talked of the confusion associated with not knowing whether their case was over, and the impact this had on their lives. This was the case for Woman 4, who (at the time of interview), as far as she knew, was awaiting the outcome of one remaining, outstanding charge against her ex-partner. This case had been taken forward by the CPS, and because of this, she had felt further removed from the process. The nature of the outstanding charge was important to her too (it was one of sexual assault). Not knowing what the decision or outcome was in relation to this charge left her feeling totally exposed:

I don’t know what is happening with the second charge of sexual assault...Yesterday I was okay, last night the doors were locked all the time, and I’ve gone back to that feeling of being a bit insecure again. I don’t know whether he’ll be stupid enough to do anything, I mean obviously like I say, I do feel safest in my own home because I have my panic button. I will keep talking to IDVA, they are trying to find out what’s happening. I might end up sort of protecting myself via an injunction in the criminal court, depends how long this goes on, when the other [charge] was sorted, I thought this would be over by now. (W4, p14:13-17)

Women explained how they were led to believe the court case was all but over, and were awaiting a verdict or sentencing, only to find out that there were now, other procedures to be considered. This not only increased the time they were in contact with the court, but importantly for women it prevented any kind of closure on the matter. The nature of the reasons for the delays contributed to the sense of having unfinished business, not only in relation to the court, but also with their ex/partner. After feeling relief when she was told her case was all but over, Woman 5 then became despondent when she was told that a second Newton Hearing (dispute) was to take place, this time at the Crown Court. At this point she was anticipating a final sentence, so this news had added to the time taken and anxiety caused thus far, from which she now just wanted closure, and to move on:

I was relieved when I found out it was over, well then I thought it was. It was the man, we think was from the CPS told me to go out and celebrate after that last hearing, cos as far as he was concerned that was it, he said “I suggest you go out tonight and celebrate”, and we did (laughs) but it wasn’t worth it.... Oh my god, I wanted to cry, when it wasn’t. I rang my mum I said “what’s the point of me going on with this? It’s just like just another setback again, no light at the end of the tunnel”. It’s gonna be
twelve months in three months time you know. Going back to the photographs and the statement, it knocked me sick. I seen him, I only seen him last week sat in a traffic jam, I just felt (sighs). I’ve had knock back, after knock back, I’ve not got anything positive and until I know exactly what’s gonna happen in court well... Even if it doesn’t amount to much, if he only gets a tag, I don’t care as long as there’s something at the end you know, and I don’t expect much. I want to come back [to the researcher] and say I’m really satisfied [with the outcome] but I can’t at the moment. (W5, p20:31-45)

The appeals process could also delay the final outcomes for women. Here, women had thought they had reached some kind of conclusion to their whole experience, as a final verdict had been given, only to find out the legal process could be used to cast doubt on the validity of their claim once again. Woman 3 was upset when she found out her ex-partner was to appeal the decision made at court: she was sure he was embarking upon some kind of vendetta, and was mistrustful of his next move. She had thought her court experience was over until her daughter began to taunt her about this not being the case:

Until my daughter started saying things out of the ordinary when there was a bit of conflict in me house, I had no idea. They are close...I thought what’s she talking like that for, oh no what’s he doing now? What’s he up to now? I got a letter saying that he might be appealing, and I might have to go to court. Now he is fighting it [the decision], so obviously he still doesn’t think it’s abuse. I have mixed feelings now about that, I’m thinking well they seem to think he was guilty, but yet he doesn’t seem to think that, so what is this outcome gonna be? This is why I went to court to get this sorted out you know. Hmm, gonna have to do it, I’ve gotta keep fighting that’s all I can say...I feel dead upset, I’m upset because I think what what’s he got up his sleeve do you know, what is he doing? I’m just hoping the Crown Court has seen this before and they know what they’re looking for. (W3, p19:10-30)

By taking the opportunity to contest the verdict, the ex-partner of Woman 3 had cast seeds of doubt in her mind, once again as to the validity of her claim. The continuation of the court process, as shown above in both examples, illustrates ways in which an ex/partner’s attempt to show, through seemingly legitimate and legal ways, they could continue to seek control over, or to manipulate aspects of women’s lives. The uncertainty of what some men would do next could still make women fearful.
Pressure from ex/partners after court

Women described how ex/partners’ reactions had continued to impact on them after their experience at court. This theme was relevant to the women in a number of different ways; including how women handled the reactions of ex/partners to the outcome/s at court, how some women felt they had to anticipate the future, and the continued risks and restrictions this placed on women’s lives.

Responding to ex/partners’ lack of acknowledgement

As the previous quotation illustrated, women voiced concern regarding the perceived reluctance of some ex-partners to acknowledge and accept the outcome at court, through continued denial and minimisation. Nevertheless, women could feel that despite this, their experience as a whole (both positive and negative) had resulted in them being stronger in their ability to respond to these accusations and denials of abuse from their ex-partners:

I don’t think it has affected him, he still thinks that he’s right and I’m wrong but... he doesn’t acknowledge the fact that he’s done wrong, but I think whatever he could do or say now, I’m so much stronger because of everything that’s happened, going to the police, retracting, having to go to court anyway, that I will deal with it. I’ve probably got that fear of that first meeting, if we ever bump into each other at Tescos, but because I’m more resilient. I don’t think I would be this wreck that I was three or four months ago. (W4, p16:32-39)

Anticipating and handling a continued, unwanted presence

Some women reported that the continued and unwanted presence they described earlier in their experience (see Chapter 5), was also an issue in the time just after the conclusion of the court case: even conviction did not immediately end that fear, pressure or influence in their lives. The anticipation of their ex/partner showing up, or them already having a direct presence, influenced the way women managed their situation. One example of this is how women regularly described having some kind of plan in place to deal with this, whether it involved an approach which would draw on a formal support network or using their own
informal contacts. When reporting this, Woman 6 was less sure about the effectiveness of restrictions placed on her ex-partner by the court, and thought that it was only a matter of time before he would turn up:

Every so often I get this mad thing at night, thinking to myself, hang on let's have a look out the window. After court he used to go down the bottom of me grove, it's like a little quiet grove and I know he would stand that corner. If I thought if he was there, I know what I'd do now. I can ring 999 or push me button, I mean I wouldn't be afraid to do it...it goes straight to the police then they know exactly who it is and they come. Adele [Women's Aid Outreach] always rings up to see how I am. He's only meant to stay away from me, no texting me, but he still has text me, been nearby, but he's not turned up on my door yet. I'm not worried if he does cos I can turn the key or I ring 999. I mean cos he is liable to get so drunk and turn up on the door whether he's got bail conditions or not. (W6, p18: 47-64)

For some women, it was advice from professionals at support agencies which had caused them to consider changing aspects of their behaviour beyond the court case. This was a recurring theme from those women who may be likely to have some form of contact with their ex/partner, so they may be able to deal with possible future situations of violence and intimidation. This kind of advice was only seen as valuable if women felt comfortable with the suggested approach. For example, strategies developed by Woman 2 for dealing with threats from her 'on and off' partner included the advice from a support worker to use de-escalation tactics and always anticipating ways to flee if necessary:

Because he used to be around I did actually take Natalie [IDVA] advice. I keep a bag of clothes for me and my son in the car; she sort of put it my head about warning signs. I already knew the warning signs, but instead of confronting him about things, like his drinking, which is what the trigger of him being violent and aggressive, after talking to Natalie, I'd just try and de-escalate it and walk away. I knew that I'd have the stuff all ready instead of him seeing me running round the house getting stuff in a bag for me and my son. There was one incident about a month and a half after we got back together, that he came home drunk and instead of approaching him about it, I just said "oh I need to nip to the shops", and I just went and stayed in a hotel over night. Then, when I knew he was sober, I went back and spoke to him about it, but I still (spoken quietly) went back to him. I still have the bag in the car, just in case I ever needed it. (W2, p6: 15-31)
Risks and restrictions on women's lives

Women talked about how they had been able to move on in many ways; however, some reported how they still felt restricted in certain aspects of their lives. In the main, the anticipation of being able to return to what they considered 'normal' behaviour was overshadowed by the possibility of future risks of experiencing violence and intimidating behaviour. They would be unable to go about their day to day business, without fear of seeing their ex-partner. The excerpt shows how from before, during and after the court case, women were unable to visit places they would have in the (recent) past:

To be honest it's taken up so much of my energy and my life I was just so happy for it all [court case] to be done, but you know I've still not been back to places...places I used to go to all the time and it was part of my life too. It's not like I've moved you know a million miles away, I'm not in a different county, but that's what I've had to do because I can't see him, I can't ever see him again. If I see him, that's not something that I can cope with at the moment. I have been thinking about an injunction you know. I can't hide away forever so what I need to think about is when, I mean I don't go into the city centre and that's somewhere I'd love to go but I've not gone for a long time...I just couldn't. I mean just to go shopping or anything. It would make me feel miles better if I saw him and he knows he can't speak to me, cos he shouts at me you see in the street and things. I'm not really sure he'd observe an injunction, but I would feel better if he was served with one. I hope that would really put the nail in the coffin. (W8, p9:1-15)

As Woman 8 illustrated, there was a sense from women in the study that the court was only able to do so much. On one level the court case may have served justice by giving a sentence, but it had not given them what they needed: the freedom and control over their lives.

Moving on

The phrase 'moving on' was used in different contexts by women in the study, with the theme being represented in both a literal and metaphorical sense. This could be literally when women moved house and/or area, but there were also accounts of how women saw that they had begun to move on, metaphorically, by the way they had managed or taken action in their situation.
A fresh start: women's decisions to move house or area

A number of women described how they were choosing to make a fresh start by moving area completely. This was often seen as an attempt to move to what they considered to be a safer life: away from an ex/partner, any of his associates, and memories of the past. Woman 7 was keen to be in a house that she and her daughters had made their own in every way, making choices and working independently. In her plans for the future she was building her hopes that her ex-partner would be given a custodial sentence which would allow her to make her move without him being there, she also anticipated his reaction at the move:

I’m just trying to think of the future now; I am trying to get a move out of the area. Obviously, his family only live on the road and on the same estate, so it’s more about them at the moment... I just hope he... like if he gets six months, I’ll be moved and settled in a new house by then. It’s when he comes out he’s either gonna be glad that I’ve gone, because he’s sorting himself out or he’s gonna be very angry and he’s gonna come back with a vengeance. Hopefully I would have moved by then so I won’t be on his doorstep. Obviously I’ve got two children, a three year old nearly four and a one year old...I’ve got to think about this now I want us to have a fresh start, just me and the girls because the house that I’m in will always be our house, do you know? I look at things and think well he decorated that and he laid that floor, so I’m looking forward moving to my own house and doing things for myself, and it being mine and the girls house; not the house that we lived in together. I will try and stay in contact with certain friends who’ve helped me though. One who has been really good all through has got the baby today; she’s been fantastic and she’s even had some of her own stuff going on at the moment, but she’s still there whenever I need her. (W7, p12:18-37)

As Woman 7 stated towards the end of the excerpt, having a fresh start did not necessarily mean that women wanted to change everything in their life; it was sometimes difficult to balance 'moving on' with ensuring that they had a continuation of support.

For those women who described how they wanted to move house to be safer, there were certain conditions that had to be met before this was possible. There was a distinction made between moving house, an act which held no guarantee for their safety and that of their children, and moving to a house that they felt safe in.
Woman 8 had moved with her new baby into a new house about a month after the court case had ended. This was an attempt to make a fresh start, however she had moved several times over the last year and half, from her flat (where the incident took place) to her parent’s house before and during the court case. Although she had been offered a house by the council, she felt unsafe and would not contemplate living there until this was addressed:

I was very concerned about was when I got moved into my house on my own, not long after court case. I was very scared about moving. I thought that he was gonna come there and he was gonna get in and hurt me and him [baby]. It’s been about two months now and I feel brilliant now because Adele (IDVA) managed to arrange some security. I thought it’s very well giving me a new house, I said, "I'm really grateful, but I can’t live in it or sleep in it, I'll be petrified if I can’t have an alarm or locks or something on my letter box. Because before he was constantly at my letter box or looking in it putting things in it". They said “no we’ve moved you that’s all you can have”. Adele really fought my corner and said “listen she needs this security she can’t live in the property”... I was really propelled along and given a lot of support and encouragement and being told you can have this you can have that... so now, as a result I feel my house is fully secure. (W8, p23:14-25)

How women described 'moving on' in other ways

Women reported how they were ‘moving on’ in other ways, and in most cases having to physically move away was not thought necessary. They described how other aspects of their lives had changed in part due to their experience, and also due to women taking back some control, by changing their circumstances. A network of friends that had formed organically was seen to be an important way to support women through this process. In particular, women reported that it reduced their isolation. An extension of this, but a less usual occurrence, was when women became friends with other women who had been through very similar experiences to them, leading to them offer each other advice. Woman 6’s extended family was at a considerable distance, but she had built up a group of friends, who had been in similar situations. She explained how the reliable and flexible nature of the friendships worked, when they would “keep an eye on each other”, but also get on with their day to day lives and do their "own thing"; being there for each other if necessary:
Because all my family are there and I’m here, with me daughter, we make the most of it. The few friends I do know is through the fact they have had domestic violence. If we think each other is like going down low or something we sit in a room or we meet up and we tell ‘em how we feel, what they should not be doing and what they should be doing…we have done for the last two, two years, it don’t matter what has happened we always stick together…We go out on a Friday night together … we have a meeting we go round to each others’ houses and everything…You know we do our own thing, one goes off college, I’ll do my DIY or whatever but we always meet up…To make sure, we do keep in contact you know if we don’t hear anything from somebody we’ll say “hang on what’s going on here?” (W6, p9:1-20)

Women reported how they knew they were ‘moving on’ after the court case because the previous restrictions had lifted, and they were more able to go about their daily lives without fear. Most women attributed this to having been seen to ‘take action’, and having dealt with many of the complexities of their lives with support, rather than due to the outcome of a court case:

I haven’t got the foggiest idea where he is or what he is doing now, and I don’t really care. I’ve met another guy you know, I’ve really I mean life has really changed. I don’t need to be worried about how I go out now, how I dress and things, what time I can come home. I mean he used to say “where have you been?” you know, it was like you gotta be there at a certain time. It’s completely different. Since doing the court thing and with the support of Women’s Aid and everything I mean my life has just opened up, yeah. Don’t get me wrong the court could have done more to him, but I’ve got stronger regardless… (W10, p15:35-44)

After court: reflecting back on the whole experience

After court, when women reflected back on the whole process, they did talk about their experience of contact with the Magistrates’ Court, and this theme made reference to what they viewed to be their total experience. This included the time period from early decision-making to being ‘in’ the justice process, and having contact with a range of professionals/agencies that women viewed, positively or negatively, as integral to the experience they described. Women also made mention of the prospect of their using the court process in the future.
On being “in the system”

Women reflected how their recent experience of being in the justice system had taken its toll on them. This was not least because they were dealing with a situation and a system where they had felt they had no real place and which did not relate to them; they felt isolated from what was going on, and found themselves having to manage their lives around the effects of this. As Woman 4 described her thoughts on her experience, she explained how she had felt mentally drained by embarking on this process. Once the system had progressed further without her consent, she felt little about how the justice process had related to her personally; the focus appeared to be more on the need for a prosecution:

It’s been a roller coaster, an absolute roller coaster from beginning to end. You know I can definitely understand why other women withdraw, because at the end of the day it just has such a huge impact on your mental health and your emotional well-being. You feel that even though you might have organisations around you, you do at times feel very, very isolated...I feel that the whole system itself considers you to be a number and you are yet another statistic in domestic violence. They want to get through and they want to get their statistics right and it’s yet another perpetrator has been convicted and so on and so forth...there’s nothing that relates to women personally. It’s very formal and I just feel that the whole system itself is still behind the times in a sense...there was no understanding shown of what I was going through, which is why I retracted. (W4, p19: 6-12)

The recurring theme (see Chapters 4-7) brought out above, was the sense of exclusion, as shown throughout their experience; women felt for a number of reasons absent from, or separated from the process. As with Woman 4, this left women judging the process to not be ‘about’ or ‘for’ them; indeed, sometimes finding it difficult to relate ‘their’ court case to them at all, particularly if they did not appear at court or the case was taken forward without their consent:

I can’t really describe how I feel about court because ... I don’t think I still feel like I’ve been involved with the court at all even this time, because I’ve not had any dealings with them. It’s always him [ex-partner] that goes to court. I see the support services as something I have related to, I do see them as part of the system but as sort of civil service, rather than as the prosecution service or part of the legal system... I don’t think I’ve related to them [prosecution service] whatsoever, because don’t feel like it’s ever worked for me (W2, p16: 5-15)
There was a tendency for women to see their primary connection with the case as through support agencies. Certainly, it was individual support workers who were more able to match with the women's needs, whether this was to offer (and seek) information about their court case (perceived by women at times to be beyond their ascribed role) or give support. As such, it would be only the service offered from these agencies, rather than court-related processes or its personnel that offered an inclusive and appropriate service and allowed women to feel more connected with the judicial process to any limited extent. These support agencies, though predominantly outside of the justice system, remained part of a structure that retained a degree of control over the women's lives.

Although women identified what was missing for them, and that the experience as a whole had provided little of what they had needed, there was also an acceptance from some women that the court process could not provide everything. On reflection, there could be a recognition and acceptance that the court was concerned with justice and the prosecution of the offender, rather than supporting or meeting the needs of the women through their experience:

The court brought me right back to the beginning [when I considered reporting]; when I got to court I felt very unsure. The police and other agencies who supported me were all very nice and supportive and told me what was going on, the court just wasn't like that... it's about their approach to you... I suppose (laughs) well you know it was a court, and a decision has been made, and he was found guilty and that's it! (W8, p24: 1-12)

Chapter summary

The first theme addressed in this chapter demonstrates that, for some women in the study, there was no definitive end point to their wider experience of managing violence. This had not been a clear or linear process, which suggests that the issue of unfinished business was defined by women as extending far beyond the contact with the court, as they dealt with the aftermath or ending of a court case. Here, and throughout the findings, engagement with the
criminal justice system is shown to be one of many ways in which women respond to their victimisation, echoing Ford (1991) that the law is used as a resource, and was not, for the most part, considered a solution (Stanko:1997) by women. A pertinent and not unrelated theme was how women dealt with and managed their current situation regarding their ongoing relationships or interactions once their initial involvement ended. Although some women described being free of violence at the time of interview, similar to other studies (Ptacek:1999; Grundy:2000; Fleury-Steiner, Bybee, Sullivan, Belknap and Melton: 2006), coming into contact with the court, and even passing sentence, rarely brought about an end to the experience of violent and intimidating behaviour from ex/partners, or indeed the threat of it. Women's accounts suggest that a reliance on official prosecutorial interventions were unlikely to be sufficient in addressing all the concerns or goals that they had.

It is evident in the remaining sections of this chapter, that there are themes and sub-themes which run through the whole of the women's experiences (as shown in previous chapters), the most pertinent being how women approached or managed their situation, and highlighted here, the experiences they would draw on to do this in order to "resist, cope and survive" (Kelly:1998:161). Particularly emphasised was how women handled men's reluctance to acknowledge the court outcomes or the end of a relationship, and how women had made changes which included a life without their ex/partner.

In some cases, having gone through the process, it was shown that the whole experience in both process and outcome terms would determine how women would lead, manage and organise their lives in terms of safety for themselves and their children. Some women said regardless of the court outcome, the nature of the experience had made them stronger, whilst others said it had taken its toll on them, emotionally. Aspects of these reflections chime with the findings of other research which focuses or touches on, women's experience of the court process (Fleury-Steiner, Bybee, Sullivan, Belknap and Melton: 2006; Holder:2008). Through
their involvement with the court process, women reported how this had compromised their sense of freedom, and specifically for some, the control they had over their lives, even if this was not triggered by actual threatening behaviour. Research shows that this resultant sense of constraint, although experienced in different ways is not uncommon, and shares similarities with experiences of victims of rape and sexual assault (Kelly: 1988; Lees: 1996). The need remained to achieve 'closure', emotionally and psychologically, and move on in their lives: women showed, in quite specific and dynamic ways how they had been working to do this individually and collectively with other women.

In reflecting back on the whole experience, women reported they had felt isolated from the court process, which had, as a consequence, impacted on their lived reality during and after the court case. They related to the process generally only to a limited extent, and often through support agencies. On the whole, women valued these agencies as for the most part, they acknowledged the context of their actions, or as shown in evaluative research based on justice innovations (Robinson: 2007), met more aspects of need; however, they did not necessarily see it was the professionals from support agencies role to attend to what they perceived to be court related issues. Ultimately, women recognised that the court process was focused on the prosecution of the offender, though they did not generally discuss this in the context of public interest. As with examples of other research in this area (Erez and Belknap: 1989; Fleury: 2002; Fleury-Steiner, Bybee, Sullivan, Belknap and Melton: 2006), decisions were shown to not always be made in their own best interests or in response to their immediate needs.

As they are drawn from quite detailed reflections, these thematic findings are noteworthy as they inform the debates regarding the aims and value of the adversarial legal system for domestic violence victims. Despite the nature of their experience, whether they considered it
to have positive aspects or not, most of the women did not rule out using the court system in
the future if they had to. Action would still be taken instrumentally, for various and specific
purposes (Ford:1991; Lewis:2004), but with an emphasis on them having more knowledge of
the system. Women continued to be wary of the process and its limitations in appreciating the
complexity of their situation or meeting their needs. Some examined this in the context of
what they perceived to be the wider priorities and goals of the prosecution service and the
court, including those of securing a prosecution, linked to performance, or even resources.
Tellingly, and reflecting the view of some who research in this area, women also considered
that these extra factors, combined with officials perceptions and expectations, may influence
the management of their case (Cammiss:2006; Coy, Lovett and Kelly:2008).

The next chapter concentrates on particular areas of comparison between the viewpoints of
women in the study and professionals that women associated with their court experience. The
professionals’ perceptions were analysed in relation to themes coming out of the women’s
accounts.

1 This probably meant that women’s ex/partners had an outstanding charge to be dealt with, or more commonly,
that they had a verdict, but were awaiting sentencing.
2 See Chapter 4 for women who reported having had more than one case in court within the year.
3 Some women made the same connection with controlling and manipulative behaviour, made possible by the
legal system, with the use of late guilty pleas. These were reportedly given on a number of occasions on the day
women came to court to give evidence: they were then told they were no longer required in court (see Chapter
7).
Chapter Nine

Convergence or divergence: comparing the views of women in the study with those of professionals

Introduction

This chapter compares the views of women who had contact with the court with those of professionals working in the court,\(^1\) and professionals from support agencies (a group which women explicitly referred to in their accounts).\(^2\) The chapter does not present an in-depth review of the professionals’ accounts, like the previous five chapters, which were dedicated to the women’s perceptions of their experiences. Instead, the professionals’ perceptions are analysed and presented where there was a direct comparison to be made, noting convergence and divergence of views\(^3\) in relation to themes emerging from the women’s accounts.\(^4\)

The chapter broadly addresses those themes and sub-themes relating to women’s decision-making and the influences on it; the experience of having a case go through the court process; and the experience of specifically being at court.

The effect of repeated and on-going contact with the justice system

In contrast to women in the study, court professionals were somewhat dismissive of the effects of recurrent involvement with the justice system. Women claimed the cumulative effects of involvement had further exacerbated the pressure they were under. Although it came as no surprise to court professionals that women had talked about experiencing more than one case in the court process (and within the last twelve months), this group put a different emphasis on the issue. Court professionals focused instead on the reasons women may have come into contact with the justice system, which were separate to women’s
relationship with the court. These included their perceptions of a generalised local problem relating to crime and violence which was represented in certain "types of people and families" (LA 1, p6:3-5), and where domestic violence was seen to be an “accepted course of conduct” (CP 1, p29:13).

Unlike the women in the study, court professionals did not recognise the complexity of women’s lives and how contact with the court process and wider justice system contributed to this. This reflects their structural role which may lead them to carry out the same task across different women and therefore not fully appreciate the women’s situations holistically:

I mean the majority of the time the magistrates never hear the full story, they never really know what’s going on. (M3. p4:6)

Court professionals claimed that in many cases they “would never see many of the women” (LA 2, p17:3), for instance, if a case did not get to trial. In contrast, women felt that there were multiple sets of decisions being taken by the court and by themselves in relation to their involvement with the legal system. Women felt that the effects of this further complicated their lives, and also impacted on their decisions whether or not to continue to support the case.

Professionals from the support agencies did speak of issues relating to external, localised problems; however this group also shared the concerns of those women who had experienced repeated and on-going contact with the justice system. They often saw in women the sense of confusion and uncertainty that this particular experience brought and, paramount for some women, the attached fear and risk. The professionals from the support agencies also showed great concern for those women who represented another end of the scale, namely, those who were outside of the court process and support structures entirely:

We do see women, who go back to court again and again, and it’s not good, but there are so many other women that don’t go to court at all, and then when some of them do go, they won’t go back. They won’t ever ring the police again. (IDVA 2, p11:4-6)
Decisions involved in managing violence and intimidation

There was reluctance from court professionals to enter into a discussion about women's wider choices, particularly in relation to the range of ways in which they managed violence and intimidation in their relationship that may not include the criminal justice system. There appeared to be only what could be described as hesitancy from most court professionals to engage (or seemingly collude) with women's reasoning or actions beyond the tangible, which generally meant going to court: this showed a stark contrast in the way each group considered and understood what constituted ways of taking action.

Women described how taking action within the confines of their relationship (thus electing to eschew the legal route) could be an effective or legitimate response to their needs at the time (see Chapter 4). In contrast, court professionals considered this approach to managing violence and intimidation as taking a "blinkered" approach to dealing with their situation (M2, p15), and was not taken seriously as it was not seen as a "real option" (M1, p3:2). The ways in which women managed their situation were considered to be 'inaction', and did not, for most court professionals, correspond with a more viable, rational or appropriate set of actions. As the excerpt below shows, the point of view taken was that women were generally considered to be accepting of their relationships as signalled by the choices they made. This expectation and perception was also applied to women who had contact with the justice system, especially those who retracted:

There's no question that many people that are the subject of domestic violence accept it... even when they make a complaint, and this happens in many cases, repeatedly. They will retract it...it's more normalised. I do think in many cases, that they [women] accept that's their lot in life, and they say it could be worse, it doesn't kill me...whether to a right thinking person that is acceptable is, is another argument. (DJ 1, p2:12-17)

The 'normalisation' and acceptance of violence and intimidation in women's relationships was seen by court professionals to be a more likely reason that women in the study had not always, automatically considered court as falling within their range of decision-making.
Women discussed the theme of normalisation within their considered view of their situation, and rejected one of passive acceptance. Court professionals however, did demonstrate this view:

People don’t like change, do they? They [women] will muddle along because they don’t know any different a lot of the time... A lot of women see domestic violence as part of their partnership...They don’t like to think of what might happen as a result... I think that’s why a lot of them don’t want to pursue [court] because they think the outcome is that he might go and they’ve lost the stability. (M2, p7:21-31)

The excerpt above shows there were some similarities between court professionals and women as to what were influencing factors why women had chosen, at times not to approach the criminal justice process, for example because they were “scared” (W9, p8:30):

It is not easy for women to come to court. They just don’t want to come to court. They’re terrified of coming to court. (DJ 1, p3:30-31)

However, there was limited sense of the complexity underlying women’s decision-making, such as understanding the fear in relation to the loss of control women may feel. Instead, court professionals were more comfortable with superficially discussing what they considered to be the issue, and with little exploration as to why this might be the case.

Where the limited number of the court professionals in the study saw that court might not be the only option, the emphasis was generally on women seeking help and support and intervention from outside of their relationship, such as "mediation or the civil court route" (M3, p20:3). The consideration, though, that women would actively consider that none of the above would be viable or appropriate at the time (while choosing, for instance, “physical distance as a strategy”, see Chapter 4) was not made.

In common with women in the study, professionals from the support agencies shared the view that women’s assessments of their own individual circumstances were a valid feature in their decision-making. This group felt women would often manage their relationships without the
involvement of other agencies. In contrast to the general viewpoint taken by court professionals, the professionals from the support agencies did not see that there was a progressive route of decision-making, which ended “ultimately with women at court” (IDVA 3, p30:24). More in line with women, the particular action or way of dealing with things that was most suitable for women was seen as acceptable. The way in which women made decisions due to the complexity of their situation was compatible with the way in which support agency professionals worked with, and understood, women’s circumstances.

A difference in emphasis emerged between professionals from the support agencies and women regarding taking a course of action without any support. Here, this group generally put forward a view that was more aligned with court professionals regarding what they perceived to be in women’s best interests. The excerpt below shows that although professionals from support agencies were supportive of women’s choices, they were much more comfortable discussing how women’s decisions were more viable in the context of ongoing support and facilitation from other agencies:

The girl I’ve just been to see today had never reported a domestic till last week, fifteen years worth. She wants to stay for now, she’s gonna do a planned move, which is something we can help with and support her. She’s gonna stay in the house with him until the day she’s got her keys and everything else will be ready ... you know, that’s the safest way for her and if it takes us six months she will do it that way so you can’t... you know. You know, she’s never trusted anyone before and so...and that’s how she’s chosen to deal with it. At least she has made contact with us...another agency...we won’t just say bye, off you go to Women’s Aid. (IDVA 3, p16: 23-26)

However, in line with women in the study, it is also suggested that there was an element of guidance and manoeuvring of women, in their perceived ‘best interests’, towards taking up certain options:

I think we [Women’s Aid] give women options, I think they have more power with us. I mean we will try and steer them in the right direction, to offer help and protection...(WA 1, P6:2)
The impact of previous experiences of contact with the justice system

Like women in the study, professionals from the support agencies could see how women felt the justice system had let them down in the past and how these experiences had an impact on the way in which women made their current decisions. Through their own observations, this group concurred with women that they were not always taken seriously, and that the court had negative expectations. The excerpt below illustrates how professionals from support agencies thought women felt powerless to reach outside their relationship, and had no real confidence in what agencies, and in this case the wider justice system, could provide. This group viewed that these professionals had to gain the trust of women for them to consider other help seeking options and the justice system as feasible:

If they get this... they’re trapped in this cycle of abuse that makes them so disempowered that they think that there’s just nothing beyond this, there’s no help that I can access, there’s no point doing that, I don’t wanna go there because they can’t help me, do you know, and it takes a long time to build that up. (EDVA 2, p31:39-43)

Professionals from the support agencies were able to empathise with women about the part played by past experience of the justice system (and wider state agencies), particularly with regard to women’s decision-making and their willingness to "engage" with the system:

If you’ve had a bad experience of any part of that criminal justice process, then you won’t engage with it as fully and you’ll think it’s not a viable option for you. ...Some women are anti-system, they’ve been in care, they’ve been in trouble themselves, some women are just not into the system and they don’t see it as productive, other women have got no confidence because they’ve been let down by it before. It’s faltered, “the police never came back again”, you know, that kind of thing...so for some women it’s like well, what’s the point (IDVA 1, p31:12-16)

Tellingly, professionals from support agencies recognised that women did not feel protected or their needs understood by the justice and the courts system. Moreover, from their own observations of working with the system, members of this group might even find that they could not honestly recommend going to the police:

If they [police] could reassure them [women], they might get protection, then I would one hundred percent, wholeheartedly encourage women to report it to the police...
the court process could reinforce the fact that this is going to protect you and this is going to hold him accountable for his behaviour and that’s not just about sentencing or a prosecution... I can’t [encourage women] because a lot of them have a really, really poor experience from beginning to end in the criminal justice system. (IDVA 1, p67:12-20)

Legal advisers were the only group of court professionals to openly discuss and share the concerns women raised, particularly in relation to the unmet needs of those women and how this may influence their choice to involve the justice system:

I can see how women might be reticent [to use the system] absolutely; from their point of view it’s a mess. They want protection and they’re not getting it. We think we are doing the right thing for women, whether we are or not is another thing. (LA 3, p10:3-7)

It was difficult for the wider group of court professionals to relate to the emphasis women gave this aspect, mainly because as a group they believed so few women came through the justice process to court. However, as the excerpt shows, court professionals could empathise with women who felt this way about their own previous experience or the impact of hearing experiences of other women. Generally, there was a convergence of viewpoints here on how women might feel if this was the case, that women may have had low expectations of what the court process could achieve for them:

Oh, I don’t know, I think that that’s really difficult (pause)… From what I’ve seen and the amount of women that don’t want to come to court. if they’ve been here before, or know someone that has, they probably have quite low expectation of what court can do. (LA 2, p19:21-22)

Professionals from the support agencies shared women’s concerns for court and other justice professionals to hear, understand and respond to the issues that women faced as a result of domestic violence. This group could understand how women’s past experiences had left them feeling “under serious threat” (W7). In common with the reflections of women in the study, the lack of validity given to women’s experiences by the court and wider justice process was mirrored the techniques of minimisation and denial used by aggressors. As shown below, the
need to respond directly to women's concerns in justice settings, no matter what these may be, was felt to be important for women throughout the justice system:

Even just by the way that they're [women] are spoken to at the time of the incident, and in court really, like somebody actually cares about it, and even though it is the fifteenth time that they've been out, I know they are busy but, it [domestic violence] doesn't work like that. Just "we believe you, and we're going to do something about it, and all we need is for you to do with us is". You know and lots of them don't even get that 'cause they turn up two days later and they go, right, well where is he? ... by the time they've been picked up the woman's like, "I don't really care about it anymore and he only broken my bloody window", she's minimised it too. (IDVA 2, p69:1-12)

**The motivations involved in women's decisions**

In contrast to women in the study, court professionals did not refer to the wider range of reasons women highlighted as motivating factors when discussing their decision to go to court. For this group, supporting the prosecution was simply a point of progression within a violent relationship; women taking this step had come to the 'right' decision eventually:

Sometimes I think a woman makes a decision at some point in her life for herself and says "I'm going to take this to court". I think there is a stage, a realisation that enough is enough and they can only decide when that happens. That's when the decision is finally made, it has to be court. (LA 3, p7:10-14)

It’s the straw that broke the camel’s back often though, isn’t it? That’s enough to make the decision. (CP 1, p21:7)

There was also a disparity in the way women and members of the bench and the Prosecution considered why women had made contact with the court process: by so doing, the women indicated to the professionals they were actively “ready and willing to work with the justice system” (CP 2, p3). Indeed, they believed that the women being "dealt with properly" (LA 2, p21:5) equated to women primarily wanting a conviction:

Well, obviously they want they want the defendant to be convicted and they know that the only way that’s going to happen is if they come to court... ...I’m not basing that on speaking to women, just being in court...(LA 2, p7:37-40)

For court professionals the consideration that women may not necessarily share the justice system's prosecutorial aims and wanted something else from their experience was only ever
secondary. At most, there was some limited recognition that, for 'some women', a conviction may not be the whole story:

I can understand that some women don't necessarily want a sentence but they want somebody to recognise what happened. (LA 1, p5:10-12)

Fear and safety were recognised as being motivating factors by some court professionals.

Women were perceived to be purposefully seeking a period of protection whilst the court case is in progress, either for themselves, or more commonly for their children:

I would think also for protection, during the time of the proceedings ... (LA 2, p7:37)

She's probably got right to the end of her tolerance range; you can feel it [in court]. I think sometimes they see the light at the end of the tunnel, not very often. It's about the children; their own personal safety has usually been secondary: but they are still really fearful even then. (M2, p1: 5-8)

A closer understanding of women's viewpoints emerged from the professionals from support agencies who, from their own observations saw that there was a combination of complex factors which could lead women to decide that they wanted to go to court. However, as the excerpt below shows, the hopes and expectation behind women's motivation was an additional concern for this group:

Well most don't [want to go to court]. The ones that do are usually the ones who have been way down the road in their experience, they might have even split up, they know that he's never gonna change, they know that he's gonna do it to somebody else, they know it's affected the kids. It's like a combination of things that make them realise that this is going on long enough. They might become the ones who are quite vengeful, you know, like, I'm going to get you back. This isn't the worst thing that you've done, but I'm going to have you: they want their day in court and they want to have their say... (IDVA 1, p16:38-45)

**The limits on women's power to decide**

There was a degree of convergence between all professionals and the women that the control victims of domestic violence had, beyond the point of initial contact and as the case progressed, was "seriously diminished" (LA 2, p27:26), and often overridden by the legal
procedures. The momentum and sense of inevitability, shown in the excerpt below echoes the feeling from women that the whole process would take precedence over their interests:

I think for some women, it's just snowballed...they never intended for it to get this far...Yeah I'm sure, I'm sure that does happen yeah...But the problem is the decisions gonna get taken out of their hands the minute they ring the police... If she feels out of control unfortunately she is in the system now, the police role is to proceed with the charge and the rest... (LA 2, p27:28-34)

Those who sat on the bench considered they vaguely knew that women felt that things were taken out of their hands, and could see how this may seem like disrespect for women's decisions or wishes. However, they considered that the justice system was becoming more victim oriented, encouraging women to engage with the system.

The significant difference here was how women thought it was aspects of this updated process that left some further restricted. The problem being their inability to decide what they “wanted to happen” (W4), rather than what others thought should happen to them. The excerpt below shows how those on the bench could see how the justice system approach had it limits, but that ultimately decisions will be made by others that are thought to be in women’s interests:

I've heard that they are quite shocked they wanted it [the court case] to stop, there and then that day. We are not totally respecting their decision, but how long do you wait? I think they [women] are being encouraged more by the police to come forward. I think they might have women officers, I think they are told its crucial they take to court... No, 'cause at the end of the day they always love them, don’t they? (laughs). (M2, p8:26-32)

The support agencies empathised with the lack of regard or response for women’s feelings and choices regarding their situation “from the minute they dial” the police. As the women in the study concurred, from that point on, they are subject to the priorities of the justice agencies, rather than their own concerns:

She shits herself and wants safety and protection. She has no idea of what she’s buying into and nor, to be fair, did we when we set this [advocacy] service up...You ring 999 for help. protection. They [women] don’t make decisions, they’re just told
what’s happening and that happens from the minute they dial. It’s an expectation of the police as part of their agency’s performance and monitoring and whatever else. You are telling them that there’s been a criminal offence committed and therefore we have a duty to investigate it and that’s what happens; that’s what the police’s job is.

[IDVA 2, p40:30]

This group shared women’s disappointment that their needs were often mismatched with those of the adversarial system, and that the system did not always work for women. Indeed, the quotation below offers the telling critique that encapsulates a key aspect of the women’s experiences, that it seems they are there for the purposes of the justice system rather than the other way around:

The systems that are there, women don’t understand them, they don’t know about them, they don’t fit into them: the systems are not there for the women, they’re there for the system. Equally, you know, we try our best to get women to go to court because we do think, you know, he should pay for what he’s done, but actually the end result is often not this way...(IDVA 1, p10:17-21)

This empathy and critique is in sharp contrast to the court professionals’ opinions in this area of concern, who in recognising the transference of control to the justice system viewed as necessary and proper. Court professionals thought that there were circumstances where those in the justice system needed to make the decision if women did not. Regardless of women’s expressed wishes, it was seen that some form of control was in order, in the interests of justice:

And there may be situations in which, even after six or seven times you’ll say well, there it is let’s get on with it again. It’s difficult to say. But, from the police’s point of view, and from the court’s point of view, you know, you cannot… these things cannot go on, and on and on. (DJ 1, p14:13-16)

Even if the women did not want the justice system to take control, this was considered unavoidable by the court professionals within the current laws and practices, and especially those concerning domestic violence. This situation was seen by some to have now produced limited routes, with little room to respond to the individual needs, choices and situations. Specifically it was the legal advisers who demonstrated a shared concern over the lack of
control. As shown below, the view was taken that this was a response that had to be planned around what was generally known about domestic violence, and what aspects of behaviour the law could recognise, in order to work:

Ten, fifteen years ago it wouldn’t have even been responded to, now it’s responded to, but it has to be done in a formulated way. It can’t take every [aspects of women's lives into consideration] because otherwise there’d be no consistency, and it but yeah, there’s gotta be a system, there has to a protocol in place because otherwise it’d just the whole system would fall apart. (LA 2, p24:18-23)

As the above quotation suggests, even if under current policy this meant that women did not have control, court professionals generally considered this approach positively. In particular, they highlighted a consistency which they believed now recognised and prioritised domestic violence and its guises and nuances “as a much more serious matter” (CP 1, p22:4). Although women in the study who had experience of the justice system over a number of years saw how things had progressed, they did not agree with the view that their situations were always taken more seriously, rather a ‘one-size-fits-all’ response was given.

The biggest proponents of the women’s lack of control being a necessary component of the system tended to be those who sit on the bench, namely, the Magistrates and the District Judge. Any control by women was not considered the intended or appropriate use of the justice system. This group were aware women may approach the justice system to meet their immediate, perceived needs; this however was generally seen as a short term attempt at controlling a situation and was also viewed as an abuse of the justice system. There was a great deal of frustration and incomprehension from those on the bench, towards women who did not want to go on to court (after they had involved the police and the prosecution):

I certainly think there are cases where women have used the criminal justice system as a means of resolving an immediate problem...so they ring the police. The police then come take a statement. Once the situation is calmed down they say, well I don’t really want to prosecute him. I don’t want him to go to prison. I don’t want him to be harmed or anything like that. So, they are, they are really abusing the criminal justice system and the number of cases, I don’t know what the statistics are, but I’m frightened of the
number of cases, domestic violence cases, which simply just are not proceeded with. (DJ, p8:1-10)

Indeed, this discourse validated the perceptions of women in the study; that some court professionals did not take their requests for immediate protection seriously, and that they felt accused of attempting to manipulate the system to their own ends.

There was a significant difference in emphasis between those of court professionals and professionals from support agencies that empathised with the lack of regard or response for women’s feelings and choices regarding their situation. They saw that women would place their trust in the justice system and expect their report and their expressed wishes to be taken seriously. As shown in the earlier quote (IDVA 2, 40:30-37), although professionals from the support agencies were aware of the somewhat formulaic responses of the justice system, they felt, as women in the study did, that wider aims and objectives of the justice system were not always uppermost in women’s minds when at this point of interface.

*How women perceived their relationship with the justice process in the time leading up to court*

The professionals from support agencies agreed with women in this study that domestic violence victims generally had little clue as to what was happening regarding the progression of their case. They emphasised the argument made by women that, for the most part, they were made to feel as if they had no relationship with/to the legal system, leaving them feeling disconnected from the process and with increased anxiety (see Chapters 4-7):

> Before court is the worst time, cos they have no idea what’s gonna happen. They only know about trial dates. That’s the only official document they’re ever sent, which is to say, you are required on this date. They don’t know about any of the case management, the plea direction, bail. Well that’s the other problem with adjournments and stuff like that, you know, women get so worked up and then it’s another adjournment and another adjournment. (IDVA 2, p26:40-46)
Although court professionals also recognised how women may feel disconnected at this time from the court process, there was no real understanding or empathy beyond this: they simply put it down it being indicative of dealing with a "largely static system" (LA 2, p27:40). In contrast to women, and professionals from support agencies, court professionals on the whole viewed that no matter how developed the court and wider justice process had become (with regard to domestic violence), it was not the role of the system to communicate, relate to, or work together with women. The case was often made for the work of support agencies here, explicitly laying out what the court could respond to within the boundaries of the legal system:

I have got to be careful here because the court is independent; we can only go so far: it is up to other agencies. Don't forget we're administering justice, however much support is put there [in court] and however we want it to work, it is not really the court that interacts or engages with the women, it's the other agencies, we couldn't do it alone, there's coming to court and after court as well. [The court] is in a process, but we have a very distinctive role; it must be constrained by the very nature of the fact of the system. We're doing lots, we could do better. (LA 3, p 9: 5-13)

In common with women in the study, both professional groups suggested the importance of having just one point of contact to help women feel more connected to the justice system, although the reasons for this varied. For the support agencies, the concern was to help women through a difficult extended period in their lives, and there was a theme of frustration that this was difficult or impossible in practice:

All the research for years and years and years has said that women want one point of contact and they don't want to be told, we can't help you, you have to go to another agency. And now, in 2008 we're sat here saying to women, sorry I can't support you with that, but I can send you to victim support who can...So we don't, we keep them...it's a joke. (IDVA 1, p14:2-10)

For Prosecutors and other court officials, the purpose of increased communication and a possible single point of contact was about securing continued commitment from those women who were seen to be engaged with the process, and with a view to successful prosecution, rather than helping the women per se:
I’m just thinking of the continuity thing...I think it leads to clarity and a bit more confidence of the system. I think if a person’s got confidence then they’re more inclined to go forward, stay with it. It’s about support, isn’t it, ultimately? (CP 1, p6:25-29)

If they’re supported at an early stage... common sense will tell you that’s the best chance of them carrying on engaging and getting into a courtroom. If the defendant pleads not guilty, the longer a case goes on the less contact they have with anyone the less likely they are gonna engage with the court system, that’s just human nature. If there’s a not guilty plea and a trial date is set the witness should be told of that as soon as possible. (LA2, p 16:23-27)

A continued presence of aggressors in women's lives

There were shared concerns between women and professionals from the support agencies over the threat from the continued and often unwanted presence of aggressors during the time leading up to women being at court. This compounded the isolation women experienced at this time, as they waited for news of hearings and of their own court date to give evidence (see Chapters 5 and 7):

In the months or so before court, he's worked his charm, he could be threatening or following her, the system has failed her, what is she supposed to do? This has a knock on effect, then she may not turn up. It's not quick enough for one thing from arrest to trial if she had wanted to go ahead with it. (WA 1, p2:30-33)

This group felt as strongly as women did in the study, that decisions at court were considered ineffectual if aggressors were allowed by their actions to continue to have some control over women at this time. Furthermore, they were aware of how much of a problem this was for women:

Bail conditions which applied in this case were no indirect or direct contact, not to go near street. This man had put a stuffed rabbit on next door step for his children, it was a clear breach, but the CPS were not sure it was serious enough. But for the woman it was serious. It tells her he is making a point, which is "I am here, I might not be able to knock on the door, but I can get near you and [my child]". I think it [these decisions] should be based on what women think is a threat. One woman received a text message "I'll be coming round ". She knows what that means. (WA 1, p3: 4-12)

In contrast, most court professionals were not aware of the full extent of what women were experiencing after charge and as the court case progressed. There were however, more
emphatic and dismissive views expressed by a few court professionals regarding the efforts made to limit this kind of behaviour by setting appropriate bail conditions. This manifested in frustration at the response they felt (men and) women had to this endeavour:

We set bail conditions and then what do they do, we're in the court, what happens outside well... they get back together or they continue to see each other. What is the point sometimes? (M4, p24:6-7)

The conditional status awarded to women as victims of domestic violence at court

All groups recognised the common practice of entering pleas on the day of a trial (see Chapter 7), often just before women were due to give evidence. However, the different groups varied in the extent to which they thought this was a deliberate tactic employed by the men or their defence teams. Legal advisers (and to an extent Magistrates) concurred with the suspicions of women in the study that late pleas were indeed part of the defence strategy, effectively testing the women's resolve for as long as possible before pleading guilty:

Often you'll find them [defendants] pleading not guilty because they're convinced that the women will drop the case by the time it comes to court, and you know often all the women are wanting you to do is recognise that you know they've done something wrong and accept the punishment really. I suppose it's a typical power control one really. They don't think they're gonna turn up, but if the witness does show, more often than not we get a guilty plea. Oh yeah it's a strategy, and I would say, in my experience, mainly in domestic violence cases. I think it's a culture, get to the trial date see who turns up, if everyone's here, well alright we'll plead guilty. From comments from solicitors, it's common in this Local Justice Area as well. (LA 1, p15:20-30)

However, the Prosecutors and the District Judge did not share the opinion that this practice was employed by the defence, and were quick to state how this would contravene their legal role:

No, it's not a defence solicitor strategy... you'd like to think the defence solicitor would never say to someone wait, if they did they'd be doing something erroneous. I never would. I'm a former defence lawyer and I would never say to someone, look let's just wait and see if she turns up. (CP 1, p11:13-16)
As a group, Magistrates found the use of late guilty pleas hard to accept in such cases, they were frustrated that they were bound by the law to accept and reward a (late) guilty plea in such cases. There was some agreement as shown below, with women saying that the incentivisation associated with guilty pleas was a contributory factor in this:

Quite often if witnesses turn up or if statements are very damning, you know, they, they decide oh well, I’m on a hiding to nothing here. We feel that’s too late; most [Magistrates] are loathed to give the ten percent credit guidelines set out for a guilty plea, albeit late, because it’s prevented a trial. There are ways of giving it and taking it back, I shouldn’t say that but it’s true. Well at least it’s prevented the woman having to give evidence, and when the person is sentenced the women will have some satisfaction. (M2, p12:8-11)

The excerpt above also reflects how court professionals thought avoiding giving evidence was a way of protecting women from further distress, though this reflects the opinion of only a few women in the study. The “fear”, “joy” (W7) or “relief “(W5) of not giving evidence (see Chapter 7) was more than counterbalanced by women expressing that they would want to have this option open to them to allow them to “say [their] piece” (W7): a point not acknowledged by court officials in the study. Professionals from the support agencies did share the concerns of women in the study over their role and status in the process in view of this exclusion:

It's devastating. Have you seen the results from our court? It’s horrible, because it’s not necessarily the nastiest thing that’s ever happened to them, but they think this time “I’m ready to do it”, they are pushed to do it, and then the result is not what they expect. They’ve completely lost faith in anything because the time that they did actually ask for help or to be listened to, it feels like that they’ve been let down. (IDVA 2, p17:1-7)

Even though some court professionals expressed frustration with the apparent abuse of the system, the frustration for women of late guilty pleas was not the main issue: neither the ulterior motives of the defendant, nor the women’s experiences were the primary focus of the court. As such, the issue of the late guilty plea provides an example that highlights the difference in concern between the women and a justice system focused on prosecution. The most significant difference of emphasis and concern here was that all the women in the study
felt in some way that they had reduced status, which questioned the legitimacy of women’s claims:

That [women’s feelings] must be a difficult thing... I suppose the court doesn’t really take that into account an awful lot. I suppose what the Magistrates might not have taken into consideration is the fact that he is pleading guilty might be because he doesn’t want her to say what she might say and it be worse for him, but that’s all... it’s not substantive, not real evidence... because at the end of the day the system is for the prosecution to prove their case. (LA 3, p11: 3-7)

**How women saw themselves in relation to those associated with the court process**

Like women in the study, court professionals recognised that women often did not know who court officials were, and importantly, who they were in relation to them. It was seen that being at court and all it entails could become a blur:

Well from their perspective, I wouldn’t know if they know who they are actually engaging with to be honest. I think they’re probably confused quite a lot of the time... it goes on around them. (LA 3, p23: 7-9)

Furthermore, most court professionals were, to a point, able to see how women felt marginalised by court professionals, particularly Crown Prosecutors, and confused by the process from the outset. However, this was attributed to an unfortunate by-product of the nature of daily business of court and the demands of the system. Keeping the women informed and included was not court personnel’s main priority:

They [women] do have a role, everything’s a bit of a rush before court and it would be hard to find out what is going on that day. It should be part of the process that they’re probably informed at every step of the way. Some Prosecutors say nothing, some explain things. Sometimes that’s difficult when they’ve [Crown Prosecutors) got so much work to do. (LA 1, p21:1-7)

This government’s obsession, filling in papers and reviews and reports and all this utter, utter nonsense, actually severely inhibits the way in which the crown prosecution can do the job, but I do actually think, in fairness to the Crown Prosecution Service, that they are concerned about the victims, particularly domestic violence cases. (DJ, p24:12 -14)

In line with the women in the study, professionals from the support agencies empathised with these experiences, and how the system and handling of the first meeting by Prosecutors
further increased women's sense of powerlessness. There were similarities in the view of court professionals and professionals from support agencies regarding the stress Prosecutors were under, but there was divergence of opinion on how this impacted on women. Professionals from the support agencies were able to see how this gave women a lack of confidence in the Prosecutors and the system: this was the person women generally associated at this point as the only link to their case. The excerpt below addresses the concern of professionals from support agencies who had observed a number of visible differences in the general demeanour and preparedness of the Prosecutor and the defence:

CPS have probably picked it up, you know, the day before that...even that morning, they'll have a couple of notes. They can't find the right file half the time...women look on...that's all they can do. You've got the defence, even just looking different to them, then the fact that the defence knows that case inside and out ...(IDVA 2, p20:40-44)

There was no emphasis, as there was with women, from Crown Prosecutors as to the appropriateness of the allotted point in time on the day of the trial for their first (and usually only) meeting with women, or if the quality or consistency of information about this appointment was sufficient. In contrast to women and professionals from other agencies, Crown Prosecutors considered this degree of engagement was at the right level for this "type" of case and within their role. As the excerpt shows (aside from the exception described), the emphasis is reserved for those cases that were considered to be more serious, and in a higher court: their interaction was in most cases, thought to be sufficient:

It's not usual to have spoken to the witness before, unless they've appeared on a previous hearing where they want the bail conditions varying and they've tried to approach at that stage, you may sometimes occasionally talk to them, but not that often...We do talk to women in rape cases, but that's normally at Crown Court. Usually, it's just talking to them on arrival at court, before the trial, during [in court] and maybe after as they leave I would imagine; that's my interpretation of engagement. (CP 1, 15:5-9)

Like women in the study, professionals from the support agencies who worked specifically with women who are victims/survivors of domestic violence, felt strongly that the quality of
this meeting was important. As advocates, they thought that there “could be a better way” (WA1, p3:9), to avoid the "out of control way women felt at court" (IDVA 3, p3:5). One IDVA noted that in this situation, “…women look on…that's all they can do” (IDVA 2, p20:40-41).

There was some debate as to whether these initial meetings should be extended as some women suggested, or if it would be better to meet briefly on another day, prior to the trial to improve things. Some of the professionals from support agencies believed the current format falls in line with adversarial system protocol, however, others agreed with women and gave examples of Local Justice Areas where women meet the prosecutor prior to the trial day:

I think that it's appalling women don't see the Crown Prosecutors face to face until that day, [women] often say they haven't a clue what is going on that [trial] day, it's too late. (WA1, p3: 9-11)

As demonstrated earlier (CP 1, 15:5-9), Prosecutors themselves were largely unaware of any problem with the amount of time or communication they had with the women.

*Being in court: the expectation and perceptions of women by those working in the court process*

Most court professionals concurred with women who said the court could be an intimidating atmosphere⁷ and could empathise with those who said they found it difficult to know ‘how to be’ (see Chapter 7), but they did not recognise what women meant by problems of relevance of the process. There was a sense from court professionals that it was necessary, if it was to perform its primary role, to be this way. Here, the Magistrate wondered if the courtroom had to be that way, to show it was a serious place, dealing with serious issues:

You can sense this feeling from where we sit. The whole set is cold, the only time they can speak is when they are spoken to, and it all goes over their heads. It’s intimidating, but it’s got to be this way hasn’t it, because of what we are dealing with, we do try... (M2, p18: 3-5)
In addition, like the women in the study, court professionals considered that the defendants may have a psychological advantage over the women in court, in that they had “probably got more used to the surroundings and how things work than witnesses” (CP 1, p15:18), because unlike the women, they had appeared at court more than once, and had contact with the defence.

Also in common with women’s accounts, this group could see how a level of fear and insecurity at court could contribute to the way women appeared as witnesses when giving evidence. How women should behave or present themselves in what was considered to be a threatening and restrictive situation was a key feature for women. The excerpts below shows ways in which women were perceived women in court:

Some can come across as sounding defensive, some can be upset, some can be just matter of fact, even confident, and some can over-egg the pudding. (LA 1, p15:12-13)

Oh sure, yes, for sure, they have a role to play, but I think they’re quite afraid of it. (long pause) …they are just not prepared for what [it’s like in court] or are very reluctant, have a little attitude, won’t speak, under threat not to, you have to allow, lead even, but have to balance for defendant. (M1, p4:6-8)

I think they’re all very different; some of them are what you might say cocky in a sense that they don’t want to be here, they’ve been persuaded to be here. (M2, p7:27-30)

Although, as shown below, in extreme cases of nerves and fear women did not have to appear in court, it was generally thought better for them to be there, no matter how they presented. This was for the sake of the prosecution case rather than for the benefit of the women themselves:

They are really terrified aren’t they? Well I mean if somebody really is terrified the prosecution service can apply for a witness statement to go in, so they don’t have to come, but the difficulty of course there is that you’ve just got something written on paper when you could have had somebody giving live evidence that might come across really well or at least they are there. (LA 1, p15:7-10)
The court professionals had varying levels of sympathy for those women who refused to, or could not speak at court. Legal advisers described how, to an extent, their role enabled them to observe both the women and the other court officials, and see the different ways this situation impacts on those in the courtroom. Although women were generally unaware of this procedure, the legal adviser here pointed out that arranging to hear such cases in one court session was beneficial to those on the bench:

There are those who turn up and don’t say anything...to an extent, I think to be fair, the Magistrates and the court system are quite sympathetic to cases of domestic violence and people appreciate how difficult it is... there is an advantage of having a court that hears domestic violence cases. A lot of the times women won’t come across well in the witness box because they’re scared or they are downtrodden...but hopefully the Magistrates will be more aware this goes on. I’m in the court a lot and the thought of giving evidence makes me feel sick, so goodness knows how that must feel for women. (LA 2, 22:6-15)

In common with women in the study, how women came across when it was “their time” (LA 3, p4:6) to speak, was thought to be important by court professionals, but was viewed as less complex than the way women experienced it. The excerpt below reflects this view and outlines what was considered by a number of court professionals as the most credible scenario for women when at court. The most focused women were those who presented confidently and who appeared to have ended their relationship with the defendant; this outward show of detachment suited the function of the adversarial system:

How they project doesn’t do them any favours. During a trial they’re questioned and they’re the only person being questioned at that time and so they are giving answers and they’re and they’re telling the court about the experience...it completely varies; some come in and are more confident than you think they would be. Mostly those are the ones where the relationship is well and truly over: those are the most confident and credible kind of witnesses I’ve seen. (LA 3, p4:5-10)

In line with concerns of women in the study, there were a number of court professionals who were able to consider that not all women would present as the “ideal witness” (LA 2, p 20:6). The legal adviser below made reference to why she thought this was by listing a number of complex situations that some women may be facing as they come to be in court. Nevertheless
there seemed to be no flexible way of working with many of these suggested circumstances within the constraints of the court and the adversarial system: ultimately, this was accepted as the case. Again, the decision of whether these women spoke in court was nothing to do with whether the victim's voice should be heard, or conversely whether they should be saved the trauma of the court given all their outside pressures: rather, it came down to how they would perform as a witness for the prosecution:

You've got a lot of unfortunate people haven't you, you know they could be drug addicts, alcohol problems, they could have loads of previous convictions themselves, you know all sorts of very unfortunate mental health issues all sorts of problems, but well they do have to be questioned don't they, because if you've got somebody saying they've made it up or they were the ones that started it or whatever. You're always going to get that. (LA 1, p15:12-17)

Although there was a shared concern over the fear women expressed at being in the courtroom with their aggressor, the way women dealt with this was often at odds with the requirements attached to being a witness. In the excerpt below a District Judge compares how he perceived women responded in sexual violence and rape cases, which he puts on the same continuum as other violence's and intimidation. Here, the official alludes to disparity between the system and the perception women may have had of their role as witnesses, and how by giving evidence women may expose the full extent of their vulnerability:

Women can be absolutely terrified, about the whole court process, whereas here, it's a little less formal, but there's no, but there's no question about it, it is an ordeal for a woman to give evidence. Look, you get... why do you think that so many people are acquitted of rape cases? I mean, rape is only another extension of the top end of domestic violence... I'm not condoning it, but why do you think that there's so many acquittals? Do you think all these women are just making it up? No, of course they're not. The reason there are so many acquitted is because the system we have unfortunately is, an adversarial system, guilty beyond a reasonable doubt... it's not a matter for her, you see, that's the point, it's a matter of the criminal justice process. She's simply a witness in the criminal justice... There are, there are certainly those women that come to court and you can see the whole experience because it's not just coming to court, it brings to life the abuse that many of them have suffered. (DJ 1, 19:38-49)

Many of the court professionals, generally legal advisers, concurred with women in the study about the inconsistency of women not being routinely informed about 'special measures'
such as giving evidence behind a screen or via a video link. However, there was limited discussion on the wider concerns raised by women in this context regarding the fragility of their choices in this situation, how their reasoning was not respected, and how this impacted on them (which mirrored feelings at other points in their experience):

That's not good. No it [the video screen] isn't used as much...in some ways it can help - it should be offered to all women. Court 10 has been arranged to be a specific court for most domestic violence trials, and in that court we sit the defendant behind all the parties, if you like and so when the witness comes in to give evidence she can't normally see the defendant. This potentially makes a difference because I've seen cases in trials where it is clear that the defendant is intimidating the witness by staring at her. (LA1, p32:12-16)

In common with some women, the District Judge and the Prosecutors preferred the more traditional approach of witnesses being heard in an open court; however, there was a difference in the reasons for this preference. Rather than showing that they had nothing to fear, as some women suggested, these court professionals held the view that they were looking for women to present themselves as vulnerable and show their fear. This was said to be so that women could be "seen" and "judged" as to their credibility. Regardless of this divergence in rationale, the District Judge below was adamant it was not the intention to make this situation a humiliating experience:

The difficulty with special measures is, that it, assumes, something which in fact, if the courts decide, in other words, why are you having those special measures? The reason is, because she's scared of him. Why's she scared of him? Because he beats her up. What's the trial about? An assault. So, and it is, I think better in the court proceedings, generally to have, open courts, so the witnesses can be seen, and judged, Because mainly, in many cases, if you've got to decide an instance of whether she has beaten him or not, whether he's beaten her or not is a question of the demeaning of the witnesses, as to how the witnesses stand up to cross-examination. (DJ, 6:17-23)

In addition to the trauma of an intimidating court atmosphere, professionals from support agencies recognised the pressure from the men and their families as the case proceeded as reasons some women did not attend court on the day:

He could have been stalking her, threatening her, so why would she [show up]. (WA 1, p3:7)
Court professionals generally did not recognise this. More plausible explanations for Prosecutors were that the women failed to turn up at court on the day to give evidence because they failed to realise what was in their best interests (CP1, p12), or just because “she is likely to go back with him” (M3 p8:6). There was an argument among court professionals that in these circumstances coercion was necessary “in the interests of justice” (M3, p3) as well as for the women:

I think you've just got to say, enough’s enough and we have to make a decision to, to go for it, so to speak, in their best interest. I think you’ve got to in some circumstances. (CP 1, 12:12-14)

Ironically, being coerced into the witness box just increased the trauma, alienation and sense of risk felt by the women who were reluctant to give evidence for precisely that reason. Women in that situation had described the court in particular as a restrictive and “hostile” environment (W9).

Drawing on a sub-theme identified in the women’s accounts, discussions with professionals from the support agencies compared the Magistrate’s Court with a civil court setting. This was perceived to be much less hostile environment, where women not only receive more representation (see next section), but was also seen to meet the wider needs of women:

That’s why we go to that court. Going in you’ve got a solicitor who knows the woman, who’s met her here, with us, she’s seen as an ally, she knows her history, she knows everything about her statement, she presents it to a judge who understands and he’s sympathetic to her and gives her the order she needs. If he then breaches, you usually go back before the same one...it is also more likely that she doesn’t have to turn up on a particular day if there are childcare issues. (IDVA 1, p29:45-50)

The representation of women in court

Court professionals could sense it was frustrating for women not being able to convey in court, the relevant details surrounding the incident as they saw it. Women also considered that by showing the connected nature of the incident to their daily lives, this gave a more
accurate picture of their experience and could alter court professionals views of them and their situation (see Chapter 7).

The inability for the process to capture the complexities of such cases was considered to be frustrating for court professionals but in a different way to women in the study. Complexity equated to uncertainty; working with unclear and changing evidence was a more central concern as this meant the system is not always able to function efficiently:

I think that’s the problem as well especially with domestic violence [cases], the massive variation in what can be going on in the lives of the defendant and the witness. They’re extremely difficult cases... They can be together, they can be separated, she can be retracting, she can be supporting, there’s so many variables that don’t exist in other types of criminal cases that it makes it so much more complicated to try and deal with and to try and resolve, because half the time you, and so they only have so much to go off, and that can be difficult because they can end up wanting to know more answers than the information they’re actually getting...(LA 2, p21:3-21)

All professionals shared women’s sense of frustration that they did not always get to share the full context of an incident, and present it as the “culmination of what’s gone on before”(M3, p16:45), such as previous violence or controlling behaviour. However, court professionals were clear that this did not fit with the purpose or proceedings of the court. The remit only allows those in the court to deal with the evidence before them:

There may be a history or a cycle, they’ve got to take that into account, but the problem is the law requires they have got guidelines, they’ve got evidence, and they have got to follow a procedure. I would say they can’t really do all this fully ...(pause) and I can understand peoples frustrations with this, but the Magistrates can only deal with what’s before them. I’ve been at meetings when the Magistrates’ Court got slagged to death, because it’s like, we don’t give the penalties that they should be given, they [other agencies] don’t understand. They often know the history but independent advocates and other people, they are working with the victims who have obviously suffered for a hell of a long time, they see that background... the sentence does not reflect probably what that poor woman or man have been through. (LA 1, p3:20-30)

There was a convergence of opinion regarding how women saw they under represented and often misrepresented in the process (due to their own limited input). Women often felt “like the accused” (W3) and under attack at times from both sides in court when giving evidence.

The excerpt below addresses these issues which were attributed (with resignation) by the legal
adviser to the structure of the adversarial system in a criminal court. The defendant, in stark contrast to the women, has more appearances, is represented, and therefore can retort as his story is retold:

You’d hope that you would be represented; but you’re not represented. Women aren’t represented because it’s a defendants’ court. They’ll [women] only be listened to if giving evidence and then it’s very adversarial system. Because you don’t hear from the victim other than the trial, you just hear from the defendant, whose obviously making things better for himself, saying that she started it, it’s only happened once, this that and the other things like that. The defence wants to destroy the credibility of the witness so they’re gonna sort of come up with things to bamboozle and confuse them. (LA 1, p20:37-48)

In common with the views of women in the study, professionals from the support agencies recognised the courts’ lack of understanding of women’s experiences, as victims of domestic violence and the validity of their claims; the court focused on the prosecution of the men, rather than on the women as victims, whose only formal role in court was as a witnesses. In the view of another professional, “it’s not their case”, and the women’s status in the adversarial process is marginalised:

They [women] feel used by a system really...They don’t understand from the start that it’s not their case. They are a witness in the Crown’s case I know they’re judging the case on the facts before them which is the way the law operates, but they should have a better understanding of what a victim of domestic violence goes through before they get to that court. It’s not a one-off crime; it’s unlike any other crime. If they are one-off's they are probably quite serious though...You know, I don’t think it’s the adversarial process, I think it’s the complete lack of understanding of victim’s status. You know, if it was a little old lady on the street that got robbed and beaten up they’d have much more empathy for her...And it’s seen as though domestic violence is almost a problem. It’s like, for God’s sake, you know, why do you keep bringing...you are nuisance bringing this before our court. A social problem that comes before a court - it's both. (IDVA 2, excerpts taken from p18)

For court professionals deciding who delivered the most convincing and plausible evidence was seen to be the priority issue. The excerpts below typify this point; the issue of whether the witness and the defendant are credible is shown here as a main concern:

It's very difficult because you’ve got to decide if somebody is coming across as truthful or not, and whether they are giving clear and consistent evidence. Then you’ve got a defendant whose sort of you know in there too, it’s like who do you believe? They can both appear credible. (LA 1, 19: 11-13)
The women perceived that the court professionals operated with pre-conceived ideas of women: one example of a simplistic view is provided by the following quotation:

You know women can be very provocative, can't they? They can provoke reactions in men can’t they? You have to have this in mind too. (M2, p34-36)

Some court professionals concurred with women in the study that their experience was made easier or worse by the way officials reacted to them. The emphasis from this group was on officials having the status in the court, and the power to control for what happens in the court. This was seen as a way the court professionals could be more effective, and being seen to be reacting in a better way towards women: some were considered more able to do this than others. The legal adviser below highlighted the ability of court professionals to control for irrelevant questions and their approach to women giving evidence:

Yeah it's in a system, and also I mean you know it is difficult for a complainant to come to court and give evidence and I think, we’ve had a District Judge who is very good in one way regarding domestic violence, and perhaps a bit impatient in other ways, but he’s very good with witnesses in court, at putting them at their ease very good at stopping defence advocates from asking stupid questions. He’ll move it on which he’s able to do more than we can do that with the Magistrates: the District Judge basically cuts through everything. (LA 1, p 3: 20-27)

The visibility of women

There were points of divergence and convergence of opinions regarding the visibility of women at court other than on the day of the trial. In contrast to those women in the study who raised the issue of being at court, many court professionals did not believe that women generally came to court more than once, if at all (with the exception being disputes or administrative delays). Even when women expressed that being able to go to court might have given them a sense of inclusion, and more immediate access to information, court professionals thought this would be better provided for at a distance and through other channels. Firstly, it was thought that these stages were a mundane part of the process and not useful, relevant or important to women. Secondly, in common with women's experiences at
court, and reflecting the advice some were given, attending at any other time than instructed
(under any circumstances), could work against women:

Better informed yes...attending at different stages, I don't think that would help really. Presumably she wouldn't even want to if she's that intimidated...
I don't think that would achieve anything. I think they should know what happened. Often the issues that need dealing with are just so small, well they don't need to hear wittering wittering, sat at the back of court...I mean certainly the choice is there but I don't necessarily think they should be encouraged. Well, because it also means... a lot of defendants will use any excuse to put a better light on themselves so they could say “she's come to court today because she's harassing me or she won't stop contacting me”. I mean this is what you get, or “she wants to retract” things like that. It's often how it's constructed, used, by the defence, who could say “look you she's come again”, you know what she's doing to my poor client sort of thing, you know it's a very sort of cynical view but...(LA 1, p22 10-21)

The excerpt above illustrates the point made by many court professionals who did not share the view that exercising choice and being present in court was helpful: this did not sit comfortably with what might be acceptable behaviour in such a case. If not explicitly 'required', women's presence could be seen as a threat to the defendant or in some way or colluding with them and could disrupt the prosecution case.

Court ushers⁹ recognised another situation described by women in the study that attendance might not be their choice. Ushers saw women at court who they felt were under duress.¹⁰ It was often apparent to this them which women were there against their will because of their "demeanour", “they way they spoke” and the “actions of the defendant”:

Some of the things you see and hear going on, although, you could never be one hundred percent sure, but we see an awful lot outside of the courtroom. (U3, p2:1-2).

Women's relationship with the court: the impact of decisions made during the court case

Previous chapters demonstrated that women saw their judicial experience as starting long before their case actually came to court. However, court professionals generally felt that at no time before the day of the trial, was any aspect of the women’s experiences of the justice process "within the ambit" of their "control" (LA 3, p5:2). Unless women came to court to
make a retraction, or appeared for some other administrative reason (see Chapter 7), court professionals considered that they had no relationship or dealings with women until the day of the trial:

No, I don't know what happens before [that day] for women. (M4, p1:23)

There was a significant difference between the time frame women and court professionals used: women talked extensively about the impact of court decisions that were taken (possibly many) weeks prior to their appearance in court, whilst the court professionals regarded the women’s involvement as starting and ending with their appearance as a witness. The overlooking of a myriad of effects on women’s lives of the court case runs the considerable risk of misunderstanding the lived reality of women’s experiences. The views of the professionals were manifested in the "signals" (W7) that decisions at court were not relevant to women.

Court professionals shared women’s concern with the lack of information about the case in the lead-up to trial. However, this group (and notable is the variety of roles) expressed both a confusion about who was responsible for keeping women informed, and a concern that somebody should be responsible:

I don’t know who does that, that’s outside our limit as a Magistrate; we don’t know whether they they’re [women] kept informed of what’s going on. (M3, p20:10-11)

Yes, should be informed by the CPS. Should be. They [women] have the right to be informed of the outcomes of each appearance; you are an interested party. (M2, p5:10-11)

We deal with it on the day and don’t see it again. I would hope wider other organisations in the process would…but I don’t think it so. (M1, p8:28-29)

In terms of whether someone’s been granted bail for instance and whether they’re still on bail, my understanding is that the bail sheet would then be faxed across to the police and they’re aware…Yeah, again it’s all about liaison, isn’t it? (CP 1, 21:1-3)
...with higher risk cases they do get informed about the bail conditions as far as I'm aware and that's the responsibility of Witness Care. (LA 2, p18:3-4)

There was particular concern voiced by both professionals from support agencies and women in the study that the inconsistent and unclear way that information was passed on could increase the risk to the safety of the women. Some professionals from support agencies argued for access points (and at times considered the steps taken were beyond their role) so they could let women know outcomes and "plan for safety" (WA 1, p4). Although some information systems had been established, the advocate in the excerpt below alludes to the continued confusion and lack of continuity of the role of information giver and offers an example of the implications this has had for women:

It can have enormous consequences for women if they don't know...we have women where they don't know whether they can go and pick the kids up from school that day, they could be having a barbecue and the perpetrator walks in the back garden because nobody had told them he was out. They get the wrong results, so they tell us somebody's remanded and then the woman will phone up and say, I've seen him at the shop, there's no foolproof system. (IDVA 2, p8:1-7)

However, there was no suggestion from support agency professionals that they shared women's contention that they should be able to access this information independently and without having complete reliance on support workers.

In common with women in the study, court professionals could see how women felt that responses from the court generally lacked meaning for them, mainly because the outcome did not concur what women viewed their case to be. In the excerpt below from a legal adviser, the lack of connection to women's original claim and how the justice system viewed and responded to this, was perceived to be the fault of the system, failing women and minimizing or misrepresenting their experience of violence and intimidation:

...from the woman's point of view she'll hear that her ex or her current boyfriend has been convicted, but not of what she alleged him of, it will be something a lot less...I think that'd be awful for the victims, I think that must be awful because they might feel that they're not believed or that well that makes it less serious and it was a lot
worse and that and why is nobody taking that into account? ...And there’s a lot of cases where you know deals are done on the day and basis of pleas are agreed, so say the prosecution the charge is a common assault and it consisted of two punches and dragging, dragging by the hair, he might come into court and the defence solicitor will say look he admits one slap to the face and then they’d accept that...But then I mean if they accept that and the prosecution accept that then there’s no need for a Newton Hearing and the Magistrates will sentence on the basis of one slap, whereas what actually might have happened in truth is a lot worse but the prosecution priority is getting a conviction. (LA 2, p25:1-10)

There was a significant difference between court professionals as to what might constitute a meaningful outcome. Those on the bench and Prosecutors did not share a definition with women and legal advisers. They offered different explanations as to how and where the system could work more effectively, rather than trying to grasp the concept of what was a meaningful outcome for women. Quite often, this group saw that the final outcomes could be invalidated by the nature of the problem and those involved in it (witness and defendant). The excerpt below reflects this perception: the District Judge did not see sentencing as an issue; his priority was primarily securing a conviction:

As far as decision-making is concerned, I don’t think that’s really the issue, the issue is, how do you, what’s the best way of dealing with these highly sensitive cases. The problem with the adversarial system is you’re not actually seeking to get at the truth. So, you are simply inviting, the prosecution to prove on the admissible evidence, so that you’re sure...after conviction, generally speaking the information is perfectly satisfactory, but the problem is getting them convicted. After conviction, that, that’s not the real. I mean, you would get a pre-sentence report, you would get a victim impact statement if there is one, you’d look at previous convictions, and you’d be able to deal with them.... and after you’ve done it all, you’ll know that they’re going to hold hands and go back into the sunset together, the whole thing to start again either next month or the month after. (DJ, p11:20-30)

In contrast to most women, court professionals, such as those who sat on the bench and Prosecutors preferred discussing outcomes in the context of what were successful outcomes, rather than what women found useful or meaningful. Although finding a way to end or “get out” of a relationship by hoping for a conviction was the aim for some women, unlike court professionals, as discussed earlier, this did not constitute the sole reason for many of the women coming to court. The excerpt reflects an unyielding view from this group:
A successful outcome to me, it’s getting out of a relationship isn’t it? Isn’t that a successful outcome? Getting a conviction? (CP 1, p28:13-14)

In line with some of the women in the study whose motivation was to end, rather than control their situation, the view was taken by a number of advocates from the support agencies that a meaningful outcome or “good” outcome was out of reach within the context of the justice system. The quotation below suggests some workers simply viewed that it was down to the aggressor to “leave her alone”:

We [IDVAs] can see some of these cases are never, you know, there’s no good outcome, the only thing she could hope for is that he finds himself a ‘new bird’ and leaves her alone, you know, literally that is the only way. It’s nothing… no intervention’s gonna change him, he’s gotta just decide he doesn’t want her any more… (IDVA 3, p33: 2-5)

Another way of women considering outcomes to be meaningful, and in direct contrast with court professionals, was to gain a ‘supported’ retraction. Retraction was not always felt to be sought under duress and was considered by some women as the only specific action they could take, once the case had started in order to “effect change” (W4) in the process. The court professionals tended to see it much more starkly and negatively; retraction was perceived as women manipulating the system for short term gains:

Oh, there’s no question about it. I don’t think these women are under duress at all. I think they find themselves in this situation, they don’t want him to go to prison, they don’t want to come to court, and they want the matter resolved until it happens the next time. (DJ, p26:34-37)

Some professionals from support agencies expressed a view concurring with the subtheme that short term custody (during or at the end of the process) was considered one way in which women might feel that they had a positive outcome. There were particular times when those who worked with victims/survivors could see that women, who had some form of continuing relationship with their aggressor, were in need of respite. New orders which carried criminal sanctions were seen to be particularly useful by advocates for women:
Over the Christmas period we had about five perps [perpetrators] locked up: These women say they are happy, they've had good Christmases. You know one woman had seventeen years of shit Christmases. If they've had three weeks [alone]... some of the women have actually said that "if I could just have a few weeks peace". So, you know, if we even get 'em done on a breach of an order and they might, you know, they might only get twenty-eight days, it's twenty-eight days peace you know. And it's absolutely [true], it's time, it can give us time to do some of the practical things, to get them in touch with other services, schools, nursery places... You know, some of it's just things that improve their lives...(IDVA 3, p31:7-18)

There was a shared view from court professionals that those women who were seen to have genuinely engaged with the system, had summoned up a great effort to decide to come to court and so the final stages may well result in frustrations and disappointment. The qualities of the adversarial system are raised in terms of the 'right' decisions being made on the basis of evidence. Defending decision-makers in court, the legal adviser below also discussed how this can at times, result in prima facia evidence not giving the whole story and because of this the system is therefore inevitably giving limited or inappropriate outcomes:

I feel sorry for some [women], if it’s true [women’s claim], that are thrown out. Poor woman made all that effort to get to trial and he’s been acquitted. But we have to be objective, he might not have done it...The law is quite flexible and inflexible in its own way, look at non-molestation, that’s totally changed law. (LA 3, 12:4-7)

Similar to women in the study, professionals from the support agencies saw that the importance of a meaningful outcome, delivered in a meaningful and useful way to women, seemed to be lost in the whole process. This is illustrated in the excerpt below, which also goes some way to concur with women that the current system excludes them in its decision-making but also in conveying outcomes to regarding their court case, which for some proved to be critical:

...if somebody who is found guilty or goes [i.e. pleads] guilty on the day, the woman might not get told that for two days, but even after that, obviously it’s adjourned for pre-sentence report. Nobody bothers to tell her the end bit. She gets a letter. That’s if she still lives where she lived, you know, six months earlier. They get a letter telling them what the court result was. You know, why a court system can’t employ a person who sits with a phone and letters and emails and text messages whose job it is to tell people, well it’s... (WA 2, p1: 41-48)
In common with women in the study, professionals from support agencies who worked with victims/survivors of domestic violence could see why they might have concerns about what external factors influence court decisions. This group shared their concerns that the court professionals' wider expectations of domestic violence cases and the emphasis on the prosecutorial approach were reasons women perceived their own, individual cases to not always be treated as seriously as they could. Still considering justice service wider agendas, the advocate here was concerned that the criteria for what may produce a successful prosecution, was more likely to determine the mode of trial:

*Ours* [expectations] are very low. We are *very* disheartened by our work with the courts. We've had some very good success but it's been at Crown, not at Magistrates. But, the bulk of the cases still go to Magistrate, charges are still made at the lowest [level]... I think the biggest problem I've found is since CPS took over the charging role, it's just completely undone... To me that's what the frustrating thing, we're focusing on one very small part of a big system that doesn't function properly and so how can we expect the courts to, when the rest of it doesn't, you know. Everybody's got their own agenda. The court leads on this, but we're all at different stages in this. (IDVA 1, p34:3-10)

In particular, there were shared concerns between women and support agency professionals that each case was one of many in a bid to meet agency targets. It was also seen that women's perceptions of successful outcomes and those of the wider justice system were not compatible. As shown below, it was also viewed as impossible for the justice system to compare domestic violence (and the constituent categories of crimes that make it up) against other crimes, just because of the nature of domestic violence cases:

The thing is though, you've got tangible targets with things like burglary, you know, reduce the number. Domestic violence is so hard to measure in terms of a successful outcome... 'cause there's so many different ideas of what successful outcomes are, and they are so very different to women's. (IDVA 1 and 2, p43:34-38)

Unlike women in the study, court professionals did not tend to view their decisions at court were made according to the priorities of the government, in particular, the need to reduce numbers of those in custody as suggested by a number of women in the study (see Chapter 7).
This was not seen to be an influencing factor for those on the bench. Custody was thought to be used when and where appropriate:

Even though we’re encouraged not to, there’s no way a bench wouldn’t keep somebody out of custody. There’s absolutely no way we wouldn’t send them. That’s not our problem. That’s the government’s problem (laughing), do you know what I mean…we do try and find alternatives to prison, but if we feel there’s a case for custody, they’d go... obviously we try to, to look at other means because it doesn’t always work anyway, does it? (M2, p23:1-7)

As cases were coming to an end or had been dealt with, there was a shared concern from women and both sets of professionals, that after the decisions made at court, things did not feel so different for them. Women were still coping with pressures from ex/partners, felt that their lives were restricted, and the impact of their situation was not resolved. In line with women in the study who perceived that their experience was structured for them by professionals, although there was empathy for women as they dealt with on-going and complex situations, their situation and status continued to be defined by others:

Most women say they are victims. They identify themselves as...They’re not survivors, they’ve not got through it yet: it's not past...They’re still living it as a reality every day. I would say that she’s not a victim any more, but that doesn’t necessarily mean that she’s not a victim of him or, you know, I mean a victim generally, you know, she’s in shit housing, her health is suffering, you know.(WA 1, p23: 5-10)

Chapter summary

This chapter explores the views of women and professionals (from both the court and support agencies) in relation to women’s experiences of contact with the court process, noting areas of convergence and divergence of views in relation to themes emerging from the women’s accounts. The analysis further highlights the experiences and perceptions of women in the study with regard to their relationship with the court and wider justice process, and with professionals as a wider collective group.
Although this chapter discussed comparisons made between women in the study and professionals, it is important to note, the analysis identified inter- and intra-group differences in the professionals’ views and their consideration of themes emerging from women’s accounts. Within the court professional group the differences seemed to depend on their particular role or experience. The most distinct differences were between court professionals and professionals from support agencies. These were reflected in the context, priorities, level or type of interaction with women, and the empathy of both groups with women’s perspectives; present or absent here was an understanding of the “contextual framework” (Kelly: 1999) women operated in (see Chapter 4).

In contrast to professionals from support agencies, court professionals on the whole had a different understanding or emphasis which did not compare or relate to how women felt about their experiences. Women viewed that court professionals had a limited, stereotypical and almost pre-determined view of them, substantiated by others’ research with legal professionals (Cretney and Davis: 1997a,b; Cammiss: 2006; Randall: 2010). This was reflected in the perceived unwillingness of some women to engage with the system (Madigan and Gamble: 1991), and in response to their decision-making: examples include the failure of women to show at court, their demeanour in court, and the use of the law to manage their relationship (Ford: 1991; Lewis: 2004). Similarly to other studies, even when women thought they may be perceived to be engaging, it was felt at different points there were negative assumptions made (Erez and Belknap: 1998; Eley: 2005). A “dominant narrative” (Randall: 2004: 149) was perceived, which many court professionals employed to understand women’s situations: this tended to homogenise, rather than reflect women’s experiences of violence or their reactions to it. Views on themes and issues were frequently explained through process led frames of reference, reflecting the system’s priorities and limitations, and their structural role within these normative features, rather than a focus on, or empathy with, the way women
described their experience, such as the constraints put on their ability to exert agency from the outset and at points throughout their experience. Another example of this was the different emphasis on successful outcomes for professionals and meaningful outcomes for women. Outcomes are considered within different time-frames, and from these different conceptualisations flow different meanings and notions of rationality.

The analysis showed that there were few areas of strong commonality between women and court professionals; rather areas of contrast and clear differences in perspectives. A sharp contrast could be seen in women’s and court professionals’ views on the reasoning or motivation behind women’s decision-making, depending on the purpose (Lewis:2004) of contact with the justice process, and once in the court system. In addition, court professionals did not share the views of women who had, at times, chosen to eschew the court process (Stanko:2007) in favour of their own ways of managing violence and intimidation: court was considered the only rational option. Here, and in reference to other points in women’s experiences, contrast was shown in the way each group considered and understood what constituted ways of taking action (Giddens:1984) and what was of value.

Professionals from the support agencies shared more concerns and understanding over women’s views on their experiences (Coy, Kelly and Foord:2008; Hague and Mullender:2006). This was often drawn from their own observation of working more closely with a range of women who had been in contact with the court process and in some cases before or beyond this experience. There was comparability in the views and empathy shown towards women’s lack of confidence in the court process and in the wider justice system, how women thought their needs were left unmet by their experiences, and women’s disconnection from the court process or intense isolation and fear at certain times (Robinson and Tregidga:2007; McDermott and Garofalo:2004). Professionals from support agencies were
able to consider how other influences on women’s lives in the study might impact on how they responded to (or behaved) during their involvement in the court process. Women’s assessment of their own individual circumstances was regarded as an important feature of their decision-making. There were however some subtleties in this view, which are reflected below in a particular example emerging from the analysis.

Professionals as a collective group and women as a group diverged in their views when discussing the rationality of women’s decision-making, in response to the options made available to them deemed to be in their best interests. For court professionals, more emphasis was placed on women being in the court process where decisions and outcomes were viewed as having more relevance to their circumstances. Decisions (no matter what the professionals’ intentions) were seen to be made in order to protect women from further distress, or from themselves. For professionals from support agencies, there was some disillusionment with women rejecting or not seeking support and advice, generally in terms of their safety and protection (Bjorkert and Morgan:2010). The findings that emerged here inform a wider and much debated area of the conceptualisation and achievement of empowerment through services and women’s own rational decision-making capabilities (Lempert:1997; Hoyle and Sanders:2000; McDermott and Garofalo:2004; Robinson and Stroshine: 2004; Hague and Mullender:2006; Robinson and Tregidga:2007; Parmar and Sampson:2007).

The limits on women’s power to decide and professionals’ frustration with the decisions made, reduced women’s status and in turn affected the legitimacy of their claims. The different ways in which professionals discussed this theme reflected the women’s interpretation of how professionals felt about them at various points in their experiences. This had implications for women’s relationships with professionals. Although varying empathy
was shown in different ways, by different professionals, women felt that their experiences had been structured or defined by all the professionals involved to some extent, in order for them to utilise the various legal and support resources available (see Chapters 4-8).

The analysis showed that there were some similarities between professionals as a whole regarding their views on the structural constraints put on them by the institutions and agencies they worked for. Attitudes reflected the understanding of professionals and their capacity for action in response to women’s experiences. This was particularly so in relation to the ways women experienced coming into the court and their understanding of court professionals’ actions or decisions in relation to them.

Some of the themes raised in this chapter and the implications coming from them are examined in more depth in the final analysis of the study and the concluding discussion of the thesis, which forms part of the next chapter. In Chapter ten, the core areas and themes to emerge from across the findings are examined. The closing remarks emphasise some of the main findings of the study, and some of the more conceptual aspects emerging from the discussion, before finally focusing on implications of the research.

1 Those professionals most associated as being at court by women in the study are denoted in this chapter as ‘court professionals’. This group comprised: legal advisers to the Magistrates (LA), Magistrates (M), District Judge, (DJ) Crown Prosecutors (CP). There is also reference to court ushers (U). As noted in Chapter 3, technically, Magistrates are unpaid, but from the women’s perspectives they were considered as broadly similar in status and outlook to the professionals.

2 This group comprised: Women’s Aid, Women’s Aid Outreach Service (WA), and Independent Domestic Violence Advocates (IDVAs). This is also a sub-group of the wider range of non-court agencies, discussed earlier in Chapter 6.

3 Where relevant, the researcher also makes the distinction between professionals working in one professional group, or between professional groups or agencies, so as to reflect any pertinent differences in the viewpoints of professionals who took part in the study.

4 Interviews were informed by the themes emerging from the women’s interviews.

5 This was not made in reference to domestic violence courts, but the wider legislative and policy changes that have been made in relation to domestic violence (see Chapter 1).

6 The court professionals made mention of a new initiative at the time ‘Criminal Justice, Simple, Speedy, Summary’ (CJSSS), which, like other initiatives in the past such as the Narey hearings, intended to put an
emphasis on (all) pleas being made earlier. The case study area was included in this pilot, however, at the time, it was felt that this pilot "had thus far, not impacted on the way pleas were given" (LA 2, p15:4).

7 Magistrates could see how on first sight they may appear intimidating, because they were set apart, and were often seen to be, "above" the court (M2, p5:6).

8 Special measures may be used for witnesses that are considered vulnerable, see Chapters 1 and 7.

9 Ushers were interviewed formally and spoken with informally; this was in order to gain more clarity of information about procedure, and to gain insight into another perspective about the daily activities of the court, rather than points of law.

10 Ushers made independent observations of how they would see and speak with women in and around the court building at the time of hearings, sometimes when they should be in court as witnesses and at other times when they were accompanying their ex/partners.
Chapter Ten  Discussion and conclusions

Introduction

This thesis has explored the experiences of women who had contact with the Magistrates’ Court process, as a result of violence and intimidation from men in past or existing relationships. The focus of the study addressed an under-researched area in criminological and socio-legal discourses (Ptacek:1999; Fleury:2002; Jordon:2004).

The main aim of the study was to provide space for women to speak and be heard, in order to provide a more in-depth and faithful portrayal and understanding of their experiences. To achieve this, the research specifically put women who had contact with the court at the ‘centre’ in order to ground the study in the meanings provided by them. Thus far, the analysis has predominantly interpreted themes identified in women’s accounts, whilst briefly contextualising these within themes and concepts from other literature in the summary of each findings chapter. This approach allowed for discursive elements to be explored, and pertinent detail and areas of thematic importance to emerge from the analysis; from this, intriguing comparisons were also made based on those ‘knowledges’.

In addition, implicit in the methodological approach adopted, and a major part of the consequent and final discussion, was the need to elicit a deeper meaning and understanding of the themes to emerge from across the women’s experiences of their contact with the court process, and to start to address the implications of these. To this end, the chapter has two main foci: the focus of the first section is a discussion of the core areas to emerge from the research. To explore the core areas and themes more fully, where appropriate other theoretical and empirical literature is further drawn on in order to make comparisons, distinctions or for further exploration. The second part of the chapter comprises the
concluding remarks of the thesis. This final section emphasises some of the main findings of the study, and some of the more conceptual aspects emerging from the following discussion, before finally focusing on implications that the research identifies.

A discussion of the core areas and themes to emerge from the study

The core areas and their constituent themes discussed here emerged as important to the women in the study as they defined their experience of contact with the Magistrates’ Court process. Women’s perspectives addressed their experience as a whole, with respect to particular events, times and issues. Although differences were shown between individual narratives of women (reflected and represented in the findings Chapters 4-8), there were also commonalities throughout women’s experiences. The findings were clustered around three core areas and the themes that emerged within them: these are listed here and are elucidated in the following discussion. The three core areas comprise: first, women’s decision-making, the two themes to emerge from this area focus on the perceived rationality and intentionality of decision-making and limits on the power of women’s decision-making. The second area, the complexity of women’s lives, focuses on two themes, factors that shaped women’s experiences and how responses to women’s agency can trigger further complexity. The third area to emerge is concerned with women’s relationship with the court process. Here, there are three foci; feelings of disconnection, perceptions of legitimacy and issues of appropriateness.

It should be noted that at times, there is overlap across themes: they are conceptually independent, though empirically coincident. For example women could experience, at any one time, issues associated with gender: institutional power, personal threats, emotional distress, but analytically these have been addressed separately, without of course, ignoring the strong connections between them.
To explore the core areas and themes more fully, other theoretical and empirical literature is also drawn on in the discussion. Crucially, this is done by considering the relationship between structure, agency and power, Giddens's (1984) theory of structuration (see Chapter 3, Methodological Approach). This was a useful conceptual tool when considering the relationship between the institution of the law and women as victims and agents. The notion of the "duality of structure" is based on the connectivity of the agent, action and structure; structure is not considered external to individuals, as it is "recursively implicated" (ibid: 25) in social systems across time and space. Another relevant aspect is Giddens's three senses of constraint, that is, "material constraint", "(negative) sanction" (that is, constraint “associated with sanctions” of various kinds), and "structural constraint" (ibid: 174). The constraining qualities of sanctions and structural properties limit the range of options open to an individual or group, though the possibility of drawing on agency, even in the most constraining of structural circumstances is recognised. This conceptualisation of constraint that Giddens presents is useful in analysing the enabling and in particular the constraining effects of power on women's decision-making and different aspects of their lives.

Where appropriate, the following discussion compares, distinguishes or draws on other useful concepts from existing empirical research. This literature broadly addresses the experience of women's interface with the court process (and at times the wider justice process), women's range of responses in managing violence and intimidation, and women's help seeking more widely. Clearly the consideration of theoretical and empirically based areas of literature are at different levels of abstraction, but at times the two areas of discussion merge: Giddens's work, for example, draws on empirical research, whilst the empirical work which focuses on women's interface with the justice process is far from atheoretical.
Women's decision-making

The role and nature of their own decision-making featured highly throughout women's accounts. This core area was integral to women defining and discussing the starting points of their experiences, and also at other subsequent times/events in their experience of contact with the court process. The two thematic features of women's decision-making which emerged are discussed. The first theme is concerned with the "rationalisation of action" (ibid:281) and intentionality (judged on intentions and capability). The former is defined by Giddens as "the capability competent actors have of 'keeping in touch' with the grounds of what they do, as they do it" (ibid:376). A main feature of this theme was how women viewed and understood their decision-making throughout their experience, and how they believed this was perceived by others. The second theme relates to how women experienced constraints or limitations on their ability to make decisions and the options open to them. Women experienced being systematically restricted by the court and justice process, initially as they came into contact with it and as they moved through their experience.

The perceived rationality and intentionality of decision-making

Women were conscious that during their experience, the motivation and intention of their decision-making was often misunderstood or ignored. They considered they were making a range of informed decisions (drawing on their discursive consciousness), and regularly whilst under a variety of acute pressures, emanating from inside and outside the court process. The general view was that many professionals perceived their choices as irrational. This was borne out in the study by the comparative analysis of women's and professionals' contrasting view points, especially in the ways each group considered and understood what constituted 'appropriate' ways of taking action.
How and why women made decisions in managing their relationship, including choices to act outside of the court process, and the decisions taken during their contact with the court, were often not seen as viable options or dismissed as non-decisions by professionals linked to the court (specifically here, the CPS and those on the bench). Although there were elements of sympathy with women’s situations, women’s decision-making and their behaviour was often seen as irrational, passive and inactive, implying women were not considered “knowledgeable agents”, as they were viewed as incapable of “making a difference” (Giddens:1984:14) or exercising some power over their abusive situation (and wider circumstances). Women in the study believed this perception of their lack of sustained agency was amplified when set against the ‘rational’ decisions of legal professionals, considered to be the “more knowledgeable agents of the state” (McDermott and Garofalo:2004:1254), and demands made within the rigid orientation of the court process: the law being a source of structural constraint.

The powerful perception of what is viewed and construed as, rational in law, emerges from rationalist tradition of objective truth (which has its origins, values and practices in a male perspective), and through which adversarial law is constructed. Here truth is defined as knowledge, rather than a more “problematic” range of interpretations, from different perspectives (Childs and Ellison:2000:19).

Women were unambiguous in the ways they considered themselves to be knowledgeable, rational and active decision-makers, claiming that their decision-making was appropriate to their needs at the time, or within the “constraints as they perceived them” (Hoyle:1998:184). This could encompass women deciding to stay, leave, take various forms of action whilst in a relationship, and use other help-seeking options (to the legal system), which was also the case with their decisions and priorities during the court case. This indicates, as in Giddens’s (1984) theory, that what is thought to constitute taking action depends on perceptions or understandings of rationalisation and can be understood as a “process rather than a state”
The claim of agency is underpinned by previous studies which have also centred on women's experiences of decision-making in abusive relationships, exploring the practical consciousness and what action and choices women may take (Lempert:1996), in the face of violence and sexual abuse (Kelly: 1988), as opposed to the way others might think they should "typically react" (Randall:2004:108). Studies which have analysed women's critical reflections (drawing on their discursive consciousness) have similarly shown how women consider themselves to be "actively" (Cavanagh: 2003:23) responding to violence and how women use agency to develop strategies to manage their situations (Kelly:1999). Those studies which focus on the criminal justice system which acknowledge women's actions in response to violence, such as Kelly (1988; 1995), Ford (1991), Crettney and Davis (1997a,b), Bennett, Goodman and Dutton (1999), and Robinson and Cook (2006), who view women, not as passive but as reasoning agents in their relationships, and in their interface with the law, positing that women are survivors of their own "process of active and strategic resistance" (Lewis, Dobash, Dobash and Cavanagh:2000:5).

Court professionals' perceptions of women's decision-making in relation to how they managed their violent and intimidating relationships were that it lacked independent, rational and responsible thinking. The ways in which women in the study considered taking action did not always correspond with legal professionals' interpretation of legitimate decision-making or indeed followed a 'linear' pathway of action in response to violence and intimidation, suggesting that the possibility of being considered within the criminal legal framework as "both an agent and a victim is limited" (Burman:2010:174).

In their own critique of court professionals' understandings, women clearly took the view that a more in-depth understanding of the complexity of their decision-making process was required, outside of the court process and in the context of a less explored dynamic, in relation
to their involvement with it. Factors underpinning the ways in which women considered they had taken action or control, were viewed as necessary to understanding the reasoning behind the types of decisions women made. The utilisation of experience also played a part in women's decision-making: previous experience of the criminal justice system became an important feature of rationalisation in considering their most recent interface with the justice system. Both aspects of rationalisation are explored here.

In the study, women demonstrated that when they took action, they embarked on a process of rationalisation in their decision-making which involved shifting priorities, within a complex set of circumstances. Because of these factors, women perceived that they did not make isolated decisions in their everyday lives or when in contact with the court process. Cavanagh (2003:246) refers to this as "simultaneous" decision-making when women also have to consider the possible and unintended outcomes and consequences of their actions. In the comparative analysis, professional from support agencies, showed a degree of "mutual" or "common sense" knowledge (Giddens:1984:334) of women's situations. Generally, they shared the view that women's own assessments of their circumstances were an important feature of their decision-making. The divergent view from the court professionals suggested certain "factual [knowledge] boundaries" (ibid), as they did not have an understanding of these conditions. This was also reflected in Cavanagh's work (2003), who suggests that the "more complex articulations" (p.230) of women's experiences of abuse, how they make sense of their situation, the circumstances in which women make their decisions, and the possible ramifications, were often missing from professional discourse.8

Taking action for women in the study involved negotiating hierarchies of structure or "shifting constraints" (Daly:2008:18), which can also be understood by drawing on Giddens's (1984:177) three senses of constraint. On an individual level, the sanctions that women
experienced from their interaction with their ex/partners and the wider effects of these impacted greatly on their day to day lives. In their interaction with the court process and wider justice system (and on occasion with other agencies they saw as related to their experience; see Chapter 6) women experienced a sense of constraint identified as coming from outside of their world, that at times seemed beyond their control: this can be understood as a structural constraint (Giddens:1986) with a more complex ‘interplay’ of powers through a range of social institutions (Risman:2005). Madden Dempsey (2007) argues in her discussion of patriarchy as a structural inequality, that the “patriarchal character of individual relationships cannot subsist [externally] without those relations being situated within a broader patriarchal social structure” (p.920), reflecting women’s perceived unequal status in their private life and in particular, their “gendered experience of violence” (Davies:2007:177).

The unequal power dynamic between women and the legal system (Stanko:1989), is affected and legitimated here by the structural conditions in the wider society (Randall:2004), and the structure of normative regulation re-produced by the legal institution.

Although, it was shown that limited attempts were made to consider women’s situations by court professionals, little of that reflection addressed women’s agency or “personal power” (Mills:1998; see also Ford and Regoli: 1993; Newmark, Harrell and Salem:1995); that is, when women had a sense of control in their dealings with others, including their ex/partners. Here, the focus was not on the issue of how women felt they had the power or resources to control their situation at any one time; rather it was on their perceptions of the progression the court professionals viewed women to be making in relation to certain specific goals. Women in the study did not highlight a specific, progressive order for taking action; the focus was more about the types and appropriateness of decisions involved in the process of managing their relationship and situation. In the same way, research carried out by Kelly (1988; 1999) and Cavanagh (2003) also uncovered a non-linear pattern of responses which are discussed in
terms of women exerting agency or making decisions within a "contextual framework" to challenge violence and intimidation in their relationships (Kelly: 1999:35).

In direct contrast to the women in the study, the preferred choices for court professionals (here, CPS and the bench) in particular were seen to be those which ended the relationship and when women committed to engaging with the criminal justice process. For the professionals from support agencies, there was a divergent view, though one which did not entirely correspond with the point of view of all women in the study. Here, women's decisions did not have to be taken in a criminal justice context, but decisions were thought more viable in the context of on-going support or facilitation by professionals. Although not consistent with the view of all the women in this study, the opinions of support agency professionals in the comparative analysis is supported by the research of Parmar and Sampson (2007) who believe that women benefit from on-going support even though they may not “always be actively seeking it themselves” (p.681) (see later theme, Issues of appropriateness).

The underlying sense to emerge from women in the study was one of judgment or blame attached to women's choices by court professionals. This was validated to a large extent in the comparative analysis, where legal professionals saw women's decision-making and their situations as impacting on the effectiveness of the justice process: this position assumes that the law can (and does) "effectively respond to the needs of abuse women" (Randall: 2004:138). Women were also often perceived by court professionals as ultimately colluding with the aggressor in their decision-making. Rather than being constrained by their position, women were perceived to have acquiesced to their ex/partner's demands (Mahoney: 1994): these assumptions problematised women's behaviour and victim status. Understanding and responding to women's actions as passivity, suggesting conscious acceptance, or when women
were seen to be more assertive, suggesting a need for more accountability for the decisions they made (see McDermott and Garofalo:2004), assumes or shifts responsibility onto women for the situation they now find themselves in and can be “re-interpreted as implicating them [women] in the violence” (Kelly 1988:184).

Women thought justice professionals had simplistic expectations which showed a lack of understanding of their position beyond the incident that brought them into contact with the court. This expectation of women is referred to by Cavanagh (2003:231) as a “reductionist response” when the wider risks and consequences to this kind of action are not considered. It is this discourse that highlights the dichotomy between agency and structure: how can agency operate when having to resolve rational (criminal justice system) decisions against what are perceived as non rational (everyday) decisions? An important feature in the rationalisation and intentionality of women’s decision-making was how they made use of past experience. Experience was generally viewed by the women in the study as a number of first-hand, interactions or “chain of experiences” (Van de Walle:2009:389) built up over an intense shorter period of ‘continuous’ contact with the court and wider justice process or over a longer time. Experience in some cases, however, was not based on a high number of interactions with the court process, but on perceptions based on other women’s experiences. The women’s focus on their experiences was shown to impact on their willingness to (re)engage with the justice system. Specifically, the legitimacy placed on their concerns by the court and wider justice system in the past (that is, how seriously they, and their claims were taken), acted as a gauge of their expectations, intentions and their level of investment. Studies which had a particular focus on the role of experience such as Lerman (1992), Erez and Belknap (1998) Smith (2000), Fleury-Steiner, Bybee, Sullivan, Belknap and Melton (2006), similarly found that women emphasised how their prior, positive and negative experiences, particularly with the police, and then at court with prosecutors and court
officials, had impacted on their perceptions of contact with the criminal justice system and their intentions to re-use it.

Women in the study did not discuss experiences in isolation, but within the contextual aspects such as their relationship, and other influences at the time. The more specific material aspects of “the complexity of women’s lives” is discussed in more detail in the next main area of this discussion; here, more considered, is the effect of such influences alongside women’s experiences of the court process and wider justice system and the impact this had on women’s future engagement with the process. Fleury-Steiner, Bybee, Sullivan, Belknap and Melton (2006) reveal a similar process in women’s decision-making; their study examined multiple contextual factors related to women’s experiences of intentions to re-use the justice system in the event of future violence. They found that women’s decision-making could be supported or hindered by “interpersonal” factors, in the context of women’s lives and the violence they experienced and “community, and systems-level factors” (ibid:330), in the context of support services and police and courts. Although satisfaction was not the only aspect which influenced women’s decisions, Robinson and Stroshine (2005) and Lewis, Dobash, Dobash and Cavanagh (1997) believe that satisfaction is a critical influencing factor that must be understood as reflecting experience with the justice system, and likely to affect women’s future help-seeking strategies.

Limits on the power of women’s decision-making

Within any one case, the first and subsequent contact women had with the justice and court process highlighted the ways in which women felt the power of their decision-making was limited. Many felt the possibility of their original intention was lost at an early stage, for example, the kind of contact women may want with the justice system and the way in which contact was made (that is, if initiated by the woman/friends or family) resulting in unintended
consequences. The comparative analysis showed court and professionals from support agencies also thought women's capacity to make decisions was seriously diminished at this stage, but the impact of this was rarely, if ever considered. This can be interpreted in two ways: the loss of power women experienced through these limitations can be discussed in the context of the amount of "legal power" (Miller: 2003) or status women felt they possessed, and also by considering the constraining effects of structure which persists in the law and its institutionalised practices.

Using an adaptation of Mills's (1998) power model to analyse victims' perceptions of power in their experiences of interventions in the justice system, Miller (2003:700) defines legal power as women's "perceived ability to control criminal justice decisions and their consequences". In Miller's study, the findings showed that women felt they had legal power if they perceived they had effective responses to their requests, these defined by professionals' actions which "reflect the victim's preferences and autonomy" (ibid). This reveals a similar finding to Fleury (2002) who, in her analysis, makes the distinction between the sense of perceived and actual power: both these views are considered below in relation to the present study.

In the study, women made a distinction between the degrees of power they felt they had experienced: both possessing power and having a sense of power, but which was then constrained by others (as a result of "negative sanctions"). The perception of power can also be applied to other times after the first contact with the criminal justice system, women highlighted, for example, the period before court and arrangements for their court appearance and at court. Women described scenarios when they had thought the system could or should have facilitated their choices, for instance, when women were requested to make or actually made, decisions regarding their case. At these points women found that their preferences had
been ignored, overridden or changed without consultation. The decreasing amount of power women had over their situation from the outset demonstrated to them a disingenuous system. The scenarios described were not viewed as “reliable” interactions (Cassell: 1993:295), this was emphasised by the lack of legitimacy placed on women’s concerns, and the fragility of their decisions, again demonstrating the tension between the different bases of rationality for the women and the legal process.

Fleury (2002) discussed different perceptions of control that women experienced when she looked at factors which impacted on women’s satisfaction of the justice system. She found there were points when women had a sense of, “perceived” control over the legal system, this she differentiates between women having “actual” control (thought difficult to measure). For many women in her study having a “sense” of control” (ibid:184) was sufficient, even though the objective situation for the women in Fleury’s study had not necessarily changed. Fleury’s findings agree with Ptacek’s (1999) court study findings that although this would not protect or put a stop to women’s situations (Stark:2009), it was essential to women’s experiences of the court process and represented a more “meaningful provision” (2002:153). Although this may reflect differences between the UK and the US, clearly, most women in the present study perceived they had little or no degree of control, at the start of the process, as they progressed through it, and once in court. Due to the feelings of disempowerment the women had, it was the desire for an experience of self-actualisation and ‘actual’ control that was highlighted.

The disappointment in the response women in the study experienced could be explained as the result of them having attached a symbolic significance to their interface with the court and wider system, thinking that the process could and should provide more of a response to them. Lewis (2004) posits that, for the small proportion of women whose cases reach the courts, it seems women now have a “greater sense of entitlement” (p.221). In Lewis’s study, this is
discussed in the context of safety and quality of life, whilst in the present study; this is extended to the place and power women thought they should or could have in the criminal justice process. The limitations on the ability of women to exert agency was exacerbated further as they moved through the system. At one level, this sense of loss of control mirrors Cretney, Davis, Clarkson and Shepherd's (1994:19) discussion of the "disappearance of the victim", thought to be due to ideological and practical reasons: it was not unusual that women as victims were "normatively viewed as outsiders" (Doak:2005:298) at this time. However, on another level, women in the study discussed how, in varying degrees, their experience was affected, not just by lack of visibility and voice in the process, but also in the way others re-defined (see Dobash and Dobash: 1992) or dismissed their situation through their practices. This was experienced through conditional responses given to victims of domestic violence, in terms of requirements of reciprocity in engagement with the criminal justice system and in the context of the victim's role and witness status. These examples reflect issues of control which women in the study believed reflected the priorities of the system; an issue raised by studies which chart women's experiences of contact (mainly) with the police and aspects of the court system (see Hoyle: 1998; Hoyle and Sanders: 2000; Miller: 2003; Robinson and Stroshine: 2004; Sanders and Young: 2007).

In the comparative aspect of the study, professionals attributed these kinds of experiences to unavoidable routes, laid down within the larger criminal justice framework in response to domestic violence, which allowed only limited opportunity to respond to individual needs. Although in this study, the initial experience of limits on women's decision-making were recognised by some professionals, the continuing and overall effects of limitations on women as they progressed through the process were rarely questioned. Two aspects emerged in this analysis.
First, there was a general ambivalence towards and/or acceptance of, the constraints faced by women and nature of the rules generated by the normative features of procedure and practices of the legal system. At this point in the process the emphasis was thought not to be about the women, it was seen as inevitable that the precepts the legal system is based on would impact on, or put constraints on the women and them as professionals. Echoing Giddens (1984), in the context of the criminal justice response to prosecution in domestic violence cases, Madden Dempsey (200:916) believes the "character traits of the state are constituted and strengthened by the actions of the state actors". The acceptance and inevitability expressed by court professionals in the current study suggests that, in practice, they also contributed to, and reproduced the legal procedures. Giddens (1984:331) would identify this "facticity" as a source of constraint on the court professionals and the women; though clearly the constraints of such structures are experienced very differently.

A second, more emphatic view, or one dimensional approach taken towards the rationality of the legal process in such circumstances, was that it was not the intended aim of the system for women to have an element of control, rather that the decisions taken and restrictions applied were done so in women's best interests as victims of domestic violence. The restraints here lie in the organisation of the criminal justice system and the way its particular response to domestic violence victims is shaped within that institutionalised system. This particular response may even be specifically aimed at addressing historical failures of legal responses, but which is still informed by "dominant narratives" (Randall: 2004:149) rather than responding to the "physical facts of the world" (Risman:2004:92) or individual personal circumstances and agency of women. This view supports the claim that although sending symbolic messages on the wrongfulness of men's violence towards women is intrinsically of value (Madden Dempsey:2007), and notwithstanding the marked progress in certain areas of
the justice response, this study highlights the limited nature of this in practice, when located within the larger, rule-based, legal system.

Regardless of whether the women in the present study considered their decisions within the justice process were initially within their control, all participants talked about specific times and events before and during court which had constrained their decision-making as a, subsequent and on-going, feature of their whole experience. These constraints accentuated or reinforced the unequal status or "legal power" (Miller:2003) women felt they possessed, and served to mirror the material constraints they operated and lived under in their relation to violence in their past/current relationships. Further, these limitations represented ways in which women's experiences were structured and defined for them as their ability to define, decide and control their own situation was reduced. When women took action or made attempts to determine their experience on their terms, although perceived by women (mostly) as a positive aspect of their decision-making, this was considered both by women and those professionals linked to the court process, as being in conflict with the values and aims of the justice process.

Examples of perceptions of conflict resulting from women's decision-making included opportunities or times when women wanted to influence the type of contact they required with the justice system. Similarities exist with Lewis, Dobash, Dobash and Cavanagh (2000) who found that women made "careful decisions" about whether and how to use the system, based on their own particular "need" (p.329). In the present study, the level of need was more understood and observed by professionals from support agencies, for instance, for those women that described wanting to seek immediate protection or gain control of their situation, rather than being drawn into the court process. A similar finding was made by Cretney, Davis, Clarkson and Shepherd (1994:18) that many women wanted "an immediate show of
strength to remove or deter him [their aggressor] from further violence.” In the comparative analysis in the present study, this intention was met with disapproval by court professionals who sat on the bench. This group saw this more direct aim and other choices, such as early retraction, as short term thinking and a serious manipulation of the system to women’s own ends. To women in the study, these activities were not viewed as an abuse of the system, or automatically due to pressure from their partners, as many court related professionals in this study assumed. The enduring point raised by Ford (1991) and Ford and Regoli (1992) resonates here with regard to how women may make use of the law as a “power resource” when managing violence (Ford:1991:183). Some women in the study had wanted to use the law as a short term response or subsequently as a lever to pursue their own demands in relation to their ex/partners, or alter the direction or other aspects of the case. Using Ford's analysis, this would give women the “relative power” (ibid) they wanted, rather than a "disproportionate amount of power over the functioning of the criminal justice system" (Randall:2004:137) as the responses from legal professionals in the present study suggested.

Those women who had used retraction during their most recent case and were summoned as witnesses, or had retracted in the past, claimed they did so because of the limited choices they had experienced in the justice process. Women who took this action had felt they had no option but to use these rare opportunities to exercise choice and/or to effect change. Ford (1991) believes that policies and systems which make these kinds of choices unworkable are disempowering survivors. In addition, a common view from women in the study was that the criminal justice system indiscriminately takes power away from them which would not necessarily keep them safe: this is a view endorsed by studies which support the rationalisation of action involved in women making such choices at these times (Hoyle: 1998; Morris and Gelsthorpe: 2000; Madden Dempsey: 2007). However, as reflected in a small
number of women’s accounts, positive aspects of outcomes in the medium to long term could be produced.

Women’s reflections on the ways they used retraction to effect change were linked to a lack of opportunity to voice an opinion because they felt there are no other avenues to do so, as well as to change the course of the prosecution. More generally this subject is researched from the point of view or interpretation of the legal professionals. Some studies in this area have offered more context and the meaning to women’s decision-making (Cavanagh:2003) by showing that advocates and women report the “consequential value” (Madden Dempsey:2007:909) of supported retractions (Robinson and Cook:2006) as a meaningful outcome for some women. The particular aspect of women's decision-making with regard to retraction raised in this study has been explored in a limited way in the past, but is worth exploring further on a larger scale (beyond the scope of this study).

The comparative aspect of the study showed that most court professionals (in their direct accounts and from court observations) anticipated certain choices, which they viewed with frustration and dismay. This finding is mirrored in Cretney and Davis’s (1997a) and Cammiss’s (2006) studies. Both these studies had a focus on the prosecutorial control of domestic violence cases, where privately, legal professionals reported a certain amount of frustration and expectation with women’s early withdrawal, here this was shown to have impacted on the management of the cases.\(^\text{12}\)

In the present study, the Prosecution and those on the bench would view only certain actions and behaviours by women as acceptable and valid (in and out of court). The situations recalled were predominately focused on those women who did not show up at court, or for various reasons those who had or wanted to retract, often an unknown because of lack of
information from the police. Court professionals also discussed those women who would recant their statement on the stand, and those who for various reasons appeared obstructive or reluctant to give evidence. Though some of these instances drew sympathy, there was a general view that women should carry on with the case and appear in court. The likelihood of domestic violence cases being fully processed or resulting in a successful conclusion or prosecution was strongly associated with women’s attendance and behaviour in court (Randall:2004).

There was general agreement amongst court professionals that to summons women to the stand was in their own interest, though, there was some deliberation (in interviews and observed in court) between the bench and Prosecution as to the amount of time and opportunities given to locate women and give them a chance to appear in court. The comparative aspect of the study showed that court professionals demonstrated wide and sometimes subtle variation in what they considered acceptable behaviour and how this had a bearing on their perception of women as legitimate victims of domestic violence and as witnesses. This behaviour was on the whole, not interpreted in light of the pressure brought on women by the court system, or indeed the continued context and constraints of abusive relationships. At the very least women’s behaviour was viewed as frustrating and typical, at the extreme it was seen as unacceptable and obstructive, and could result in their criminalisation. However, this threat was not necessary for the feeling to be engendered for women, that they were the ‘accused’ or “victims of coercive power of criminal law” (ibid:140)\textsuperscript{13}

In this aspect of the study the general emphasis or “highest value” (Robinson and Cook: 2006:193) placed by court professionals (generally CPS and the bench) was on victim participation and their cooperation: credibility as a witness or the place of legitimate victim
was based on women's performance and the evidence given on the stand, and their willingness (Madigan and Gamble:1991) to work with, rather than impede the justice system, from the outset and throughout their contact with the court process.

The complexity of women's lives

Women outlined how there was a complex relationship between judicial and non-judicial issues and concerns in their lives. The complexity of women's lives played a part to various degrees throughout women's experiences, yet their individual situations or the "contextual framework" (Kelly:1999:35) they operated in, was rarely considered, discussed or seemingly understood by court officials. Women viewed that these connected factors were underplayed by those in the court process and in the court procedures.

Two themes emerged around the women's understanding of this complexity; these are discussed here in the context of women's personal power and how this is connected to wider structural patterns of power and control. The first theme addresses factors that women believed had a role in shaping their experiences and is concerned with socio-structural constraints. The second concentrates more on the further complication of women's lives by the experience and effects of contact with the court process. The focus here is on the further constraints women experienced resulting from the responses to their initial action and how their lives could become more complicated and constrained as a result of the various responses to agency in the form of resistance.

Factors that shaped women's experiences

Aspects of women's lives, other than the court case, were seen as important factors in structuring and defining their experiences of contact with the court process. These were varied and highly contextualised, but included a combination of social and economic
pressures, the complexity of relationships, and specific influences and concerns associated with this experience. Individually and in combination, these influences affected women's experiences and these conditions could often affect and constrain women's decision-making and the way they ran their day to day lives, and could certainly impact on their interaction with court.

Social and economic pressures, such as issues related to housing, employment, education or childcare, were viewed as additional and on-going pressures by women in their everyday lives, and could take precedence over justice related issues, as they may logically have assisted in them having more control or escaping the effects of violence and intimidation and improving their situation. An insight can be gained into how women perceived that controlling these pressures would give them an element of "personal power" (Mills:1998), and a sense of control in their dealings with others, including their ex/partners. Women in the study described the intersecting pressures as arising out of their circumstances. To explore the nature of this structural constraint (Giddens:1984), it is useful here (and at other points in this section) to draw on Richie's (1996) concept and process of "gender entrapment" (see also Radford and Hester:2006). She gives equal emphasis to multiple constraining factors women experience within the context which violence is experienced: women's lives and choices can be shaped by unequal social structures in which women are limited or denied an adequate range of valuable options for leading successful lives.

From the time of arrest, once the court process began and when women went to court, their lives were characterised by complex issues related to the risks associated with continuing, ending or past relationships. Although past studies have explored the risks and context of women's help-seeking, including considering or taking legal action against their ex/partners (Dobash and Dobash:1992; Lempert 1997; Kelly:1999; Fleury:2002; Cavanagh:2003), less
of the literature addresses the interaction with wider aspects or complexities of women's experiences of being in the court process (Ptacek:1999; Fleury:2002). It is however, useful to look at Cavanagh's (2003) and Lempert's (1997) work which reveals similar processes to the women in the present study regarding considerations and contexts. Lempert's study reveals similar findings about how women operated in "contradictory, but simultaneous contexts" (ibid:290), for instance of love and violence, and how women's interpretations of this would necessarily impact on their help-seeking. Cavanagh's study comments on the range of complex issues that are operating at any one time when women "go public" (2003:240). There were also some similarities between this study and Cavanagh's study, who posits that women's responses are often "played out in relation to men's responses [to their violence]" (ibid:246). These studies share characteristics in their findings with the present study, in the way women understood, assessed, prioritised and responded to their situations in the context of the complexities associated with living with, or ending intimate relationships.

Other wider concerns were associated more directly with, or as a result of women's indirect experiences of contact the court process, such as worries for their children, growing concerns for ex/partners and their own physical and mental health. Although wider research shows some similarities to the concerns raised by women in this study, previous studies more generally discuss these issues in terms of the direct impact of violence and intimidation, rather than the additional effect of direct demands coming from the judicial process itself, and the pressures attached to simply by being involved.

These concerns had varying degrees of impact on women, which intensified in the time leading up to court appearances, during their time in court and afterwards. In this study, the more immediate worry for children was in relation to the current and future state of parental relationships as a result of women taking action and there being a court case. These issues
were different to those of the literature which focuses more on the impact of witnessing abuse, being the victim of direct abuse (Hester, Pearson and Harwin:2007), or a continued manipulation of intra-family relationships by the ex/partner in various ways, including the use of emotional and legal access to children (Radford and Hester:2006). None of these aspects can be ignored in women’s experiences, however, in the context of the effects of association with the legal system, it is useful to consider how Radford and Hester (2006) discuss that women and children can end up being “abused and impoverished by the court process” (p.100) because of its lack of understanding of the events being played out. Concern for ex/partners was not a main area of worry for all women, but a real focus for some. Within this context there was less focus on reprisal, as in Kelly (1999); rather more emphasis on concerns for their ex/partners welfare, such as the impact of court and the judicial outcome. The unintended consequences and conditions of taking action here clashed with issues of loyalty (Kelly:1999), and in particular the hope that the court experience and outcomes for their ex/partner would reflect what women considered the right course of action in their opinion.

Women in the present study discussed how they had minimised issues affecting them regarding their physical and mental health, which has previously been reported as problematic for women with violent partners (Ellsberg, Jansen, Heise, Watts, Garcia-Moreno:2008). Women were more concerned with how their health, particularly mental health issues, had affected them at specific times, such as the time leading up to their appearance at court, and when the court process was in progress; another real concern was how knowledge of their mental health issues could be used against them in court. Studies which specifically look at the effects of violence and intimidation on women’s health (Stark and Flitcraft:1996), reveal women felt depressed and isolated (McGibbon, Cooper and Kelly:1989; Walby and Allen:2004) and reported feeling anxious and having a lack of self confidence (Mooney:
2000): these feelings were further accentuated and/or triggered for women in the current study during their experience of contact.

The features discussed above shaped women's experiences in very particular ways as they were involved or in contact with the court process. It can be seen how complex and multiple factors produce structural constraint, limiting options and produce “gender entrapment” (Richie:1996). Women also demonstrate how by gaining more control of their social and economic situations in their negotiations with others, including their ex/partners, they could achieve a degree of personal power. A particular element of constraint resulting from action is considered next.

*How responses to women's agency can trigger further complexity*

The study showed how women used resistance as an essential and regular part of what they would ‘do’ in their lives, as part of their practical consciousness. Although the precise ways women used resistance varied, similar features did emerge across the group: it was viewed by women that this was both consciously and unconsciously motivated. Regardless of how they “engage [ed] with the state” (Randall:2004:140), for example, by personal action, via family/friends actions, or compelled by the criminal justice process, women believed that this would be seen by their aggressors as a more overt form of resistance. How women resist, cope and survive men’s violence’s is seen also by Kelly (1988) in the context of agency and power: here resistance is seen as a strategy, no matter how subtly exercised within the scope of limitations placed on women, which “denies the abusive man certain forms power over women” (p.162).

In the context of their interface with the court and wider justice process, women discussed how reactions to their resistance to men’s violence necessarily complicated and constrained
their lives. As a consequence of this act of resistance and involvement, many women experienced a continued presence of the aggressor or pressure from his family and associates. This presence was highlighted particularly as women waited to go to court, but was also experienced both during and after the court case. Similarly, Kelly (1988) discusses how the coping and resistance mechanisms women employed in reference to domestic violence were responded to by “the constant threat of violence and the control men attempted to assert control over them” (p.179). Cavanagh’s study (2003) showed that although women who went to the police experienced further problems, some women reported how it helped them “challenge the men’s violence and their constructions of it” (p.241). In contrast, and specifically at the point before court, there were women in the present study that described how they felt they had little control over this unwanted pressure from their aggressor, which served to confirm women’s status as victims, reflecting more accurately Ptacek’s (1999) and Jordon’s (2004) studies, which discuss the realities of risk and the reasonableness of fear as women frequently face threats of retaliation when they have sought contact with court.

Women described how the both the pressure from, and presence of men was experienced at varying levels of proximity, including a mediated presence through others; this was usually in the form of the action or threat of intimidation and harassment, and in some cases physical assault. This ‘presence’ was also discussed in the context of an enduring influence or effect. In many cases the presence of their ex/partner was attributed to the lack of restriction placed on their aggressor by the criminal justice system. The lack of awareness women had of the status of their court case and the confusion the system presented, left them feeling vulnerable and with little confidence in the justice system (see next core area, “Women’s relationship with the court process”). This confusion was validated by the uncertainty and conflicting knowledge presented by the court professionals. Parallels can be drawn with Fleury-Steiner, Bybee, Sullivan, Belknap and Melton’s study (2006), on the inaction of the system and the
impact on women's safety. They argue inaction sends a "powerful message out to him [aggressor] but also to the victim...about the level of protection the... system is prepared to offer" (op cit:338).

Some women discussed how violence, intimidation and the perceived threat of it continued in various ways during the court case and beyond; dealing with this had become a part of women's (conscious/unconscious) complex plan of survival. Women discussed instances where they had little alternative other than to interact with their aggressor at this time, for example regarding children, or how this presence became more routine: none of these situations were ever perceived by women as them passively accepting the "various" controlling behaviours (Dobash and Dobash:1998:160) men employed. In common with Kelly's study (1988), the response from men to women's resistance in the study would not be an isolated event. Women's accounts talked of repeated episodes of violence, or the threat of violence throughout and after their court case. These fears are substantiated in the research of Fleury-Steiner, Bybee, Sullivan, Belknap and Melton (2006) who found that one in five victims had been harmed after arrest and before the case was closed, and again six months after the case was closed.\textsuperscript{20}

The effect of a continued presence of their aggressor as women progressed through the court process not only highlighted the increased complications and the constraint women experienced, but also how this aspect was felt to take its toll on women. Although not all facets of this were experienced by all the women, and this study did not focus on whether there was long term, positive outcomes (see Fleury-Steiner, Bybee, Sullivan, Belknap and Melton:2006), the dimensions of control placed on their lives had various effects on women which has links to the previous section of other factors that shaped women's experiences, such as how living under threat had an impact on their health. Women reported having
feelings of low self worth, a compromised sense of freedom due to concerns for their immediate and long-term safety, and uncertainty in their confidence in the justice system, which led to doubts in their own actions as they awaited their court appearance and outcomes.

**Women's relationship with the court process**

The ways in which women in the study considered their relationship with the court process was directly affected by their position as situated actors: common to these experiences were issues of women's status and power. These can be understood through Giddens's (1984:177) senses of constraint; the (negative) sanction of their experience of contact with the court process, and structural properties of systems. Irrespective of their specific intentions to engage with the court process, most women felt they were marginalised by their experience due to the direct interactions they encountered, and the nature of the institutional structure and practices of the law.

The three themes that emerged in this area further highlight the way women viewed their relationship to the court process and related experiences. The first theme focuses on the emergence of the disconnection women experienced when in the court process, which came from a constraining effect or feeling that the system operates outside of their world, but impacts on it (that is, structural constraint). Specific examples are used here to elucidate the wider meanings attached to these experiences. The second theme is concerned with perceptions of legitimacy, defined here as “anything defined as valid by the members of a given group” (Giddens:1984:320): the focus is on the interpretation placed on women's concerns by the system. The third theme is concerned with the shared notion of appropriateness that emerged from the findings and what constituted a responsive and appropriate agency response (from justice and other agencies) from the perspective of women in the study.
Feelings of disconnection from the process

Women in the study were in many ways disconnected from the court process from the outset, though in some cases this was not unexpected. As a result, women's ownership of their experience and the legal case was lost, diminishing the importance of the violent event/s, its impact and the perceived solution. Some comparison can be drawn from Christie's (1977) discussion of Conflicts as property, where the organisational framework of the legal system, the court professionals willingness to appropriate conflicts, and victims supposed willingness to give them away, results in "lost participation" (p.7) on the part of the victim.

On a practical level, women felt excluded from the specifics of the court process from the outset and as it progressed, they recounted the lack of importance given to their role and status in the management of the process. The sense of isolation was partly caused by women often being unaware of the status of their case, and related justice system decisions, up to and during court case: this had a direct effect on women's lives and their safety on a day to day basis. Similar experiences are recounted by women in past studies which include aspects of how communication affected women's experience of the justice system as a whole (Anderson, Boyle, Cook, Hartley and Roberts: 2001; Fleury-Steiner, Bybee, Sullivan, Belknap and Melton: 2006). The fear, anxiety, lack of control and confusion women felt at points throughout their experience further reflected the disconnected relationship women had with the court process. These kinds of experiences at times impacted negatively, on the way women engaged with the system (Bennett, Goodman and Dutton:1999), in particular, further into the process, and at court.

The findings showed that women saw themselves as superfluous to the court setting, its process and those officials working in it. In spite of women's 'starting points' in their experience (that is, the various ways they came to be in contact with the court process), the
court system was not experienced as being, for or about them, which echoes earlier sentiments of professionals in the comparative analysis of the study (see core area, ‘Women’s decision-making’). Disconnection emerged in a number of ways: the lack of relevance the process appeared to have to their situation, either by protocol or context, and the limited and conditional role that women experienced from the outset. It is useful to draw on Giddens (1984:330-331) here, who uses an example of interaction between court professionals to describe how, what can appear inconsequential exchanges in the context of the legal setting is essentially a “meaningful” or “intelligible” interaction based on mutual knowledge exclusive to legal actors. This interaction is made so by the institutional features of the court process. It is the continuity and reproduction of interaction, and its acceptance as real, making it “structurally stable”, which expresses and legitimises the interaction or actions of court professionals (normative procedures) and in turn the power of the legal institution. This framing can be utilised to explain or understand further the constraining effects of women’s experience in the court, for example between the Prosecutor and the bench or more general procedures at court and the wider justice process.

Women in the study were bemused and perplexed, whilst others were unsurprised, that no one was present at court on the day/s they attended that represented their interests: those court related officials that were most associated with the women’s case belonged to the Prosecution. Similar to other studies, it was not unusual that few women knew or had it explained to them, that the prosecutors were “agents of the state and not the complainant” (Cretney and Davis:1997a:150). Contact with prosecutors was, on most occasions extremely brief and often confusing, which added to women’s anxiety about what was about to happen.

The issue of lack of representation, or right to reply, impacted on the way women felt their version of events was heard in court. Women viewed that in court their own and original
narrative was often lost, including contextual information including the wider circumstances of the violence, and the history and nature of the relationship. For women in the study, this equated to their whole narrative being deemed to have no relevance to the legal procedures (see also Cretney, Davis, Clarkson and Shepherd: 1994), thus making the trial for some women in this study "irrelevant" to them. This echoed in Cammiss's (2006) study which identifies the marginalisation of women's experiences, believing the interests of the domestic violence victim are "sidelined...compared with non-domestic violence cases" for strategic reasons (p. 704). He posits that there are opportunities in the Magistrates' Court system for women to have their own narrative heard, and also much earlier in the process, which may in turn determine which court (the Magistrates' or Crown Court), cases are heard, and enhance the legitimacy of women's claims.

The practices and the outcomes from their court experiences left women distanced and external to the process, leading a number to question whether the prosecutorial based system could respond to their intentions/motivations, reflect their concerns, or understand the practical and emotional constraints they were operating under. Women on the whole, shared many of the same issues and sentiments; however there was a sub-theme that reflected the resignation of many court professionals, that this was an integral part of being in the court process. This echoes previous findings, that the lack of consideration women in response to the practical and emotional constraints they had to overcome in their interface with the court system, were felt to be "defeating" (Fleury-Steiner, Bybee, Sullivan, Belknap and Melton: 2006). Some women developed their own ways of managing what was viewed fundamentally as an isolating experience.
Perceptions of legitimacy

Because of the apparent similarity between the concept of legitimacy and the later one of appropriateness, it is important perhaps to make the distinction between the two associated themes from the outset. The difference lies in the power in which the analytical concepts operate. The perception of legitimacy rests on whether women consider their actions or concerns fit in with, the expectations of court officials, the prosecution and other professionals. Conversely, appropriateness reflects the degree to which women evaluated professionals’ actions to be in line with their expectations and perceived needs.

Perceptions of legitimacy are discussed in this context as an interpretation placed on the women’s concerns by the system. The key aspect is the perception by the women of the legitimacy of their situation and actions, gained through the responses of the court and wider justice agencies, and to some extent by other agencies.

The perceptions, expectations and actions of others played a large part in the way women thought their individual situations and actions (inside and outside the court) were viewed, which in turn drew attention to the validity of their experience, and claims, of victimisation. For instance, and as a result of these perceptions and experiences, women also reported that their accounts in court were not taken into consideration, fully listened to or represented, which led women to feel they were not believed or respected (see Ptacek:1999; Fleury-Steiner, Bybee, Sullivan, Belknap and Melton:2006). Women recounted how court officials had pre-conceived ideas of women as victims of domestic violence, which affected how their ‘victim’ status was judged in the court. Like Cretney and Davis (1997b:76), women thought that their circumstances reflected a “problematic” interface between domestic violence and the criminal justice system. This feature of women’s experience in the study often produced
negative perceptions and limited expectations of the court (and wider justice) process and concern as to whether this would be a reliable interaction.

Women reported that they were more likely to be deemed legitimate by support agencies they came into contact with during this time. However, one aspect of their experience which was felt to question their integrity, and tested women’s faith in the support agencies, wider agencies and the justice system, was being required to constantly tell and re-tell particular aspects of their story to fulfil the demands of assessments and processes required by professionals. This increased access and involvement of others in their lives was accompanied by a certain weariness. The “tiredness” associated with agency involvement was observed by support staff in McDermott and Garofalo’s (2004:1254) study which evaluated an inter-agency programme responding to domestic violence.

Through these processes of interaction the validity of women’s claims was being tested, and the legitimacy of their accounts and concerns doubted: this had implications for how women viewed their own identity/victim status. On this issue, women did not involve themselves directly, knowingly or otherwise with the debate surrounding the use of ‘victim’, however, women did use the term in a “context specific” way (Thapar-Bjorkert and Morgan:2010:50) with regard to perceptions of legitimacy, which in itself adds to this discourse. The term ‘victim’ was used by women frequently in the study, with their own attached connotations, for instance, to make an active and positive statement about identity, role and legitimate status, distinguishing themselves from the ‘accused’, and distancing themselves from the legal category of witness. There was a difference in the way that women used the terms ‘victimisation’ and ‘victim’: the term victimisation was used in a depersonalised way to reflect general experiences of victimisation, including the “secondary” (Cammiss:2006:704) victimisation they felt at the hands of the court and wider criminal justice process. This
would appear to contradict to some extent, the reluctance or at times, rejection of the use of the term ‘victim’ by academic scholars. Women described how they were asked to provide a witness account of the incident/s at the hands of their aggressor, but without necessarily focusing specifically on themselves personally as the ‘victim’. For many women, these details seemed to get lost in the process undermining the legitimacy of their experience of violence and their place in the process.

Throughout, women associated problems with their status within the court process, which were highlighted by a comparison with the perpetrators who had a legally defined role as defendant with commensurate rights. Women’s status was considered to be conditional, structured by the legal system and governed by the priorities of the court process. To an extent, for some women their powerlessness was also seen to be exacerbated by the actions of their aggressor. The lack of status women were afforded gave them little chance or space to exercise agency. For many women, this was amplified during contact with justice professionals, such as the police, prosecution and court officials; who on reflection were viewed to be agents of the state, with little or no interest in their individual circumstances.

**Issues of appropriateness**

Appropriateness emerged as an analytic concept from interviews with women in relation to how responses from professionals fitted with their own needs, preferences and life circumstances. Women assessed their relationship and involvement with court and other agency professionals in terms of a shared abstract notion of appropriateness. This recurring concept was drawn on in different ways by women, and was applied to their own analysis of the increased contact they had with professionals. This included contact with court professionals and agencies wider than the justice system, but with whom the women closely associated their experience of contact with the court process. The importance of appropriate
responses emerged as women considered their experience of giving over aspects of their private lives to public control.

Many women noted their situations were often re-defined and re-constructed by professionals that they had come into contact with to a lesser and greater extent, in order that they might fit into a wider structure, rather than women defining their own needs within their own frame of reference. Women’s experiences in the study were similar to findings of Robinson and Stroshine’s study (2004:302) who discuss how criminal justice professionals may “ignore or even conflict with the goals of victims” to satisfy the various aims of the justice system. As demonstrated in the comparative element of the present study, these decisions were based on the premise that this is how the state should intervene for a woman’s perceived ‘own good’ (McDermott and Garofalo:2004; Hoyle and Sanders:2000) or that some victims are considered incapable of making decisions in their own ‘best interests’ (Robinson and Stroshine:2004). This approach is clearly not necessarily the same as what the individual woman might actually want, or consider ‘appropriate’.

The comparative analysis showed how it was the structured response, drawn from a dominant and “institutionally preferred narrative” (Loseke:2001), in respect of domestic violence cases, that was mirrored predominantly, but not exclusively by those associated with the court process.

Women exercised caution in their assessments of professionals’ decisions, direction, or advice. Although women spoke more favourably of their experience of contact with other, predominantly, support agencies than any other professional group; here, qualities of trust, accessibility, and responsivity featured highly. Without being overly critical of any particular support agency, when considering their different perceptions of what constituted an
appropriate response, women did not preclude any of the professionals they came into contact from their discussion. Examples of an imbalance of power came about when women reported being unable to challenge advice or options given that obviously came out of a real desire from agencies outwith the justice system to provide support, but which did not always (in part or whole) reflect what was important to them. What instead resulted was women were advised or took decisions in the context of “existing and accepted definitions” (McDermott and Garofalo: 2004: 1261) of what they want or need. A number of women also commented on the intrusive nature of assessments that they experienced, which reflected the various professional agencies interpretations and priorities. This view in part reflects the discussion that pervades in relation to the “professionalisation” of advocacy (p.1261), and the involvement of a wider range of services who are required to respond to victims/survivors of domestic violence, who may not have officially done so in the past. Hague and Mullender (2006) recognise the potential for agencies’ “hidden forms” of power to disempower the women they work with, and similarly to this study, amongst more mainstream services, though not unknown in women’s dealings with support agencies.

Women viewed that the interventionist responses, practices or visions of support, no matter how well meaning, could have negative effects (Lempert:1997); accounts showed how instances where agency involvement was not always wanted, useful, helpful or matched to women’s individual, self-defined needs, and may indeed be unwelcome. Perceptions of support are discussed by Ghate and Hazel (2002).21 The similarities in this study regarding perceptions of support in the context of the private/public domains provides a useful framework for understanding women’s experiences of both justice and support agencies. Both studies demonstrate shared experiences and understandings of what constitutes “negative support”: feelings of “loss of privacy”, loss of control and the precarious division between what was considered “help and interference”. They also share an unease about conditions
attached to access to services, emphasising how participants in both studies were aware of the constraints and “potential problems inherent in accessing organised services” (p.257). For women in the present study, and in the context of criminal justice and specific support service responses to domestic violence, negative support or services could lead to unintended outcomes, and act as a “source[s] of disempowerment” (McDermott and Garofalo: 2004:1250), which resulted in women experiencing limitations in their ability to exercise “legal or personal power” (Miller:2003).

The diagram below (Figure 2) shows the various dimensions of what constituted an appropriate response in relation to all professionals for women in the study, namely, qualities associated with credibility and responsivity in recognising the right of women to self-determination. Women viewed professionals as having credibility, or becoming more credible over time, in two ways: firstly, by how they presented themselves to women in their approach including how trustworthy they appeared to be (for example, in the consistency and accessibility of their approach), and secondly, by the value of the service they provided and what they achieved for women. The two were not necessarily synonymous, but were viewed to be of equal importance. Responsivity was defined by the relevance of responses towards women. This could be demonstrated by the professionals showing they had an understanding which reflected women’s perceptions of their problems and by their actions being shaped by and reflecting women’s priorities. The need for flexibility and continuous reflection was identified as a pre-requisite in order for professionals to respond to the variety of women’s needs, either immediate or longer term. This included being responsive to the changing constraints women perceived themselves to be operating under. Running through the meaning of appropriateness was the recognition of women’s self-determination and ability to act, retaining some control and power in their situation; that is, the capacity for their own agency to operate. This has echoes throughout women’s dealings with court and other
agencies: an appropriate response is one where women have a role, where they are listened to and where they can influence proceedings, in other words their agency is recognised and not unduly constrained.
Concluding remarks

This section forms the concluding remarks for the chapter and the thesis as whole. The section emphasises the main points to come out of the study, the more conceptual aspects to emerge from the previous discussion, and then focuses on the study’s implications. All these factors inform each other and demonstrate how the study contributes to the wider discourse(s) of feminist criminology, socio-legal disciplines and the law, regarding women’s interface with the criminal court process in cases of domestic violence.

Main points to come out of the study

The study brought to the fore a number of valuable points about the women’s experiences of contact with the Magistrates’ Court process (and wider criminal system) in cases of violence and intimidation from their ex/partners: these can be considered in ways that seek to address or explore women perspectives and experience of their interface with the criminal court and legal process more generally. A number of these points are outlined below.

Although this study had the court process as its focus, it is clear from the way women defined their experiences, that it is artificial and erroneous to consider the women’s perceptions and their experiences in the court process as separate from the wider criminal justice process, from any other support processes, but also women’s lives more generally. The experience of their case being taken through the Magistrates’ Court process was defined by women as much more than simply an appearance in court, or indeed simply the progression of the case to that point. Other complex (non-judicial) factors also shaped women’s experiences and those inextricably linked by the direct and indirect pressures of contact with the court process.

The women talked about their situation in the context of a diverse and complex set of inter-related influences, whereas the court professionals viewed such considerations as explicitly
outside of their remit and ignored its relevance to the women’s needs: for them, the court case was the prime consideration, which is reflected in the court professionals’ basis for rationality.

Women’s lives, however, required a balance to be struck and at times this forced them to ensure that competing concerns in their lives (for example, social and economic pressures, complex relationships, other personal and health related issues), took precedence over legal concerns. In this way, women sought to manage their situation and the effects of involvement with the court process. As a result, the legal process may be interrupted or forced to deviate from the linear path to prosecution and conviction, meaning, that individual circumstances were rarely taken into account: it was more likely the woman was viewed as unreliable, chaotic or failing in what she ‘needed’ to do. In essence, behaviour considered rational by the women themselves was considered irrational by most of the court professionals.

The study highlights the importance of recognising more fully, and responding to the varying constraining effects of being in contact with the court process, and importantly shows how women’s lives were complicated further by this experience. Contact with the court process brought direct demands from the criminal justice process and other agencies, and importantly, secondary pressures in other areas of women’s lives brought about or exacerbated by their involvement, including the efficacy of the legal process to reduce risk for those women who continued to experience violence, intimidation from women’s aggressors and their associates. A third area of concern was the impact of the various constraining effects of court professionals’ perceptions of the women.

The study showed that for women, although they recognised the specific purpose of interactions with different criminal justice agencies, these agencies were viewed as having a single intended outcome, and the process having a momentum outwith their control.

Following contact with the police, prosecution and other court related officials, women
described how their original intentions were lost, and opportunities to exert agency were reduced further in the time prior to, and during their appearance in court. Whatever their level of engagement was, it was superseded by the aims of 'the system', which court professionals recognised, but deemed "unavoidable". The basis for women's decision-making is recognition that the risk of violence and intimidation is unlikely to be removed entirely at the end of their dealings with the criminal justice process; their rationality reflects this prospect of continued risk.

This variance in perspective between the women and court professionals was manifested in a number of ways at a practical level. The working culture based on normative features of the law, incorporating attitudes and practices of the court professionals, represented different frames of meaning from the implicit and explicit needs and expectations of the women involved. The differences emerged when considering the intended outcomes that the two groups held, with women focusing primarily on the control or cessation of violence, whereas the criminal legal system was seeking to secure prosecution. Women did not always take a purely outcome oriented view: their emphasis was often more strongly process oriented, defined by their treatment in the process, and interim outcomes (for example, bail decisions), reflecting the legitimacy afforded to them and their concerns. Where outcomes were discussed, these were more instrumental to their situational needs (for instance, immediate safety), or symbolic or reparative action, rather than a single purely retributive outcome. For some women, a 'meaningful' outcome necessitated a supported retraction or possibly the continuation of the relationship or contact with their ex/partner in some form or other was necessary. For the professionals operating in the legal framework, however, these outcomes were rarely within the bounds of 'successful' outcomes, or even considered outcomes at all, and could shape their actions in the management of the case.
Women in the study described ways in which their relationship with the court and wider justice process was ‘disconnected’ throughout their experience and the implications this had for them. Women’s exclusion and lack of place, throughout their involvement produced a disconnected experience. This was not only linked with broader issues that relate to structural barriers to inclusion or participation for victims (Doak:2005): this experience of disconnection comprised very specific elements for women as victims of domestic violence. These elements included lack of a right to immediate access to the status of the case: this was crucial information required to strategise and plan for the immediate and longer term future, because of the dynamics of any ongoing relationship and interaction with the defendant. The absence of visibility or place in the proceedings prior to the trial contributed to the disconnection women experienced and resulted in a loss of ownership, and their case lacking a sense of relevance to them. In addition, many women described how, the on-going court narrative left them feeling their experience had been taken away from them, a process which Christie (1977) identifies as the “theft” of victimisation. This resulted in women having doubts about the validity of their own claims or part in the criminal legal process.

The study showed that once at court, positive aspects of women’s interaction were isolated or incidental rather than integral to their experience. On the whole, women viewed the interactions as they waited to go into court and when giving evidence as an often confusing, disempowering, hostile and stark experience. Here the situated strips of interaction that women experienced appeared to dismiss their presence, preferences, and needs, and only partially represented their experience of abuse. The law and its procedures prioritised men’s accounts and their presence throughout the case as defendants, providing more opportunity for representation and a right to reply. Women’s marginalised and often lonely experiences were attributed to the bench, the Crown Prosecutor and defence solicitor, the court practices and the austerity of the physical surroundings. The system’s situated practices were seen by women
as not operating primarily in their best interests, viewed as a relationship founded on power and control, where their voices were simply not heard, and with many aspects of their accounts challenged or silenced. The combination of the court atmosphere, women’s ‘lack of voice’ and representation lead to a situation where women considered they had no place or were the accused. There was an issue of legitimacy: here, the focus was on the extent to which women fulfilled the role of the ‘credible witness’ rather than any particular consideration of the context and details of the aggression.

Most of the women in the study had wanted contact, if not with the court process, with some aspect of the criminal justice system, but on their terms, and for their specific purposes. All contact was evaluated by all the women in terms of a shared notion of appropriateness, which could facilitate women’s agency. This multi-faceted concept emerged through the women’s discussions, and was applied to all professionals and their practices, including those from judicial, support and other external agencies. In terms of the judicial process, the assessment was more to do with how it operated and was experienced, rather than a purely outcome oriented approach. Here, some limited similarities could be seen with the comparable, but not identical assessment that the women felt they were subject to in terms of the legitimacy of their victim status.

These main findings show how women’s experiences of contact exposed the limitations of the law. If the various concerns were deemed to be addressed appropriately, in response to women’s experiences, the efficacy of the criminal court process and the wider criminal justice system, and the options and opportunities to use the law would, in theory, improve. This response would give women a more central, represented and empowered role during the lifetime of the court process. The capacity of the current adversarial system to respond to any
of the concerns which emerged in the analysis of women's accounts is addressed later in this chapter.

**Conceptual points to emerge from the discussion of core areas and themes**

Drawing on a range of discursive knowledge, women in the study who had contact with the court process were able to offer insight on the conditions of their own action and that of others, namely the legal professionals they had met or observed in the court and wider criminal justice process (and interactions with other agency professionals they met in the process). Running through the themes that formed the basis of the final (and previous) discussion was the relationship between agency and structure as considered by Giddens's (1984) theory of structuration. Aspects of this theory provided a useful conceptual framework to understanding the relationship between the experiences women as social actors encountered during contact with the legitimated and normative features of the criminal court process (the institutional order of the law); whilst acknowledging the particular constraining effects of the structured properties of gendered social systems.

The discussion highlighted the lack of recognition that women were afforded in relation to their own agency and the constraining effects of the legal system, which resulted in women experiencing a loss of autonomy: this affected their interface with the court and wider criminal justice process and thus their sense of "legal power" (Miller:2003). Their involvement with the justice system placed additional pressure on how their "personal power" (ibid) operated in their external lives. The consideration of women as both agents and victims was shown to be compromised in the interaction between women and the institution of the (criminal) law.
Further demonstrated was how constraining aspects of power were experienced as sanctions which resulted in limitations in the capacity for women to use their intent or will and in the range of choices open to them. The existence of structural properties and the persistent normative institutionalised features of the criminal justice system in which the laws and practices “of the moment” (Connell:1987:141) operate, determined the experiences women had. The discussion highlighted examples that included the route women would take once in the system, which was often in direct conflict with women’s desired or intended outcomes: this experience resulted in many women viewing there was little or no chance given for them to be an integral part of the decision-making process. Women’s agency was shown to be similarly and further compromised in a number of ways by legal procedures and common practices as they/their case moved through the system, thus engendering a process of disempowerment and marginalisation.

This marginalisation was evident in two ways: first by the (consciously and unconsciously motivated) complicity of the legal professionals in this experience, shown by the acceptance and/or inevitability and enactment of the normative features of the law, its practices and how domestic violence victims are dealt with within this restrictive framework. Secondly, the mutuality and shared meaning of formal and informal discourse between the different legal professionals, recursively reproduced the “facticity” (Giddens:1984:331) of the law and its practices with clear implications for women’s experiences.

Various social constructions of women as victims which emerged from the reproduced legal practices were highlighted in the previous discussion. The contradiction in law was emphasised between the “common patriarchal value” (Hunnicutt:2009:565) of protecting women as victims, and the reality of responding to a diverse range of women’s experiences of, and reactions to, living with violence. These experiences and reactions were often shown
to be in conflict with the legal institutional systems and practices which tended to homogenise
women's experiences (Loseke:2001) and define their experiences for them, drawing on a
"restrictive dominant narrative" (Randall:2004:145) rather than respond to their individual
needs and experiences, ultimately denying women's right to self-determination and agency.
This was emphasised by the predetermined ideas and assumptions made about women's
experiences of violence by certain court professionals, rarely if ever considering, as women in
the study did, the complex individual circumstances and the constraining effects on their lives
that came as a result of living within an abusive relationship.

The system's failures to respond to such incompatibilities demonstrated how the constructed
concepts of victim, witness and agent can conflict with each other in the legal framework.
Women's behaviour was categorised as variously being passive and accepting, irrational,
collusive, non-compliant and manipulative; views which do not resonate with the idea of
victims worthy of the courts' time and protection, producing ambiguity within a system built
on the "rational man of law" (Naffine:1990), and reflecting a general culture of scepticism.
The study showed that women were often coerced or forced to resign themselves to
relinquishing power, that is, any sense of expression or agency in their contact, and having to
contain their thoughts and behaviour, and conform on this occasion, to the demands of the
Prosecution and the court. These conditions and practices, rather than reduce anxiety and
pressures, were seen as dismissive, repressive and increasing anxiety. In the context of the
victimisation of women, the "paradox of protection" (Hunicutt:2009:565) is highlighted in the
discussion, where risk and protection implies vulnerability. A certain amount of acquiescence
is required in order to be offered criminal legal protection or for the system to regard women
as having legitimate victim status.
Christie (1986) identified features of a social construction of “the ideal victim” whereby social approved aspects of the victim behaviour and persona are more likely to produce sympathy and effective responses. Women's perceptions of the court process and the blame, judgement and responsibilisation they experienced, chimed with Christie's construction, and appear to establish many of the women as less than 'ideal' victims or ideal and responsible witnesses (see also Mahoney:1991; Randall:2004; McDermott and Garofalo:2004). Specific examples of disapproval attached to this consideration, included women's choices and behaviour that suggested complicity or collusion with their aggressors in some way, during the court process and ultimately their victimisation (Kelly: 1988; Thapar-Bjorkert and Morgan:2010). This view is discussed as being rooted in pre-determined discourses, moral judgments and stereotypical images which produced regularised expectations of women who come into the criminal justice system as victims of domestic violence. In the discourse within which the law operates, the construction of legitimate victimhood reinforces the constraining effects of structure and the gendered experiences of criminal law in practice.

The themes, defined by the women's experiences, and highlighted in the discussion are explained by the relationship between the legitimated structure and reproduction of the normative procedures and practices of the criminal court process. These are, in turn, embedded in a pervading traditional and masculinist conceptualisation of the rationality of the law and its claim to establish truth; a system which does not recognise other knowledges and experiences (Smart: 1989). This ideological starting point ultimately produces inequalities in the legal response and representations of victimised women, where the laws and practices are shown to place limits on the efficacy of the law, distancing it from the “profound and personal impacts of oppression” (Randall:2004:147), the material conditions of women's lives and the ways in which they exert agency. The structural properties of the criminal justice system and its laws which constrained and complicated women's actions and experiences are rooted in
the same gendered and recursively produced "structural inequities" (Stark: 1995:973) which underpin men's violence towards women. The study showed that for women as agents, employing the law as a means of confronting, controlling or to stopping violence from their past/existing partner, or indeed resisting becoming involved with the law, is a complex negotiation (Burman:2010; Kelly:1999).

Ultimately, the study demonstrates the inter-relationship between agency and rationality. For their decisions to be rational, actors must have the space for their agency to operate. The legal system as currently operating fails to value the active decisions women already take in response to violence, and only addresses a restricted range of possible outcomes. In so doing, it reduces the capacity for women to utilise the power that the legal resource could provide: which has profound implications for the conceptualisation of women as victims and agents. Were the legal system to recognise a wider set of outcomes and a less restricted basis for rationality, the capacity for women's agency to operate would be enhanced.

**Implications**

As the sceptical reformist feminist project continues in relation to the legal response towards violence against women from their male partners, it is ever more important to draw from the valuable insight of women's experiences of aspects of the law and the realities of the often repeated, experiences of women in contact with the Magistrates’ Court process. 22 By prioritising and valuing all aspects of women's experiences as they defined them, this study adds a critical insight to this knowledge base and conceptual debate. It adds weight to the supporting arguments in the area of activism and on-going feminist discourses that continue to push for radical change in the way the law treats and responds to women who are victims of men's violence, whilst recognising women as social actors and their right to determine how they manage their situation if they should choose to engage with the criminal justice process.
The study suggests that to redress and respond to the experiences, needs and wishes of women in the study, demands a programme of change which entails a dual aspect, which transforms the form and content of the law, and addresses the adversarial criminal legal system framework and the normative features of the court process and practices in specific and fundamental ways. To realise this, action would be required that changes are made to the fabric of the legal system and the “legal subject” (Naffine:1990) itself. In agreement with Lewis, Dobash, Dobash, Cavanagh: 2001), the thesis recognises the need to engage with a combined approach, from within a sceptical legal reform framework. This encompasses a radical constitutive long term project regarding the form of the law, but proposes change can only be achieved by building on more empirical observations about the content of the law, which has to prioritise women’s experiences of the law.

The thesis concurs with the findings of Robinson (2007) and Coy, Lovett and Kelly (2008) that outcomes from prosecution are frequently less important for women than procedural justice. Coy, Lovett and Kelly define procedural justice as “making and implementing decisions according to fair processes in which victims are treated with respect and dignity” (p.53). The “fair processes” represent the procedural rights aspects that emerged from the findings, and would offer a role or status in the court process, whilst the need to be “treated with respect and dignity” (ibid) addresses the service rights aspect. While the implications of these debates relate to the wider concerns relating to the uncertain status or place and experience of victims generally, and the tension between victim and defendant roles and rights (Cape and Ordill:2004; Doak:2005), it has a distinct and particular resonance for victims of domestic violence. Here, the questions are: ‘how can women obtain justice?’; ‘how can cases be managed effectively throughout the process?’; ‘how can this be achieved without jeopardising the rights of the accused?’ (Lees:2002:263), and ‘how can women’s rights be genuinely enhanced?’ without being simply “empty rights” (Ptacek:1999:6).
Although the suggestions for considering the issues outlined are not fully detailed here (and sit outside of the stated aims of the thesis), it is clear that future considerations need to address service and procedural rights, located within a specific human/women's rights (Kelly:2005; Burman:2010) framework addressing violence against women. If it is assumed that the reasons for the failure of the system to adequately achieve these rights is due to structural and ideological aspects of the criminal justice system, it will be at this level that the most fundamental change will be required. This then engages with the debate as to whether the rule-based system is a 'blunt instrument' in dealing with domestic violence (Madden Dempsey:2007). Effective change would involve challenging or "disembedding" (Giddens:1991:22) those gendered aspects of the law, and those court practices that recursively produce the normative features of the institution of the law, which structured and reproduced the experiences of the women in the study. Although recursive practices will inevitably exist, the challenge is to affect the basis of these practices to one which is more sensitised to the women's basis for rationality and can offer a more nuanced response to the complexities presented. This approach opens up the wider discussion to a range of further possibilities for the criminal law as a "site of struggle rather than taken only as a tool for struggle" (Smart:1992:30), though this can be seen where previous efforts to effect change have failed on the willingness of those who oversee the legal system: thus producing and reproducing structural inequalities and old systems (Giddens:1984; 1991).

Though not beyond the bounds of possibility, theoretically or organisationally, these changes represent an extraordinary and difficult challenge, necessitating a range of approaches that genuinely reform the system, drawing on other working models, and consideration of examples of institutions and systems where there have been demonstrable shifts in practice and culture. By drawing on the argument that structuration theory presents, that structure can be seen to have both enabling and constraining effects and that progressive change could
enhance the enabling aspects of structure, new and divergent systems can be produced.

Evidence can be found by recognising achievements of symbolic and intrinsic value produced by other major feminist projects. These demonstrate how the state was forced to recognise issues of violence against women, and indeed other issues of gender based social injustice, in the private and public domain, and how laws have been reformed based on protection and justice for women. More specifically, by looking at how other legal models and jurisdictions operate, such as aspects of inquisitorial justice, or the statutory representation of some victims that has been permitted in some adversarial systems (see Doak:2005), it can be demonstrated how the law domestically, and internationally, is an institution capable of change.

Importantly, in the world in which women in the study were operating, short and medium term challenges to the criminal justice system have the ability to facilitate change. Like the long-term project, this would require nothing less than reform of both procedural and service rights, recognising the need to instil radical, responsive, habituated and reflexive change in normative features and practices of the court process. This would start to recognise more seriously how women experience the law, valuing "the immediacy of women's needs" (Lewis, Dobash, Dobash, and Cavanagh: 2001:115), and the ways in which they engage with the legal process. Mirroring the approach used here in this thesis, centring rather than subordinating the individual voices and needs of the women as victims of male violence would proactively move the system towards a more appropriate, inclusive, transparent and, ultimately, legitimate system for all involved.

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1 Risman (2005:94) posits that of all current frameworks for social theory, the closest to the "requirements of a theory of gender" is the balance of the "duality of structure".

2 "Material constraint" relates to the physical capabilities of the human body and the features of the physical environment which can limit the "feasible social lives that people can lead" (Giddens: 1984:174). In this chapter "material constraint" is mainly used in relation to the physical constraints of the interaction in the court itself, though it is also drawn on in relation to women's experience of violence and its effects.
3 "(Negative) sanction" is described as deriving from "punitive responses on the part of some agents towards others", and can include "the threat" of "mild expression of disapproval" or the "application of force or violence" (ibid:175) these, extending to one person over another.

4 The third sense of constraint, "structural constraint", is described as deriving from the "contextuality of action, that is, from the 'given' character of structural properties vis-a-vis situated actions"(ibid: pp. 176-77).

5 It could not be assumed women that in the present study had wanted contact with the criminal justice system and specifically the court process. Women came into contact with the justice process in different ways, through their own decision-making or via other peoples decision-making (such as, family, friends or neighbours), their power to decide if a case came to court or not could be limited by the Prosecution proceeding with the case regardless of women's intentions.

6 Motivation and intention are presented as defined by the women in the study and may not comply completely with Giddens's conceptualisation.

7 Giddens (1984:281) begins from a position that all human beings are knowledgeable agents, stating that social actors "know a great deal about the conditions and consequences of what they do in their day-to-day lives.

8 In this specific case, the discourse in question was the field of social work. Cavanagh's (2003) study came out of a wider research project on women's and men's responses to men's violence, her study includes an analysis of women's help-seeking inside and outside of their relationship, including their interface with the legal system.


10 This study also explored women's relationship with the assailant, the abuse itself, her expectations and desires, along with her prior experiences with the criminal legal system.

11 Cammiss (2006:705) discusses how "discrete" issues based on expectations of domestic violence victims are raised at the point of the mode of trial hearing, which "silenced victims" and effectively left them in the Magistrates' Court system rather than the Crown Court system.

12 This included the exploration of discontinuance (see also Hoyle:1998), and victimless prosecutions, that is, continuing despite women's decisions to withdraw. This expectation would result in practical concerns which would be more likely ensure a case would remain in the Magistrates' Court.

13 Specific reasons were given as to why women should not be called or summoned as a witness; this included cases where there were severe mental health issues on the part of the woman (CP, 3).

14 This power model was used by Miller (2003) to analyse experiences of domestic violence victims and their likelihood of re-victimisation in relation to their levels of personal (social) resources or the control over (economic) resources and perceived independence.

15 Richie (1996) uses this term to explain why some Black African-American women as victims of domestic violence live in poverty in the US and may, as a result turn to crime. She makes links between the intersection of social, political and cultural structures that reinforce a process of "gender entrapment" This concept has been drawn on by others (Radford and Hester:2006) to further illustrate the effects of family as a structure in the context of domestic violence.

16 Studies which consider issues such as the fears associated with staying or leaving or ending a relationship are more comparable, although in this study some women had left their home some time ago and others had remained in their home by choice and their ex/partner had left. A few women were still living intermittently with their ex/partner.

17 Fleury's study (2002) addressed women's satisfaction with the criminal justice system, she believed her study demonstrated the complexity of women's experiences with the criminal justice

18 This was not a comparative study. It should be noted that there is a discrepancy between the sample size of this study compared to Kelly's (1999).

19 Ellsberg et al (2008) looked at lifetime experiences of partner violence, and found that women reported having poor health over a number of years.

20 A smaller number, one per cent reported this between six months and a year after the case had closed ("Time 3'in the study).

21 This study focuses on help-seeking and what parents want from agencies regarding help and support.

22 Although the aim of the thesis was not one of policy evaluation, clearly the reflections and insights emerging from women's experiences have much to offer criminal justice practitioners and support agencies, engaged in, in some way, protecting women from violence. The implications take into account that the study took place at a time of change in policy and legislation placing obligations on criminal justice agencies to deliver specified services to domestic violence victims and victims of crime more widely. Organisational aspects in some Magistrates' Courts were also affected by a National Plan to address domestic Violence (see 'legislative and policy context', Chapter 1).
Appendix 1: Table showing interviews and informal contact*

<table>
<thead>
<tr>
<th>Research Participant</th>
<th>Sample size</th>
<th>Data type</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Women</strong> (who had contact with the Magistrates' Court)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Informal contact with women</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td><strong>Total number of women interviewed who had contact with the court</strong></td>
<td>10</td>
<td></td>
</tr>
<tr>
<td><strong>Court professionals</strong> (working in and out of the court)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal advisers</td>
<td>3</td>
<td>Face to face interview</td>
</tr>
<tr>
<td>Manager for Legal advisers and responsibility for DV</td>
<td>1</td>
<td>Face to face interview</td>
</tr>
<tr>
<td>Ushers</td>
<td>2</td>
<td>Face to face interview</td>
</tr>
<tr>
<td>Ushers (informal contact)</td>
<td>4</td>
<td>Discussion</td>
</tr>
<tr>
<td>Magistrates</td>
<td>5</td>
<td>Face to face interview</td>
</tr>
<tr>
<td>Magistrates (informal contact)</td>
<td>8</td>
<td>Face to face interview</td>
</tr>
<tr>
<td>Magistrates (training event)</td>
<td>30</td>
<td>Round table discussions</td>
</tr>
<tr>
<td>Crown Prosecutors</td>
<td>3</td>
<td>Face to face interview</td>
</tr>
<tr>
<td>Crown Prosecutors (informal contact)</td>
<td>3</td>
<td>Discussion</td>
</tr>
<tr>
<td>District Judge</td>
<td>1</td>
<td>Face to face interview</td>
</tr>
<tr>
<td>District Judge (informal contact)</td>
<td>1</td>
<td>Discussion</td>
</tr>
<tr>
<td>Elite interview</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total number of court professionals interviewed</strong></td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>Informal contacts</td>
<td>43</td>
<td></td>
</tr>
<tr>
<td><strong>Support (and other) agency professionals</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independent Domestic Violence Advocates</td>
<td>3</td>
<td>Focus group type interview</td>
</tr>
<tr>
<td>Women's Aid, Manager</td>
<td>1</td>
<td>Face to face interview</td>
</tr>
<tr>
<td>Women's Aid Outreach worker</td>
<td>1</td>
<td>Face to face interview</td>
</tr>
<tr>
<td>Women's Aid Outreach workers (informal contact)</td>
<td>3</td>
<td>1 face to face discussion; 2 by telephone</td>
</tr>
<tr>
<td>Women’s Project Leader and Worker (informal contact)</td>
<td>2</td>
<td>2 face to face discussions</td>
</tr>
<tr>
<td>Witness Support /Victim Support (informal contact): one manager, one witness support worker, two victim support workers</td>
<td>4</td>
<td>Telephone discussions</td>
</tr>
<tr>
<td>Policy maker, Local Authority and DV partnership (informal contact)</td>
<td>1</td>
<td>1 Telephone</td>
</tr>
<tr>
<td><strong>Total support (and other) agency professionals interviewed</strong></td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Informal contacts</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td><strong>Total face to face interviews</strong></td>
<td>30</td>
<td></td>
</tr>
</tbody>
</table>

* 'Informal contact', as opposed to an 'interview', is defined as a significant discussion taking place, when some contextual information was gained and documented. It took the forms of face to face discussions or contact by telephone.
Appendix 2: Initial attempts to gain access to Magistrates' Courts via a central government department

Taken from Interim Assessment Report, March 2007, under 'Current Developments'

Following approval (in November 2006) from the University of Salford, Research Governance and Ethics Committee and the University Health and Safety, Risk Assessment procedure (submitted September 2006), enquiries regarding access to research locations are in progress. A recent application for access to Magistrates' Courts as part of a wider study was made to the Her Majesty's Court Service, Department for Constitutional Affairs. Requests for approval concerning two integral 'court related' aspects of the planned research design were rejected. The series of events surrounding this decision and the subsequent actions and outcomes are outlined below.

Since December 2006, there have been a number of informal discussions concerning the nature and aims of the research project between the researcher and Department for Constitutional Affairs. Some time was spent in locating the right official, and department. In February 2007 regular contact was made with a designated member of staff in HM Court Service. The proposed research project and requests for access were received warmly and with interest. After subsequent conversations and emails, the wheels were set motion for the required paperwork to be completed to request access to Magistrates' Courts.

Independent and post-graduate researchers seeking 'privileged' access to court staff or court information have now to go through a procedure set out by the Department for Constitutional Affairs. It requires researchers to go through a Data Approval Panel (DAP), by completing a DAP form. This process of approval requires a department to sponsor the research before the research can be assessed as meeting the criteria set out the DAP procedure. The documentation has to be circulated for comment before an application can be assessed. The
completed form was passed on to the Head of the Domestic Violence Branch in HMCS Civil and Family Directorate. Examples of the criteria that applications are measured against include: value, level of access, time involved against current work or initiatives, conflict with other research, repetition of other research. The researcher was advised that the research study may be an area that a department are interested in, depending on the “final shape” of it (HM Court Service worker): there may be aspects where the panel would suggest changes. This process can be lengthy as some access requirements are more demanding than others.

On reaching a more senior officer, there was a change in response to the proposed research. All access was politely denied, with one influencing factor being the ‘work to rule’ action by court staff that was planned for around this time - the impact this was to have was unknown. When the researcher showed a willingness to wait and/or modify the level of information required from courts, and the number of courts to be studied, the status of access remained unchanged. The modifications included the request of the use of a more centralised, electronically stored source of information to capture information about the courts, and, when the time was right, to seek access to a smaller number of courts for fieldwork. Significantly for the researcher, it was relayed that what followed would be a period spent on rolling out aspects of legislation country wide, and setting up more dedicated courts regarding domestic violence. The research questions focused on the position of women who had contact with the court, by asking them about their experience, alongside a review and discussion of these changes. The suggested amendments to the research could have produced a useful small, qualitative study, gaining a 'depth' insight into service users' experiences and perceptions of the justice system and aligned government departments.

The researcher received a standard document issued to the press, with an update on developments in the court system in response to domestic violence cases. A further email was
sent informing the researcher that it may be possible for a search to be carried out for more
centralised data source regarding the 'state of play' across the country in the courts. At the
time of writing this report there has been no further contact from this source, or level of
approval of the considerably modified research proposal, in order that the researcher can
progress with identifying possible case study areas.

As enquiries with the Department for Constitutional Affairs, HM Courts Service continue,
alternative ways of establishing access to a Magistrates’ Court or a small number of courts are
being explored. These include:

1) At least one or two case study areas to be taken from a country wide sample of all eligible
courts (as opposed to the 3-5 originally proposed). Here, a scaled down version of the
originally proposed scoping study questionnaire would be used as a way of collecting initial
information about responses to domestic violence cases across the courts in the study: limited
interviews would be sought. Other relevant agencies would then be approached in these areas
and access to women who had contact with the courts would be sought.

2) If no access to a court or court staff can be gained, other, alternative and less obtrusive
ways of accessing courts would be employed. The researcher would visit courts as an
observer only (generally permissible, as a member of the public). Local agencies would then
be approached in these areas and access to women who had contact with the courts would be
sought.

At the time of writing the Head of the legal team at a Magistrates’ Court in the North of
England has been approached directly and has shown a keen interest in being a part of the
study. The level of involvement and access are to be discussed. Once established other local agencies will be approached.

Further reflections:

I now consider the experience described above to be part of a steep learning curve for two main reasons. Firstly, practicalities of seeking access to courts through a central source can be a problematic route, especially in the political climate at the time, and as a lone researcher. In addition to this, the search for the right contact, preparation involved which included the groundwork for the DAP application, and the design of a survey had taken a number of months (four) out of my period of study. Secondly, although some of the information would have been useful for an alternative approach, any disappointment was eventually outweighed by the opportunity to do justice to my research aims, to give priority to the women’s perspectives. The initial attempt to employ a comparative methodology across different research settings developed into more of a case study approach, reflecting more accurately the desire to centre the study on the accounts of women. A comparative methodology would have inevitably focused on variations in aspects of the research setting other than women’s experiences.

1 The Department for Constitutional Affairs is now part of the Ministry of Justice.
2 Procedures regarding access for independent and post-graduate researchers may have also changed.
References


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House of Commons (1975) *Report from the Select Committee on Violence in Marriage together with the proceedings of the Committee*. London: HMSO.


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Phal, J. (1978) A Refuge for Battered Women. London. HMSO. DHSS.


Legislation

The Matrimonial Causes Act 1878

Domestic Violence and Matrimonial Proceedings Act 1976

Sexual Offences Act 1976

Domestic Proceedings and Magistrates' Court Act 1978

Police and Criminal Evidence Act 1984

Criminal Justice Act 1988

Criminal Justice and Public Order Act 1994

Family Law Act 1996

Protection From Harassment Act 1997

Crime and Disorder Act 1998

Youth Justice and Criminal Evidence Act 1999

Criminal Justice Act 2003

Sexual Offences Act 2003

Domestic Violence, Crime and Victims Act 2004

Coroners and Justice Act 2009

The Crime and Security Bill 2009-10