

Domestic Violence Law Reform – The Victim's Voice Survey: Victim's Experience of Domestic Violence and the Criminal Justice System

FOREWORD

We would like to thank all those who took the time to share their experience in order to inform this campaign.

*Victim 1: "Currently it's too easy for abusers to get away with it because they *know* that if there is insufficient physical evidence of assault they will not be convicted. In my case, my abuser didn't feel the need to physically hurt me very often because the emotional and psychological abuse kept me 'under control'. It transpired that the police knew exactly what he was like, (I was by no means his first victim), but there was mostly no official crime he could be charged with. Consequently, he was pretty much free to behave exactly as he pleased, safe in the knowledge that unless he left visible marks on any of his victims, there was nothing anyone could do."*

INTRODUCTION

Paladin is the first National Stalking Advocacy Service devoted to supporting high risk victims of stalking. Sara Charlton Charitable Foundation is a grant making charity dedicated to combating domestic violence in the UK. Women's Aid is the national domestic violence charity that supports a network of around 300 local services working to end domestic violence against women and children in England. We have joined together to campaign for new legislation to effectively criminalise domestic violence. Some of the most dangerous cases happen when domestic violence, stalking and coercive control co-occur. This is where women and children are more likely to be murdered and early identification and intervention is vital to saving lives.

In 2013, the Home Office amended the definition of domestic violence to include coercive control and embarked on a media campaign to raise awareness of this. However, our survey results show that coercive control is still not being effectively addressed; a change in definition is not a change in law and although it is vital that coercive control is identified for purposes of risk assessment, in terms of arrestable offences, nothing has changed.

The laws used to prosecute domestic violence – including assault, burglary, property, breach of a restraining order, rape, kidnapping and murder – do not describe its essence. Patterns of power and control are missed. It misses the fact that domestic violence, particularly in intimate relationships, is about fear, coercive control and continuing acts. It is primarily a pattern of abuse, not a single incident. A focus on 'incidents' rather than on patterns of behaviour underestimates the impact and risks associated with coercive control and physical assaults are privileged over other forms of control. Coercive Control has been defined by Evan Stark as a "course of conduct in which a pattern of violence, sexual coercion, intimidation, isolation and control are used to dominate and exploit a partner and

*deprive her of her basic rights and resources.*¹ The totality of the behaviour and the non-physical manifestations of power and control that define an abusive intimate relationship do real harm to victims, which are not recognised in criminal law.

One in four women will experience violence in their lifetime and on average two women are murdered each week in England and Wales by their current or former partner. Between 2012/13, according to the Crime Survey for England and Wales, it was estimated that 1.2 million women (7.1% of population) had experienced domestic violence². The report suggested that those who had been victims of partner abuse were more likely to have experienced non-physical violence, defined as emotional and financial. This is an overlooked criminalisation gap that ensures the pattern of domestic violence and control remains outside the reach of existing criminal law, which prohibits only discrete incidents of physical injury³.

Although the definition change is hugely welcome, non-physical abuse though integral to the *ongoing* exercise of coercive control, is not addressed and thus appears to be tacitly condoned. Put simply, the criminal law does not conceive many women in abusive intimate relationships as victims of *ongoing* abuse.

Interestingly, after separation that very same behaviour which was exerted in the relationship, control, is then criminalised: we call it stalking. Therefore the moment of 'break-up' becomes legally meaningful and separation can be the most dangerous time.

The current law can criminalise a course of conduct and can move beyond physical injury - but it is selective. This needs to apply to violence in intimate relationships as it does to stalking, given their fundamental similarity. Stalking laws criminalise a course of conduct, target patterns and address a broad range of harm. In these important respects, stalking legislation is useful when considering these relationships.

In order to inform the campaign, an online survey⁴ was developed for those who have experienced or still experience domestic violence across the United Kingdom. It allowed them to voice their experiences and opinions on the state of the criminal justice system as it stands and what they would like to see improved in order to better protect victims of domestic violence.

FINDINGS FROM THE SURVEY

The survey was first published on-line on the 30th December 2013 and data was captured until 20 February 2014. During this period, 265 people completed the survey. All of those who completed the survey were asked if they had been a victim of domestic violence. Those who answered "no" to this question were not included in this report (n=7) and so, the report is based on 258 respondents, all of whom self-identified as victims of domestic violence. The findings were in line with our experiences of working with victims of domestic violence and stalking.

¹ Stark, E. (2007). Coercive control. New York: Oxford

² ONS Intimate Partner Violence and Partner Abuse (2014). While some men experience violence from a partner very few, around 5% of the population, experience repeated victimisation from a female partner. Hester, M (2009). Who Does What to Whom? Gender and Domestic Violence Perpetrators: Identifying Needs to Inform Early Intervention' Violence Against Women Research Group School for Policy Studies. University of Bristol.

³ Ibid

⁴ <https://www.surveymonkey.com/s/MZN76Y6>

GENDER

- 95% of respondents were female (n=245),
- 3% were male (n=8),
- 1% transgender (n=1) and
- 2% did not specify their gender (n=4).

The survey was distributed via social media and email by Paladin, Sara Charlton Charitable Foundation and Women's Aid. A number of agencies circulated the survey internally for their service users to complete.

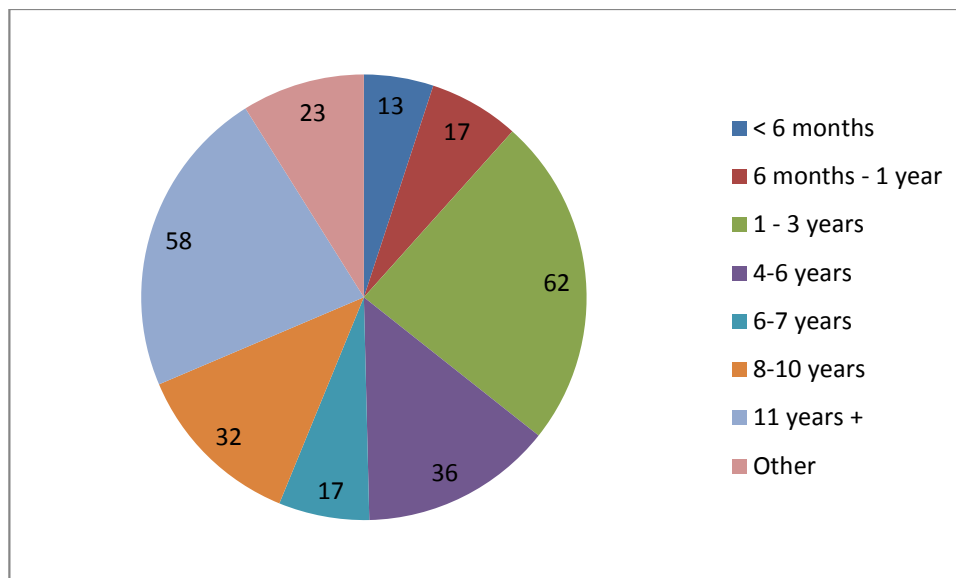
LENGTH OF TIME AND NATURE OF ABUSE EXPERIENCED

The survey revealed that many victims had endured violence for a sustained period of time:

Table 1. Length of Violence experienced by victims

Length	% of respondents	N =258
Less than 6 months	5	13
6 months to 1 year	7	17
1 to 3 years	24	62
4 to 6 years	14	36
6 to 7 years	7	17
8 – 10 years	12	32
11 years and over	22	58
Other	9	23

Chart 1. Length of Time Violence was experienced



If the option 'Other' was checked, those completing the survey were asked to elaborate in the free text box. Some stated that the violence had lasted for 16 years for some and over 30 years for others. There were those who were still in the abusive relationship at the time of completing the survey.

Given that 89% experienced violence for more than 1 year and the majority for many years, this further reveals the long-term nature of abuse experienced by victims. Many women do not report until the behaviour has escalated and there may be injuries. For many this is too late. Research by Women's Aid indicated that the majority of women they interviewed only reported violence to the police after it had been going on for between 6 months and 5 years⁵. When they do report each episode is treated as an isolated incident and therefore low level misdemeanour. This results in very few perpetrators being held to account for their behaviour.

According to research by Professor Marianne Hester⁶, 53% of men whose violence is reported to police in the UK have been reported for at least three other assaults against their partner and usually more. For every reported assault, a dozen remain unreported. And yet, abusive men who commit dozens of assaults are no more likely to be punished than men reported for a single incident.

Furthermore the cumulative harms are ignored when each incident is treated as a distinct offence and current law leads to the minimisation of abuse by the police and the courts. In fact only three men are convicted and punished for every 100 reports of abuse by men⁷.

The survey asked victims whether there were controlling, domineering and/or demeaning behaviours in their relationship and 98% (n=254) indicated that these types of behaviours present. This included:

- isolation from friends, family and colleagues;
- excessive jealousy;
- removal of all communications devices;
- food being withheld as well as use of the toilet;
- control of what the victim would wear,

⁵ Women's Aid Federation England Annual Survey of Domestic Violence Services, 2012, responses of 507 women, 70% of those interviewed while living in a refuge in 2012.

⁶ Hester, M (2009). Who Does What to Whom?

⁷ Ibid, Hester M.

- how they would style their hair and where they could work, if they were allowed to at all;
- stalking by means of tracking and following;
- financial control including restricting the victim from using any money or having any control over bills;
- deliberate sleep deprivation;
- threats of sexual abuse or rape;
- threats to harm or kill children and/or pets;
- threats of physical harm such as broken bones or strangulation.

All of these behaviours are characteristic of coercive control. Within the current framework, if these behaviours were disclosed on police report, very few behaviours, with the exception of stalking given the law change in November 2012, would be arrestable offences. This is unacceptable and of real concern given how terrifying and frightening these behaviours are and what harm they cause to victims.

POLICE AND THE CRIMINAL JUSTICE SYSTEM

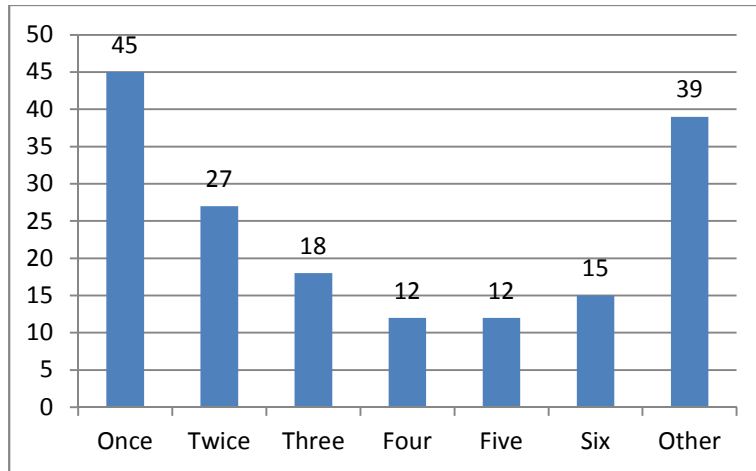
A number of questions focused on the police response and the Criminal Justice System. Unsurprisingly, 35% (n=90) of victims did not report at all. When asked for their reasons, overwhelmingly, they stated that they were fearful; many said that they felt that the police would not believe them and some said that due to the fact that there was no specific crime committed, there was little point reporting the behaviour.

Table 2. Number of times victims reported to the police.

	% of respondents	N = 168
Once	27	45
Twice	16	27
Three	11	18
Four	7	12
Five	7	12
Six	9	15
Other⁸	23	39

⁸ Some victims reported to the police twice a week throughout the relationship others had reported 20-30 times.

Chart 2. Number of Times Reported to the police.



Again this highlights the nature of repeat victimisation in regards to intimate partner violence. This form of violence is more likely to result in repeat victimisation and more likely to result in injury than any other type of crime. Given the escalation of abuse and its repetitive nature, it is understandable that there is a persistent call on police time to identify abuse early and intervene more effectively using the statutory framework and by working with partner agencies.

Of those who did report to the police, 65% (n=107) indicated that the perpetrator was arrested but only 37% (n=61) indicated that the perpetrator was subsequently charged. However, 74% (n=120) of those who reported to the police found that each incident report was treated separately. This is deeply concerning particularly as 81% (n=132) indicated that the history or pattern of abuse was not taken into account by the Criminal Justice System. Some felt that not only was their previous history with the perpetrator not taken into account, but neither was the perpetrator's previous abusive history with other partners. In some instances, police were grouping a number of breaches of restraining orders into one breach and subsequently those breaches were perceived as less serious. As a result the true pattern of behaviour was not taken into account. Others found that the police were only interested in the physical aspect and asked no questions about the psychological.

When asked about whether the controlling behaviour was taken into account by the Criminal Justice System, 88% (n=145) of respondents stated that it was not. They also indicated that they felt that the Criminal Justice System is only interested in physical injury and not the psychological. One respondent was blamed by the perpetrator's probation officer who felt the victim should have "given him another chance". 94% (n=243) said that that the violence is not always the worst part and that "mental cruelty" can be more damaging to recover from than a bruise or broken bones. Others felt that the physical abuse and psychological are equally devastating.

Victim 1: "Equal – both create humiliation, shame, flashback and distrust."

Victim 2: "Rape is equally devastating."

Victim 3: "It wears you down to depths of despair as you feel no one will take you seriously. I feel like I have lost the core of who I am."

LAW REFORM

96% (n=248) of respondents felt that the Criminal Justice System should take the impact of psychological abuse into consideration. However, the police and Crown Prosecution Service (CPS) usually crime the incident according to the injury level leading to psychological abuse being missed.

Victim 1: "[The] degree of psychological is largely misunderstood by police officers and CJS [criminal justice system]. There should be a joint approach with psychological abuse...[across agencies]"

Overwhelmingly, 98% (n=254) of respondents believe that a reform of the law is needed to effectively criminalise domestic violence. The responses included:

*Victim 1: "Currently it's too easy for abusers to get away with it because they *know* that if there is insufficient physical evidence of assault they will not be convicted. In my case, my abuser didn't feel the need to physically hurt me very often because the emotional and psychological abuse kept me 'under control'. It transpired that the police knew exactly what he was like, (I was by no means his first victim), but there was mostly no official crime he could be charged with. Consequently, he was pretty much free to behave exactly as he pleased, safe in the knowledge that unless he left visible marks on any of his victims, there was nothing anyone could do."*

Victim 2: "Why should we have to suffer in silence? The only way I could finally get away was to arrange everything in secret and be absolutely petrified that he was going to find out before I had everything in place to be able to leave safely. I then had to go into hiding for a while so that there was no risk of backlash. If the law had been there to protect me I would have felt a lot safer and stronger to have been able to leave sooner."

All of those who completed the survey said there should be mandatory training for Criminal Justice agencies on the dynamics and impact of domestic violence including: the police, CPS, Judges and Magistrates. There were also suggestions that schools, including teachers; social services; health professionals including GPs and health visitors should be trained:

Victim 1: "It appears that domestic violence, abuse, harassment and stalking is dealt with differently according to which police force area you live in and individual responding officers thoughts on "how much work is going to create for me?"

Victim 2: "I feel that many police officers do not take DV seriously as an issue and do not know how to deal with or handle victims."

Victim 3: "The police are good on the whole but their hands are tied by the courts."

CONCLUSION

Too many women and children have already lost their lives and more will continue to do so if we fail to understand the dynamics and patterns of domestic violence. We should recognise that coercive control for the dangerous behaviour that it is and recognise the serious psychological harm caused to victims of intimate partner violence.

We are aware that this change to strengthen the legal framework is the first step. There needs to be an increase in public awareness of the issue to ensure domestic violence is seen as unacceptable. The most recent campaign "This is Abuse"⁹ from the Home Office is encouraging and these types of campaigns should continue as they dispel the myth that domestic violence solely relates to physical injury and/or it's a specific sort of person who becomes a victim. Moreover, many survey participants felt that there needs to be a change in attitude of the police, CPS and Judges. Others highlighted that the Criminal Justice System needed to understand it is not just solely physical violence but also the power and control dynamic.

Legislative reform is overwhelmingly needed to capture the nature and harm of domestic violence and recognises its gendered nature. A more comprehensive approach to effectively criminalise domestic violence will close the gap between the current response and the long term oppression and suffering of women and children. It will save lives and money.

"Domestic abuse is very similar to terrorism. In most people's view the two are completely different forms of violence. But they share quite a lot in common. The central part is that domestic abuse also functions largely through fear. We need to get away from this idea that it's all about physical violence. The one thing about offenders [in both domestic abuse and terrorism] is there's a motivation behind the violence. In international terrorism they're trying to exert some form of control. He [the terrorist] does that through fear. That's an important parallel." Professor Rachel Pain

⁹ <https://www.gov.uk/government/policies/ending-violence-against-women-and-girls-in-the-uk/supporting-pages/this-is-abuse-campaign>

Appendices

Appendix 1 – Survey Questions

1. Gender:
 - a. Male
 - b. Female
 - c. Transgender

2. Have you been a victim of domestic abuse?
 - a. Yes
 - b. No

3. How long did the abuse last?
 - a. < 6 months
 - b. 6 months – 1 year
 - c. 1 – 3 years
 - d. 4 – 6 years
 - e. 6 – 7 years
 - f. 8 – 10 years
 - g. 11 years +
 - h. Other (please specify)

4. Were there controlling, domineering and/or demeaning behaviours in the relationship?
 - a. Yes
 - b. No
 - c. If you have answered yes, please describe the behaviour experienced.

5. Did you report to the Police?
 - a. Yes
 - b. No
 - c. If you did not report to the police, why not?

6. How many times did you report to the police?
 - a. Once
 - b. Twice
 - c. Three times
 - d. Four Times
 - e. Five Times
 - f. Six times
 - g. Other (please specify):

7. Was each incident treated as a separate incident?
 - a. Yes
 - b. No
 - c. Other (please specify)

8. Was the history/pattern of abuse taken into account by the Criminal Justice System?

- a. Yes
 - b. No
 - c. Further Comments:
9. Was the controlling behaviour taken into account by the Criminal Justice System?
- a. Yes
 - b. No
 - c. Further Comments:
10. The police and Crown Prosecution Service crime the incident according to the injury level and so psychological abuse is missed. Do you think the impact of psychological abuse should be taken into consideration by the Criminal Justice System?
- a. Yes
 - b. No
 - c. Further Comments:
11. Was the perpetrator arrested?
- a. Yes
 - b. No
 - c. Any further comments:
12. Was the perpetrator charged?
- a. Yes
 - b. No
 - c. Any further comments:
13. Many survivors of abuse say that the “violence isn’t the worst part” of being abused and the non-violent forms of abuse (unacceptable controlling, domineering and demeaning behaviour) can be more devastating than physical or sexual violence. Would you agree with this?
- a. Yes
 - b. No
 - c. Further Comments:
14. Currently the pattern of abuse and the psychological impact falls outside the current criminal law. Do you think domestic abuse should be a crime in its own right and take account of this?
- a. Yes
 - b. No
 - c. Further Comments:
15. Do you think there should be mandatory training for Criminal Justice agencies?
- a. Yes
 - b. No
 - c. Any further comments:
16. What else would you like to see to improve the response of the Criminal Justice System?
- a. Free Text Box

Appendix 2 - Data Tables for Questions 1 - 15

1. Gender:

	% of respondents	N = 258
Female	95	245
Male	3	8
Transgender	0	1
Unknown	2	4

2. Have you been a victim of domestic abuse?

	% of respondents	N = 265
Yes	97	258
No	3	7

3. How long did the abuse last?

	% of respondents	N = 258
< 6 months	5	13
6 months - 1 year	7	17
1 - 3 years	24	62
4-6 years	14	36
6-7 years	7	17
8-10 years	12	32
11 years +	22	58
Other	9	23

4. Were there controlling, domineering and/or demeaning behaviours in the relationship?

	% of respondents	N = 258
Yes	98	254
No	2	4

5. Did you report to the Police?

	% of respondents	N = 258
Yes	65	168
No	35	90

6. How many times did you report to the police?

	% of respondents	N=168
Once	27	45
Twice	16	27
Three	11	18
Four	7	12
Five	7	12
Six	9	15
Other	23	39

7. Was each incident treated as a separate incident?

	% of respondents	N = 163
Yes	74	120
No	26	43

8. Was the history/pattern of abuse taken into account by the Criminal Justice System?

	% of respondents	N = 163
Yes	19	31
No	81	132

9. Was the controlling behaviour taken into account by the Criminal Justice System?

	% of respondents	N = 163
Yes	12	19
No	88	145

10. The police and Crown Prosecution Service crime the incident according to the injury level and so psychological abuse is missed. Do you think the impact of psychological abuse should be taken into consideration by the Criminal Justice System?

	% of respondents	N = 258
Yes	96	248
No	4	10

11. Was the perpetrator arrested?

	% of respondents	N=164
Yes	65	107
No	35	57

12. Was the perpetrator charged?

	% of respondents	N = 164
Yes	37	61
No	63	103

13. Many survivors of abuse say that the “violence isn’t the worst part” of being abused and the non-violent forms of abuse (unacceptable controlling, domineering and demeaning behaviour) can be more devastating than physical or sexual violence. Would you agree with this?

	% of respondents	N = 258
Yes	94	246
No	5	12
Undecided	1	3

14. Currently the pattern of abuse and the psychological impact falls outside the current criminal law. Do you think domestic abuse should be a crime in its own right and take account of this?

	% of respondents	N = 258
Yes	98	254
No	2	4

15. Do you think there should be mandatory training for Criminal Justice agencies?

	% of respondents	N = 258
Yes	100	258
No	0	0