



OVERCOMING ATTRITION IN DOMESTIC VIOLENCE CASES

(PROVISIONAL EDITION)

Editor

Veis Costas M.



**Cyprus Police Headquarters
Nicosia-Cyprus
June 2012**

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Abstract

The present report is primarily a literature review and analysis that aims to contribute to the understanding of attrition in cases of domestic violence and to the development of effective policies and programmes to overcome it. Information on the subject, collected from Law Enforcement Agencies across the EU are reviewed and analyzed. The report provides a comprehensive overview of the extent of attrition in domestic violence based on available data; provides an in-depth analysis of the factors that impact attrition; provides an overview and analysis of strategies that have been undertaken by criminal justice systems to overcome attrition; and provides examples of good practice interventions in this area. It concludes with a number of recommendations for improving the criminal justice system's response to domestic violence in relation to overcoming attrition. This report was commissioned by Cyprus Police as the background and guiding paper on a broader project on the issue and it will contribute to drafting a European Police Manual on Good Practice on Overcoming Attrition in Domestic Violence, within the framework of the Cyprus Presidency of the Council of the European Union.

Keywords: **domestic violence, attrition, victim reluctance, criminal justice system, police.**

Abstract in Greek

Σύνοψη

Η παρούσα αναφορά είναι βασικά μια επισκόπηση και ανάλυση της βιβλιογραφίας, που έχει ως στόχο να συμβάλει στην κατανόηση της φθοράς υποθέσεων ενδοοικογενειακής βίας και στην ανάπτυξη πολιτικών και προγραμμάτων για την αποτελεσματική αντιμετώπισή της. Γίνεται επίσης ανασκόπηση και ανάλυση πληροφοριών για το θέμα, που συλλέχτηκαν από Υπηρεσίες Εφαρμογής του Νόμου στην Ευρωπαϊκή Ένωση. Η μελέτη δίδει μια ολοκληρωμένη εικόνα της έκτασης της φθοράς στη βάση διαθέσιμων δεδομένων και μια σε βάθος ανάλυση των παραγόντων που την επηρεάζουν. Επίσης, η μελέτη αυτή χαρτογραφεί και αναλύει στρατηγικές που έχουν αναληφθεί από το σύστημα ποινικής δικαιοσύνης για να αντιμετωπιστεί η φθορά και καταγράφει παραδείγματα παρεμβάσεων, που θεωρούνται καλές πρακτικές στον τομέα αυτό. Καταλήγει με μια σειρά από συστάσεις για βελτίωση του των τρόπων με τους οποίους το σύστημα ποινικής δικαιοσύνης ανταποκρίνεται στην ενδοοικογενειακή βία σε σχέση με την αντιμετώπιση της φθοράς. Η μελέτη αυτή έγινε για την Αστυνομία Κύπρου ως το καθοδηγητικό έγγραφο (υπόβαθρο) και θα συμβάλει στη σύνταξη ενός Ευρωπαϊκού Αστυνομικού Εγχειριδίου Βέλτιστων Πρακτικών για την Αντιμετώπιση της Φθοράς σε Υποθέσεις Βίας στην Οικογένεια, στο πλαίσιο της Κυπριακής Προεδρίας Συμβουλίου της Ευρωπαϊκής Ένωσης.

Λέξεις-κλειδιά: ενδοοικογενειακή βία, φθορά, διστακτικότητα θυμάτων, σύστημα ποινικής δικαιοσύνης, αστυνομία.

Executive Summary

1. Introduction

1.1 Background

The present study is a literature review and analysis that aims to contribute to the understanding of attrition in domestic violence cases. It aims to the sharing and/or development of effective policies and programmes to settle the issue and to overcome the challenges involved at the level of the European Union, with a focus primarily on Law Enforcement Agencies. This study, which was commissioned by Cyprus Police, is part of a broader action/project initiated by Cyprus Police within the framework of the Cyprus Presidency of the Council of the European Union (July-December 2012). The Project aims to drafting a European Police Manual on Good Practices on Overcoming Domestic Violence Attrition or to the addition of a chapter to the European Union Handbook of Best Police Practices on Tackling Violence Against Women, which was adopted and issued in April 2010 by the Council of the European Union¹, following an initiative of the Spanish Presidency. Further to literature review, contributions on the subject from Law Enforcement Agencies of EU Member States were collected² and a Police Expert Conference is scheduled in Limassol-Cyprus in July 2012 to discuss the issue. The former actions, which take place at the EU level, are facilitated by the Law Enforcement Working Party and the General Secretariat of the Council of the European Union, whereas the Conference is organized by CEPOL (European Police College). The overall focus of the Project is on the interests of vulnerable victims of domestic violence, which is part of the Stockholm Programme.

For the purposes of this report, an initial study/literature review was prepared for Cyprus Police by the Mediterranean Institute of Gender Studies (Mrs. Susana E. Pavlou and Mrs. Anna Zobnina), which was later edited by Costas M. Veis.

1.2 Domestic Violence and Attrition

Attrition is the term used to describe the phenomenon where cases fail to make it through the criminal justice system, and do not result in a criminal conviction. Further to this prevalent in the literature definition, attrition has been recently redefined in a slightly different way as the lack of progress on to completion of criminal cases, and more specifically, in the stages at which cases drop out from the criminal justice system, that is, from the initial report stage to the final stage of court proceedings. The major difference

¹ DG H 3A, 7488/2/10 REV 2 or 7488/2/10 REV 2 ENFOPOL 60

² General Secretariat of the Council of the European Union, CM 5492/11

between the two approaches is that the latter dissociates the acquittal of accused from their automatic connection to the problem as suggested by the former.

From the very definition of attrition, it follows that at high prevalence rates it constitutes a major challenge to be addressed by criminal justice systems, given that irrespective of the personal/victim and/or system related factors contributing to it, it tends to nullify the criminal justice system and to render it incapable of handling a crime and the parties involved in it (victim and offender).

Attrition can take place at many junctures in the criminal justice process. Firstly, many incidents of violence may never be reported to the police. Although not strictly a stage of attrition, reporting to the police is a critical indicator of a victim's willingness to engage with the criminal justice system. As will be seen below, domestic violence is largely underreported with rates persistently low when compared with prevalence studies on domestic violence. As a result, an increase in reporting rates is and should be seen as a performance indicator for successful domestic violence interventions. Notwithstanding reporting, attrition normally takes place at any point between the reporting of an incident to the final outcome of a case. The 'dropping of cases' can take place at the point of filing charges, during the criminal investigation, or just before or during legal proceedings. Attrition is usually a result of acts, omissions, or decisions of the police, the prosecution, the courts, the victims/complainants themselves, or most likely of combined synergies between these actors. The police and prosecutors often perceive decisions made by victims as the main point of attrition. However, the willingness and thoroughness with which the police are prepared to pursue a case, including the level of evidence collected, may also be crucial, as may the basis of decisions by prosecutors and the approach of particular courts.³ The extent to which attrition is linked to individual or 'victim-related factors' or to criminal justice 'system-related factors', or to pathogenic synergies between the two, is of primary importance to this study.

1.3 Methodology

For the purpose of this report, domestic violence is defined as violence between ex or current spouses and cohabiting couples. Discussions may be relevant also to abuse between other household or family members, such as minor or elder family members, but the focus is on domestic abuse between current or previous intimate partners.

³ Hester, M. and Westmarland, N. Tackling Domestic Violence: effective interventions and approaches.

In regard to terminology ‘family violence’ and ‘domestic violence’ have been used interchangeably in the literature, while some authors use ‘domestic violence’ to refer specifically to partner violence. Other authors prefer the term ‘intimate partner violence’ (IPV). This report predominantly uses the term ‘domestic violence’, except where quotations by other authors are used.

The present study is based primarily on a review of existing literature on domestic violence and criminal justice responses. Sources used include academic and scholarly articles, government, governmental agency and nongovernmental reports, reports commissioned by international organisations, criminal statistics, the European Commission Daphne Programme Toolkit, the European Union Crime Prevention Network, and the European Police College, among others. Further to all pre-existing sources of information, this study collected some information on its own through a request made by Cyprus Police to EU member states to provide information on any good practices in relation to attrition with a focus on policing.

The literature reviewed for the purposes of this report, overwhelmingly focused on women, or did not differentiate between the genders in their analyses. It is important to point out here that based on the analysis below on good practice interventions, the most effective practices are based on ‘gender-sensitive’, ‘case-sensitive’ and ‘inter-agency’ approaches.

Although this study is European in scope and aims to cover as many European countries as possible, this was partly limited due to a language barrier, which limited access to primarily English sources of information only.

2. Scope and Extent of the Problem

Despite limitations in data collection across Europe, is it possible to conclude from the available data that there is a discrepancy between domestic violence incidents reported and recorded by the police and other state services, and prevalence rates as measured and estimated by population based surveys.

Available statistics provide evidence on a general increasing trend in recorded/registered rates across Europe as well as in the US, Canada and Australia. Such a shift in the reporting rates of domestic crime tends to be related to increased awareness of the public through campaigning, to increased reporting, and to increased criminalization.

Data on prosecution and conviction rates across Europe are not widely available, and the extent to which such rates are affected by victim or system related factors or of their interfaces is difficult conclude. Data on attrition in domestic violence is generally

underdeveloped and crime statistics do not provide adequate information or data on domestic violence.

Despite the lack of comprehensive data, the research reviewed highlight that a large proportion of cases involving domestic violence incidents ‘fall out’ as they progress through the criminal justice system. Studies that have been carried out on rates of attrition consistently find that victim withdrawal, retraction or non-cooperation is generally high both in criminal and well as civil proceedings.

3. European Legal and Policy Frameworks and their Relation to Attrition

The way domestic violence is defined and targeted through national legal frameworks is one of the key factors and a starting point in identifying factors related to attrition.

There is no internationally agreed definition of domestic violence that addresses the issue in its entirety and most European states do not have specific legislation on domestic violence, but they cover it by general provisions of criminal law. There is a general trend towards ensuring that the crimes within the domestic sphere are no longer ignored within criminal or civil/family Legislation, and this trend can be observed in all European countries.

The legal framework of domestic violence adopted by each state tends to have a direct impact on how the issue is addressed in terms of prevention, protection, but most importantly for the purposes of this report, of prosecution. The criminal justice system can only function to deter and punish domestic violence if cases are reported and investigated and a significant proportion of them are successfully prosecuted. Inevitably therefore, this shall also impact the levels of victim’s engagement (or vice versa) and of attrition.

Civil protection remedies, or the lack thereof, may also be linked to victims not choosing to support prosecution, as the period between a violent incident and charging a perpetrator can be the most dangerous for a victim.

One major issue that emerges from the literature with regard to the failure of civil remedies to fully protect victims is the poor link between civil law and criminal law in many countries where they are perceived as distinct and even mutually exclusive.

Another important issue is that recent laws to combat domestic violence adopt a broad definition of domestic violence with strong penalties for severe physical abuse. Such approach tends to result in legal inapplicability in cases where there is no evidence of physical injury.

4. Factors that Contribute to Attrition

4.1 Victim-Related Factors

According to the literature, the main victim related factors impacting attrition and victim reluctance in domestic violence include the following:

Attitudes toward Domestic Violence and Victim-Blaming

One of the socio-cultural dimensions of the problem that is important to have in mind in the discussions of reluctance and attrition in domestic violence, is the persistent ‘silencing’ and ‘privatizing’ of domestic abuse. Despite considerable legislative progress and raised awareness among the general public, domestic violence remains an issue understood by many as private, unimportant or shameful to disclose.

Severity & Extent of Emotional Abuse and its Enduring Psychological Effects

The importance of emotional and mental factors, and the enduring psychological effects of domestic violence, as well as their role in wider interactions between victims and system professionals is an important factor contributing to levels of victim engagement and willingness to cooperate with the criminal justice system.

Non-Recognition of Abuse & Self-Blaming

Another serious issue directly linked to mental and emotional abuse, and prominent in the discussion of reluctance, is under- or non-recognition of actual violence by victims. Victims often tend to engage in self-blaming behaviours and consider themselves responsible for the abuse they endure.

Victim's Fear of Abuser at the junction with Systemic Safety Gaps

Fear of the abuser and the issue of safety are one of the foremost factors in victims' decisions at nearly any given stage of the domestic violence time-line, from initial occurrence and possible reporting to final prosecution. This fear is never limited to victim's perceptions only and, in many cases, is a direct outcome of the criminal justice system's response to victim's safety needs.

Material and Social Factors: Abuser-Dependence, Economic, Legal, Child Responsibility Status

Given that domestic violence in many ways demonstrates the wider dynamics of gender inequalities, many factors directly impacting victim's decisions with regards to legal interventions or prosecution are also directly linked to the gender-specific vulnerabilities. These factors range from economic and legal dependency of women on their partners, to issues related to housing, child-care, and income support. Victims' material needs are critical

in cases of separation from their abusive partners, and according to research, economically dependent women are less able and likely to leave and have been shown to be less likely to engage with the criminal justice system.

4.2 Systems Related Factors

According to the literature the main systems-related factors affecting attrition are as follows:

Negative Perceptions of Justice System

Lack of trust and confidence in the criminal justice system is common among victims of crimes, including domestic violence. Research across Europe and the U.S. suggests that many victims are sceptical of the police as well as the judiciary and often question whether police and court interventions will in fact prevent further violence, or help them in any way.

Access to Legal Advocacy and Informational Support

Another common problem is the complicated nature of legal procedures and processes combined with limited information and legal support provided to victims. According to victim testimonies, women feel that court officials and police officers should provide them with more information regarding their rights and the legal processes.

Factors at the Interface with System Professionals

The evidence on systemic factors contributing to high rates of attrition in domestic violence cases has been investigated through research on several interfaces, where victims of domestic violence come in contact with the state systems designed to prevent and/or stop this violence. The research ranges from the analysis of police work to medical personnel, social support services and judges. Police professionals, as front-line handlers of domestic violence cases as well as courts, as the final adjudication authorities, have been given much research attention in recent years and the growing body of research is seen with regards to tensions and drawbacks in the system of professional support providers as well as medical care.

5. Strategies and Approaches to Overcome Attrition

A variety of strategies have been developed and implemented by criminal justice systems in order to overcome potential barriers to a victim's committed participation in the criminal justice process, to overcome victim disengagement, to reduce attrition rates, and to enhance the effectiveness of criminal justice responses to domestic violence. These include data collection and monitoring systems, provision of specialized services including police,

prosecution and courts, pro-arrest, victimless prosecution and no-drop policies, risk assessment procedures and coordinated community responses (CCR)

The literature indicates that withdrawal by victims may be lower where victims are supported in their engagement with the criminal justice system by advocacy and other support services, that attrition may be lower where specialist domestic violence courts and other specialist services are in operation, and where prosecutors and judges or magistrates are offered domestic violence training. To this analysis, we have also included other measures that, as part of a coordinated multiagency approach, may also produce significant results in relation to reducing attrition independently of the victim, including mandatory arrest, pro-prosecution and no drop policies, and risk assessment procedures. We also underline the importance of data collection and monitoring systems in order to record and track cases, identify attrition points, and monitor the progress of strategies and policies to combat domestic violence.

6. Good Practices and Intervention Programs in Overcoming Attrition

A number of good practices in the field are reported and briefly discussed. These include legal developments in Spain and Cyprus, data collection and monitoring systems in Sweden (Structured information on Crime – STUK) and in Northumbria Police – UK, specialist domestic violence courts in the Dade County and special fast track courts in Cardiff – UK, protection measures in Austria, the Cardiff - UK Women Safety Unit (WSU), Coordinated Community Responses (CCR), CEPOL's common curricula police training package on domestic violence, and the Grants to encourage arrest policies program in the USA.

A review of good police related practices on the issue, as reported by European Union police agencies following a request of Cyprus Police for the purposes of this report and its related actions is made. In general there appears to be relatively low level of awareness over attrition. Some member states however, seem to have made significant progress. Special reference is made to developments in the United Kingdom, Ireland, Sweden, Finland, and Germany.

7. Recommendations

The following recommendations are made:

1. Efforts towards increased reporting and recording of domestic violence should continue, despite the fact that they tend to be associated with increased criminality levels and tend to contribute to higher attrition indexes.

2. Data collection and monitoring systems should enable identification of cases of domestic violence, and permit monitoring of interventions, repeat victimization and case flow and outcomes. Research should be further facilitated.
3. Victims should be informed on all available support or competent agencies, and on the realities and limitations of the criminal justice system, so that their expectations are realistically checked and managed and not based on myths and misconceptions.
4. Countries and jurisdictions with specialized services, including specialized police, prosecution, courts, and advocacy and support services report higher rates of successful prosecution in domestic violence cases. Therefore, specialised units and staff are considered and suggested as a good practice. Services should be specialized and appropriately tailored to the specific needs of victims.
5. The multi agency risk assessment conferences (MARACs) are a good practice model as a basic measure to identify and protect high risk victims. Developing and improving the coordination of services and information-sharing through protocols, interdisciplinary training of practitioners and coordinating risk assessment practices and operations among all criminal justice personnel and victim services, are some core goals of the multi-agency work.
6. Harmonisation and integration of family/civil law and criminal law has also been shown to be another key factor in addressing attrition. It is apparent that without a closer relationship between family law, civil law and criminal procedures, having dependent children, as well as fearing for safety, shall continue to form a point of attrition in criminal justice approaches to domestic violence.
7. In order to maximize victim engagement and cooperation, support provision should include measures to ensure the economic independence and social inclusion of victims.
8. Independent Domestic Violence Advisors or Advocates have been shown to be a critical factor in supporting victims in their engagement with the criminal justice system. Advocates should have sufficient knowledge of all other services and should be able to explain criminal and civil justice processes and act as a liaison between the victim and the criminal justice system. Advocates should receive specialist training and funding for their services, so that their independence is not compromised.

9. All domestic violence interventions should have a multi-agency approach at their foundation.
10. Victimless investigations and prosecutions are recommended as they tend to maximize the possibilities of completed court procedures and thus to reduce attrition. Better documenting of cases is recommended, in order to dissociate the victims from criminal proceedings.
11. Pro-arrest and pro-prosecution policies are important policy approaches in criminal justice responses and they should be accompanied a coordinated multi-agency approach to domestic violence. Such an approach must necessarily include consistent advocacy and support for women through the whole criminal justice process, and access to mandatory perpetrator treatment programmes.
12. Pro-protection policies, especially in the form of emergency barring orders, which are issued on the basis of police powers tend to provide the ground for immediate protection for victims, on the basis of the principle that the offender and not the victim should have to leave the home.
13. The establishment of Specialist Domestic Violence Courts can be considered a good practice and has been shown to have positive results in reducing attrition, holding perpetrators accountable, and for increasing overall victim satisfaction.
14. Balancing the wishes and needs of victims with the success indicators of criminal justice system is a major challenge that can be achieved through a tailor made and case-by-case, rather than one-size-fits all, approach. Goals of the criminal justice system should be informed by victims' needs.
15. Specific approaches should be promoted in order to respond to and reach into specific highly vulnerable communities, such as immigrants. Domestic violence victims should not be approached as a homogeneous group.
16. European Union Agencies (such as CEPOL, EUCPN, FRA) are welcome to take the issue of attrition on their agendas, or to further discuss and promote it with the aim to tackle the issue.
17. Strategic plans at the police, the criminal justice system, and the state at large should incorporate tackling attrition as one of their items/targets.
18. EU or State funding opportunities for tackling attrition should either be made available, or should better be prioritized in call for proposals.

19. The unqualified link between the prevalent definition of attrition and the court outcome should be reconsidered and if possible the two should be dissociated as they now stand.
20. In light of the above and as a concluding recommendation, it is underscored that in most law enforcement fields across the EU, there seems to be room and need for making the issue of attrition more visible in general, through training, research, data collection, policies, interventions, practices and protocols of cooperation.

Executive Summary in Greek

Διευθυντική Περίληψη

1. Εισαγωγή

1.1 Θεματικό Πλαίσιο

Η παρούσα μελέτη αποτελεί επισκόπηση και ανάλυση βιβλιογραφίας, που έχει ως στόχο να συμβάλει στην κατανόηση του φαινομένου της «φθοράς» («attrition») υποθέσεων βίας στην οικογένεια. Στοχεύει στη διάχυση ή/και ανάπτυξη αποτελεσματικών πολιτικών και προγραμμάτων για την διαχείριση του ζητήματος και την αντιμετώπιση των προκλήσεων του στο επίπεδο της Ευρωπαϊκής Ένωσης. Η προσοχή και το ενδιαφέρον εστιάζονται κυρίως, αλλά δεν περιορίζονται αποκλειστικά, σε ζητήματα που άπτονται της Αστυνόμευσης. Η μελέτη αυτή, που έγινε για την Αστυνομία Κύπρου, αποτελεί μέρος ενός ευρύτερου έργου που υλοποιείται με πρωτοβουλία της Αστυνομίας Κύπρου στο πλαίσιο της Κυπριακής Προεδρίας του Συμβουλίου της Ευρωπαϊκής Ένωσης (Ιούλιος-Δεκέμβριος 2012). Το έργο αποσκοπεί στην εκπόνηση ενός Ευρωπαϊκού Αστυνομικού Εγχειριδίου Βέλτιστων Πρακτικών για την Αντιμετώπιση της Φθοράς Υποθέσεων Βίας στην Οικογένεια, ή στην προσθήκη ειδικού θεματικού κεφαλαίου στο Εγχειρίδιο Βέλτιστων Πρακτικών Αντιμετώπισης της Βίας κατά των Γυναικών, της Ευρωπαϊκής Ένωσης, που υιοθετήθηκε τον Απρίλιο του 2010 από το Συμβούλιο της Ευρωπαϊκής Ένωσης⁴, κατόπιν πρωτοβουλίας της Ισπανικής Προεδρίας.

Πέραν της βιβλιογραφικής ανασκόπησης, επί του θέματος συνεισφορές/αναφορές λήφθηκαν από Αστυνομίες Κρατών Μελών της Ευρωπαϊκής Ένωσης, και Συνέδριο αστυνομικών εμπειρογνωμόνων για συζήτηση του θέματος προγραμματίστηκε στη Λεμεσό-Κύπρος τον Ιούλιο του 2012. Οι συνεισφορές των Ευρωπαϊκών Αστυνομιών εξασφαλίστηκαν μέσω της Ομάδας Εργασίας Επιβολής του Νόμου (Law Enforcement Working Party), η οποία έχει εγγράψει το θέμα του προαναφερόμενου Εγχειριδίου στην Ημερήσια της Διάταξη, και της Γενικής Γραμματείας του Συμβουλίου της Ευρωπαϊκής Ένωσης. Το Συνέδριο διοργανώνεται από το Ευρωπαϊκό Αστυνομικό Κολλέγιο (CEPOL).

Γενικά, το όλο Έργο εστιάζει την προσοχή του στα συμφέροντα και στην προστασία ευάλωτων θυμάτων βίας στην Οικογένεια, κάτι που αποτελεί μέρος του Προγράμματος της Στοκχόλμης.

⁴ DG H 3A, 7488/2/10 REV 2 or 7488/2/10 REV 2 ENFOPOL 60

Για τους σκοπούς της παρούσας αναφοράς, ετοιμάστηκε από το Μεσογειακό Ινστιτούτο Μελετών Κοινωνικού Φύλου (κα. Σουζάνα Ε. Παύλου και κα. Άννα Ζοπνίνα) για την Αστυνομία Κύπρου μια αρχική μελέτη, η οποία έτυχε στη συνέχεια συντακτικής, ερευνητικής και άλλης επεξεργασίας από τον Κώστα Μ. Βέη.

1.2 Ενδοοικογενειακή Βία και «φθορά» (attrition)

Η επικρατούσα στη βιβλιογραφία ερμηνεία της «Φθοράς» (attrition) αφορά στην περιγραφή του φαινομένου όπου οι υποθέσεις βίας στην οικογένεια τυγχάνουν αποτυχημένης διεκπεραίωσης στο πλαίσιο ενός ποινικού συστήματος, παρεκκλίνουν ή εκτρέπονται από αυτό και δεν καταλήγουν σε καταδίκες. Τόσο ο όρος (attrition), όσο και η ερμηνεία του φαίνεται να μην έχουν αποδοθεί στην Ελληνική βιβλιογραφία και επιχειρείται εδώ από το συντάκτη μια πρώτη απόδοσή και ερμηνεία. Πέραν της προαναφερόμενης επικρατούσας ερμηνείας της «φθοράς», ο όρος έχει πρόσφατα επαναπροσδιοριστεί με ένα ελαφρώς διαφορετικό τρόπο, ως η έλλειψη προόδου μέχρι και την ολοκλήρωση ποινικών υποθέσεων, και ειδικότερα κατά τα στάδια στα οποία οι υποθέσεις εκτρέπονται από το ποινικό σύστημα, δηλαδή από την αρχική αναφορά μέχρι το τελικό στάδιο δικαστικής διαδικασίας. Η βασική διαφορά μεταξύ των δύο προαναφερόμενων ερμηνειών και ως εκ τούτου προσεγγίσεων της «φθοράς» έγκειται στο ότι η δεύτερη αποσυνδέει την αθώωση κατηγορουμένου (μη καταδίκη) από τη αυτόματη σύνδεσή της με το πρόβλημα, ως εισηγείται η πρώτη ερμηνεία.

Από την ερμηνεία της φθοράς συνάγεται πως τυχόν ψηλά επίπεδα φθοράς αυτόματα συνιστούν μείζον ζήτημα προς διευθέτηση, καθότι ανεξάρτητα των παραγόντων που συντείνουν σε αυτήν και του ενδεχομένου αυτοί να σχετίζονται με καταστάσεις προσωπικές/του θύματος ή/και του συστήματος, η φθορά τείνει να ακυρώνει το ποινικό σύστημα και να το καθιστά ανίκανο να διαχειριστεί ένα έγκλημα και τα μέρη που εμπλέκονται σε αυτό.

Η «φθορά» μπορεί να λάβει χώρα σε διάφορα στάδια μιας ποινικής διαδικασίας. Κατ' αρχή, πολλά περιστατικά βίας στην οικογένεια μπορεί να μην περιέλθουν ποτέ σε γνώση της αστυνομίας. Αν και εξ' ορισμού η μη αναφορά/καταγγελία περιστατικών στην αστυνομία δε θεωρείται σημείο «φθοράς» μιας υπόθεσης, η αναφορά τους στην αστυνομία είναι ένας κρίσιμος δείκτης ως προς την προθυμία του θύματος να συνεργαστεί με το σύστημα ποινικής δικαιοσύνης. Όπως σχολιάζεται σε άλλο σημείο της έκθεσης αυτής, η αναφερόμενη στις Αρχές ενδοοικογενειακή βία, συγκρινόμενη με επιδημιολογικές έρευνες ή έρευνες θυματοποίησης, παρουσιάζει σταθερά χαμηλούς δείκτες. Ως εκ τούτου, η αύξηση των αναφορών συνιστά και ορθώς πρέπει να θεωρείται ως δείκτης απόδοσης

επιτυχημένων παρεμβάσεων για αντιμετώπιση της ενδοοικογενειακής βίας. Πέραν του ενδεχομένου μη αναφοράς/καταγγελίας στις Αρχές, η φθορά των υποθέσεων, που νοείται ότι αναφέρθηκαν ήδη στις Αρχές, συνήθως λαμβάνει χώρα σε οποιοδήποτε σημείο μεταξύ της αναφοράς ενός περιστατικού μέχρι την τελική έκβαση της υπόθεσης. Η εκτροπή και παρέκκλιση των υποθέσεων μπορεί να συμβεί στο σημείο της υποβολής ενός παραπόνου, κατά τη διάρκεια της ποινικής έρευνας, ή λίγο πριν ή κατά τη διάρκεια της δικαστικής διαδικασίας. Η «φθορά» είναι συνήθως αποτέλεσμα πράξεων, παραλείψεων ή αποφάσεων της αστυνομίας, της εισαγγελίας, των δικαστηρίων, των ίδιων των θυμάτων/παραπονούμενων, ή πιθανότατα των μεταξύ τους συνδυασμένων συνεργειών. Η αστυνομία και η κατηγορούσα αρχή αντιμετωπίζουν συχνά τις αποφάσεις που λαμβάνονται από τα θύματα ως το κύριο σημείο όπου προκύπτει η «φθορά» των υποθέσεων. Ωστόσο, η προθυμία και η επιμέλεια με την οποία οι διωκτικές αρχές είναι διατεθειμένες να διεκδικήσουν μια υπόθεση, συμπεριλαμβανομένου του επιπέδου και της ποιότητας της συλλεγούσης μαρτυρίας, μπορεί επίσης να είναι ζωτικής σημασίας, όπως επίσης και η βάση των αποφάσεων από τους εισαγγελείς και η προσέγγιση συγκεκριμένων δικαστηρίων.⁵ Πρωταρχική σημασία στη μελέτη αυτή έχει ο βαθμός στον οποίο η «φθορά» συνδέεται με ατομικούς/θυματογενείς παράγοντες ή με συστημικούς παράγοντες της ποινικής δικαιοσύνης, ή με παθογενείς συνέργειες μεταξύ των δύο.

1.3 Μεθοδολογία

Για τους σκοπούς της παρούσας έκθεσης, η ενδοοικογενειακή βία ορίζεται ως βία μεταξύ πρώην ή νυν συζύγων και συμβίων. Οι εδώ συζήτηση μπορεί να εφαρμόζει και σε περιπτώσεις κακοποίησης μεταξύ άλλων ατόμων που ζουν στην ίδια κατοικία ή άλλων μελών της οικογένειας, όπως για παράδειγμα ανήλικα ή υπερήλικα μέλη τους, αλλά το επίκεντρο αυτής της έκθεσης είναι η ενδοοικογενειακή κακοποίηση ανάμεσα πρώην ή νυν στενούς συντρόφους.

Όσον αφορά στην ορολογία, οι όροι «βία στην οικογένεια» και «ενδοοικογενειακή βία» έχουν χρησιμοποιηθεί εναλλακτικά στη βιβλιογραφία. Άλλοι συγγραφείς προτιμούν τον όρο «συντροφική βία» (intimate partner violence). Εδώ χρησιμοποιούνται κυρίως οι όροι «ενδοοικογενειακή βία» και «βία στην οικογένεια», εκτός όπου χρησιμοποιούνται αποσπάσματα από άλλους συγγραφείς.

Η παρούσα μελέτη βασίζεται κυρίως σε εκτενή ανασκόπηση της υπάρχουσας βιβλιογραφίας για την ενδοοικογενειακή βία και για την ανταπόκριση τους συστήματος ποινικής δικαιοσύνης σε αυτή. Πηγές που χρησιμοποιήθηκαν περιλαμβάνουν ακαδημαϊκά

⁵ Hester, M. and Westmarland, N. Tackling Domestic Violence: effective interventions and approaches.

και επιστημονικά άρθρα, εκθέσεις κυβερνήσεων ή υπηρεσιών τους, εκθέσεις μη κυβερνητικών οργανισμών, εκθέσεις που ανατέθηκαν από διεθνείς οργανισμούς (πχ. Συμβούλιο της Ευρώπης και Οργανισμός Ηνωμένων Εθνών), εγκληματολογικές στατιστικές, το Toolkit του Ευρωπαϊκού Προγράμματος Δάφνη της Ευρωπαϊκής Επιτροπής, και το Ευρωπαϊκό Δίκτυο Πρόληψης του Εγκλήματος, και το Ευρωπαϊκό Αστυνομικό Κολλέγιο, μεταξύ άλλων. Πέραν των προϋπαρχόντων πηγών πληροφόρησης, η έρευνα αυτή συνέλεξε και δικές της πληροφορίες μέσω σχετικού αιτήματος της Αστυνομίας Κύπρου προς τα Κράτη Μέλη της Ε.Ε. για διαβίβαση πληροφοριών ως προς σχετικές με τη φθορά βέλτιστες πρακτικές τους, με εστίαση της προσοχής στην αστυνόμευση.

Η βιβλιογραφία που ανασκοπήθηκε για τους σκοπούς της παρούσας έκθεση επικεντρωνόταν κυρίως σε γυναίκες θύματα ή δεν διαφοροποιούσε μεταξύ των φύλων ως προς την ανάλυσή τους. Εδώ είναι σημαντικό να επισημανθεί ότι με βάση την ανάλυση που ακολουθεί σχετικά με τις καλές παρεμβατικές πρακτικές, οι πλέον αποτελεσματικές πρακτικές βασίζονται σε ευαίσθητες προς το φύλο, ευαίσθητες προς την περίπτωση και δια-τμηματικές προσεγγίσεις.

Αν και αυτή η μελέτη έχει Ευρωπαϊκό χαρακτήρα και έχει ως στόχο να καλύψει όσο το δυνατό περισσότερες Ευρωπαϊκές χώρες, αυτό ήταν εν μέρει περιορισμένο λόγω γλωσσικών περιορισμών, οι οποίοι περιόρισαν την ανασκόπηση κυρίως σε αγγλόφωνες πηγές.

2. Πεδίο Εφαρμογής και η Έκταση του Προβλήματος

Παρά τους περιορισμούς στη συλλογή δεδομένων σε ολόκληρη την Ευρώπη, εντούτοις από τα διαθέσιμα στοιχεία είναι δυνατό να συμπεράνει κάποιος ότι υπάρχει απόκλιση μεταξύ των περιστατικών ενδοοικογενειακής βίας που αναφέρονται/καταγγέλλονται και καταγράφονται από την αστυνομία και άλλες κρατικές υπηρεσίες, και την πραγματική έκταση του φαινομένου όπως αυτή καταγράφεται και υπολογίζεται από έρευνες θυματοποίησης ή επιδημιολογικές.

Τα διαθέσιμα στατιστικά στοιχεία καταδεικνύουν μια γενική ανοδική τάση στους δείκτες καταγεγραμμένης ενδοοικογενειακής βίας στην Ευρώπη καθώς και στις ΗΠΑ, τον Καναδά και την Αυστραλία. Η τάση αυτή τείνει να σχετίζεται με αυξημένη ευαισθητοποίηση του κοινού μέσω εκστρατειών που γίνονται, με την αυξημένη αναφορά των περιστατικών και με την αυξημένη ποινικοποίηση του φαινομένου.

Στην Ευρώπη δεν υπάρχουν ευρέως διαθέσιμα στοιχεία για τους δείκτες ποινικών διώξεων και καταδικαστικών αποφάσεων. Ως εκ τούτου είναι δύσκολο να εκτιμηθεί ο βαθμός στον

οποίο οι δείκτες αυτοί επηρεάζονται από ατομικούς ή/και συστηματικούς παράγοντες. Σε γενικό επίπεδο, τα στοιχεία και δεδομένα που σχετίζονται με τη φθορά των υποθέσεων ενδοοικογενειακής βίας δεν είναι αρκούντως αναπτυγμένα και οι εγκληματολογικές στατιστικές δεν παρέχουν επαρκείς πληροφορίες ή στοιχεία για το ζήτημα.

Παρά την έλλειψη ολοκληρωμένων δεδομένων, οι έρευνες που ανασκοπήθηκαν υπογραμμίζουν ότι ένα μεγάλο ποσοστό των υποθέσεων ενδοοικογενειακής βίας εκτρέπονται και λήγουν πρόωρα κατά την εξέλιξή τους στο πλαίσιο του συστήματος ποινικής δικαιοσύνης. Μελέτες που έχουν πραγματοποιηθεί όσον αφορά στους δείκτες φθοράς τέτοιων υποθέσεων καταδεικνύουν σταθερά ότι η απόσυρση, η ανάκληση ή μη συνεργασία του θύματος είναι γενικά υψηλή τόσο σε ποινικές όσο και σε αστικές διαδικασίες.

3. Ευρωπαϊκά Νομικά και Πολιτικά Πλαίσια και η Σχέση τους με τη Φθορά

Ο τρόπος με τον οποίο οριοθετείται και στοχοθετείται η ενδοοικογενειακή βία μέσα από εθνικά νομικά πλαίσια είναι ένας από τους βασικούς παράγοντες και μια αφετηρία στον εντοπισμό των παραγόντων που σχετίζονται με τη φθορά των υποθέσεών της.

Δεν υπάρχει διεθνώς αναγνωρισμένος ορισμός για την ενδοοικογενειακή βία, που να καλύπτει το ζήτημα στην ολότητα του. Τα περισσότερα Ευρωπαϊκά κράτη δεν έχουν συγκεκριμένη νομοθεσία για την ενδοοικογενειακή βία αλλά η συγκεκριμένη μορφή βίας καλύπτεται από γενικές διατάξεις του ποινικού τους δικαίου. Σε όλες τις Ευρωπαϊκές χώρες παρατηρείται μία γενική τάση να διασφαλίζεται ότι τα εγκλήματα που διαπράττονται στη οικογενειακή σφαίρα δεν παραγνωρίζονται και δεν παραγκωνίζονται από το ποινικό ή αστικό/οικογενειακό δίκαιο.

Το νομικό πλαίσιο που υιοθετείται από κάθε κράτος και που αφορά στην ενδοοικογενειακή βία, έχει άμεση επιρροή στον τρόπο διευθέτησης του ζητήματος σε σχέση με την πρόληψη, την προστασία, αλλά ιδιαίτερως για τους σκοπούς της παρούσας έκθεσης, για τη δίωξη. Το σύστημα ποινικής δικαιοσύνης μπορεί να λειτουργήσει αποτρεπτικά και τιμωρητικά ως προς την ενδοοικογενειακή βία μόνο αν όλες οι υποθέσεις καταγγέλλονται και διερευνούνται και όταν ένα σημαντικό ποσοστό τους καταλήγουν σε επιτυχή ποινική δίωξη. Αναπόφευκτα λοιπόν, αυτό θα επιδρά στο βαθμό συμμετοχής και εμπλοκής του θύματος ή και αντίστροφα, και στη φθορά των υποθέσεων.

Τα αστικά μέτρα προστασίας (civil remedies), ή η έλλειψη τους, μπορεί επίσης να συνδέονται με την άρνηση των θυμάτων να υποστηρίξουν την ποινική δίωξη, καθώς η περίοδος μεταξύ του βίαιου περιστατικού και της πρόσαψης κατηγορίας στον δράστη, μπορεί να αποτελέσει ιδιαίτερα επικίνδυνη φάση για το θύμα. Ένα μείζον ζήτημα που

προκύπτει από τη βιβλιογραφία όσο αφορά την αποτυχία αστικών μέτρων για πλήρη προστασία του θύματος, είναι η ελλιπής σύνδεση μεταξύ αστικού και ποινικού δικαίου, τα οποία σε πολλές χώρες θεωρούνται διαφορετικά και αμοιβαίως αποκλειόμενα.

Ένα άλλο σημαντικό ζήτημα είναι ότι οι πρόσφατες νομοθεσίες για καταπολέμηση της ενδοοικογενειακής βίας υιοθετούν ένα ευρύ ορισμό της με αυστηρές ποινές για σοβαρή σωματική κακοποίηση. Η προσέγγιση αυτή τείνει να καταλήγει σε δυσκολίες ή αδυναμίες εφαρμογής του νόμου σε περιπτώσεις όπου δεν υπάρχουν τεκμήρια σωματικής κακοποίησης.

4. Παράγοντες που Συνεισφέρουν στη Φθορά

4.1. Θυματογενείς Παράγοντες

Σύμφωνα με τη βιβλιογραφία, οι κύριοι θυματογενείς παράγοντες που επηρεάζουν τη φθορά των υποθέσεων ενδοοικογενειακής βίας και τη διστακτικότητα των θυμάτων τους συμπεριλαμβάνουν τα ακόλουθα:

Στάσεις και Αντιλήψεις προς την Ενδοοικογενειακή Βία και την Απόδοση Ευθύνης στο Θύμα

Μια από τις κοινωνικό-πολιτισμικές διστάσεις του προβλήματος, που είναι σημαντικό να λαμβάνεται υπόψη στις συζητήσεις για τη διστακτικότητα και τη φθορά ενδοοικογενειακή βία, είναι η επίμονη αποσιώπηση και ιδιωτικοποίηση της ενδοοικογενειακής βίας. Παρόλη τη σημαντική νομοθετική πρόοδο και την αυξημένη ενημέρωση και ευαισθητοποίηση του ευρύτερου κοινού, η ενδοοικογενειακή βία συνεχίζει να γίνεται αντιληπτή από πολλούς ως ιδιωτικό, ασήμαντο, ή ντροπιαστικό ζήτημα και αυτά συντείνουν στη μη αποκάλυψη, αναφορά και καταγγελία.

Σοβαρότητα, Έκταση, Διάρκεια και Συνέπειες Συναισθηματικής Κακοποίησης

Η σημασία των συναισθηματικών και νοητικών παραγόντων, και οι διαρκείς ψυχολογικές συνέπειες της ενδοοικογενειακής βίας, όπως και ο ρόλος που διαδραματίζουν στην ευρύτερη διά-δραση μεταξύ θυμάτων και επαγγελματιών, αποτελούν ένα σημαντικό παράγοντα που συνεισφέρει στα επίπεδα συμμετοχής του θύματος και στην προθυμία του για συνεργασία με το σύστημα ποινικής δικαιοσύνης.

Μη Αναγνώριση της Κακοποίησης και Αυτό-Κατηγορία

Ακόμη ένα σοβαρό ζήτημα, το οποίο συνδέεται άμεσα με τη ψυχολογική και συναισθηματική κακοποίηση, και είναι προεξέχων στη συζήτηση περί διστακτικότητας, είναι η μη-αναγνώριση της ίδιας της βίας από τα θύματά της. Τα θύματα συνήθως τείνουν να αυτό-κατηγορούνται και να θεωρούν τους εαυτούς τους υπεύθυνους για την κακοποίηση που δέχονται.

Ο Φόβος του Θύματος για τον Θύτη σε σχέση με Κενά στο Σύστημα Προστασίας

Ο φόβος για τον θύτη και το ζήτημα της προστασίας αποτελούν ένα από τους πρωταρχικούς παράγοντες που συνδέονται με τις αποφάσεις του θύματος, σχεδόν σε κάθε στάδιο της ενδοοικογενειακής βίας, από το συμβάν και την τυχόν καταγγελία του, μέχρι την κατάληξη της δίωξης. Αυτός ο φόβος δεν περιορίζεται μόνο στις αντιλήψεις των θυμάτων αλλά, σε πολλές περιπτώσεις, είναι άμεσο αποτέλεσμα της ανταπόκρισης του ποινικού συστήματος στις ανάγκες προστασίας των θυμάτων.

Κοινωνικο-οικονομικοί Παράγοντες: Οικονομική και Νομική Εξάρτηση από τον Θύτη, και Ευθύνη για Παιδί(ά)

Με δεδομένο ότι η ενδοοικογενειακή βία με πολλούς τρόπους αποτυπώνει τις ευρύτερες δυναμικές της ανισότητας των φύλων, πολλοί παράγοντες που επηρεάζουν την απόφαση του θύματος σε σχέση με νομικές παρεμβάσεις ή δίωξη είναι επίσης άμεσα διασυνδεδεμένοι με έμφυλα ευάλωτες καταστάσεις. Αυτοί οι παράγοντες διακυμαίνονται από την οικονομική και νομική εξάρτηση των γυναικών από τους συντρόφους τους, μέχρι ζητήματα που αφορούν στην φροντίδα των παιδιών, στη στέγαση και οικονομική στήριξη. Οι υλικές ανάγκες των θυμάτων είναι σημαντικές στις περιπτώσεις χωρισμού από συντρόφους που τα κακοποιούν, και σύμφωνα με έρευνες, οι γυναίκες που είναι οικονομικά εξαρτώμενες έχουν λιγότερες ικανότητες και πιθανότητες να εγκαταλείψουν μια βίαιη σχέση ή/και να απευθυνθούν στο σύστημα ποινικής δικαιοσύνης.

4.2 Παράγοντες που Σχετίζονται με το Σύστημα

Σύμφωνα με τη βιβλιογραφία, οι κύριοι παράγοντες που συνδέονται με το σύστημα ποινικής δικαιοσύνης και επηρεάζουν τη φθορά είναι οι ακόλουθοι:

Αρνητικές αντιλήψεις για το Σύστημα Δικαιοσύνης

Η έλλειψη εμπιστοσύνης στο σύστημα ποινικής δικαιοσύνης παρατηρείται ευρέως ανάμεσα σε θύματα εγκλημάτων, συμπεριλαμβανομένης και της ενδοοικογενειακής βίας. Έρευνες στην Ευρώπη και στις ΗΠΑ υποστηρίζουν ότι πολλά από τα θύματα ενδοοικογενειακής βίας είναι δύσπιστα προς την αστυνομία και προς το δικαστικό σώμα και συχνά αμφισβητούν κατά πόσο οι αστυνομικές και δικαστικές παρεμβάσεις μπορούν να συντελέσουν στην αποφυγή περαιτέρω βίας, ή να τα βοηθήσουν με οποιοδήποτε τρόπο.

Πρόσβαση σε Νομικές Υπηρεσίες και Ενημέρωση

Ένα άλλο συχνό πρόβλημα είναι η περίπλοκη φύση των νομικών διαδικασιών σε συνδυασμό με την περιορισμένη πληροφόρηση και νομική προστασία που παρέχεται στα θύματα. Σύμφωνα με μαρτυρίες θυμάτων, οι γυναίκες αισθάνονται ότι οι αστυνομικοί και

δικαστικοί λειτουργοί θα έπρεπε να τους παρέχουν περισσότερες πληροφορίες σχετικά με τα δικαιώματα τους και με τις νομικές διαδικασίες.

Παράγοντες που διασυνδέονται με Επαγγελματίες του Συστήματος

Τα στοιχεία που καταδεικνύουν την συνεισφορά συστηματικών παραγόντων στα φθοράς έχουν διερευνηθεί σε διάφορα στάδια, κατά τα οποία τα θύματα έρχονται σε επαφή με το κρατικό σύστημα που αφορά την πρόληψη ή την καταπολέμηση αυτού του είδους βίας. Η έρευνα κυμαίνεται από την ανάλυση του αστυνομικού έργου, σε αυτό του ιατρικού προσωπικού, των υπηρεσιών κοινωνικής ευημερίας και των δικαστών. Οι αστυνομικοί, ως διαχειριστές πρώτης γραμμής της ενδοοικογενειακής βίας, καθώς και τα δικαστήρια, ως ο τελικός κριτής των υποθέσεων, έχουν αποτελέσει αντικείμενο πολλών ερευνών τα τελευταία χρόνια, και οι αυξανόμενες έρευνες αφορούν τις εντάσεις και τα μειονεκτήματα του συστήματος επαγγελματικής προστασίας και ιατρικής περίθαλψης.

5. Στρατηγικές και Προσεγγίσεις για την Αντιμετώπιση της Φθοράς

Για την αντιμετώπιση των πιθανών εμποδίων στη αφοσιωμένη συμμετοχή του θύματος στη ποινική διαδικασία, για τη μείωση της φθοράς και για την ενίσχυση της αποτελεσματικότητας των τρόπων με τους οποίους το ποινικό σύστημα ανταποκρίνεται στην ενδοοικογενειακή βία, έχουν αναπτυχθεί και εφαρμοστεί διάφορες στρατηγικές.. Αυτές περιλαμβάνουν συστήματα συλλογής και παρακολούθησης δεδομένων, παροχή εξειδικευμένων αστυνομικών, εισαγγελικών και δικαστικών υπηρεσιών, πολιτικές που ευνοούν τη σύλληψη, προσαγωγή και εκδίκαση ανεξάρτητα του θύματος, διαδικασίες εκτίμησης της επικινδυνότητας, και συντονισμένες κοινοτικές παρεμβάσεις.

Η διαθέσιμη βιβλιογραφία δείχνει ότι η απόσυρση καταγγελιών από τα θύματα μπορεί να είναι χαμηλότερη όπου τα θύματα κατά την εμπλοκή τους με το σύστημα ποινικής δικαιοσύνης τυγχάνουν κατάλληλης στήριξης άλλες από αρμόδιες υπηρεσίες. Φαίνεται επίσης ότι η φθορά των υποθέσεων μπορεί να είναι χαμηλότερη, όπου λειτουργούν για την ενδοοικογενειακή βία εξειδικευμένα δικαστήρια και άλλες εξειδικευμένες υπηρεσίες, αλλά και όπου στους εισαγγελείς και δικαστές προσφέρεται εκπαίδευση για θέματα ενδοοικογενειακής βίας. Πέραν των πιο πάνω έχουν επίσης συμπεριληφθεί και άλλα μέτρα, τα οποία ως μέρος μιας συντονισμένης δια-τμηματικής προσέγγισης, μπορούν να επιφέρουν σημαντικά αποτελέσματα σε σχέση με τη μείωση της φθοράς ανεξάρτητα από τη στάση του θύματος, συμπεριλαμβανομένων των πολιτικών για υποχρεωτικές συλλήψεις, για προσαγωγή και δίωξη ανεξάρτητα του θύματος, και για διαδικασίες αξιολόγησης του ρίσκου. Τονίζεται επίσης η σημασία της συλλογής δεδομένων και συστήματος παρακολούθησης, ώστε να καταγράφονται, να αναγνωρίζονται και να παρακολουθούνται

περιπτώσεις, να εντοπίζονται τα σημεία της φθοράς και να παρακολουθείται η πρόοδος στην εφαρμογή στρατηγικών και πολιτικών για την καταπολέμηση της ενδοοικογενειακής βίας.

6. Καλές Πρακτικές και Προγράμματα Παρέμβασης για Αντιμετώπιση της Φθοράς

Ένας αριθμός επί του θέματος βέλτιστων πρακτικών αναφέρονται και συζητούνται συνοπτικά. Σ' αυτές περιλαμβάνονται εξελίξεις σε Ισπανία και Κύπρο ως προς τη νομοθεσία, συστήματα συλλογής και παρακολούθησης δεδομένων σε Σουηδία (Δομημένη Πληροφόρηση για Έγκλημα - STUK), ειδικά δικαστήρια για ενδοοικογενειακή βία στην Dade County και ειδικά δικαστήρια ταχείας παρέμβασης στο Cardiff-UK, μέτρα προστασίας σε Αυστρία, η μονάδα ασφάλειας γυναικών (WSU) στο Cardiff-UK, συντονισμένες κοινοτικές παρεμβάσεις (CCR), το εκπαιδευτικό πακέτο του Ευρωπαϊκού Αστυνομικού Κολλεγίου για την ενδοοικογενειακή βία, και το πρόγραμμα χορηγιών για ενθάρρυνση πολιτικών που ευνοούν τη σύλληψη στις ΗΠΑ.

Γίνεται μια ανασκόπηση των σχετικών βέλτιστων πρακτικών, όπως αυτές αναφέρθηκαν από αστυνομίες της Ευρωπαϊκής Ένωσης κατόπιν αιτήματος της Αστυνομίας Κύπρου για σκοπούς της παρούσας μελέτης και των άλλων σχετιζόμενων με αυτή δράσεων. Γενικά φαίνεται να υπάρχει σχετικά χαμηλό επίπεδο ενημέρωσης σε σχέση με τη φθορά, αλλά κάποια κράτη μέλη φαίνεται να έχουν κάνει σημαντική πρόοδο. Ειδική αναφορά γίνεται σε επί του θέματος εξελίξεις στην Αγγλία, την Ιρλανδία, τη Σουηδία, τη Φιλανδία και τη Γερμανία.

7. Εισηγήσεις

1. Οι προσπάθειες αύξησης των επιπέδων αναφοράς και καταγραφής της ενδοοικογενειακής βίας θα πρέπει να συνεχίσουν, παρά το ότι τείνουν να ταυτίζονται με αυξημένα επίπεδα εγκληματικότητας να συνεισφέρουν σε ψηλότερους δείκτες φθοράς.
2. Οι βάσεις δεδομένων και συστήματα παρακολούθησης θα πρέπει να επιτρέπουν την αναγνώριση των περιστατικών, την παρακολούθηση παρεμβάσεων, την επαναλαμβανόμενη θυματοποίηση, και την εξέλιξη και αποτέλεσμα της υπόθεσης. Η επιστημονική έρευνα θα πρέπει να διευκολυνθεί περαιτέρω.
3. Τα θύματα θα πρέπει να τυγχάνουν ενημέρωσης για όλες τις διαθέσιμες αρμόδιες υπηρεσίες στήριξης, καθώς επίσης και για τις πραγματικότητες και περιορισμούς του συστήματος ποινικής δικαιοσύνης, έτσι ώστε οι προσδοκίες τους να είναι

ρεαλιστικές και διαχειρίσιμες και να μη βασίζονται σε λανθασμένες αντιλήψεις και μύθους.

4. Χώρες και δικαιοδοσίες με εξειδικευμένες υπηρεσίες (Αστυνομία, Εισαγγελία, Δικαστήρια, και υπηρεσίες στήριξης/ενημέρωσης), αναφέρουν ψηλότερα ποσοστά επιτυχούς δίωξης σε υποθέσεις ενδοοικογενειακής βίας. Οι εξειδικευμένες μονάδες και το ειδικά καταρτισμένο προσωπικό θεωρούνται καλές πρακτικές. Οι γνώσεις και οι δεξιότητες των επαγγελματιών θα πρέπει να είναι εξειδικευμένες και κατάλληλα προσαρμοσμένες στις συγκεκριμένες ανάγκες των θυμάτων.
5. Οι δια-τμηματικές συσκέψεις για αξιολόγηση της επικινδυνότητας (MARACs) συνιστούν ένα καλό μοντέλο πρακτικής καθορισμού βασικής εκτίμησης προς εντοπισμό και προστασία θυμάτων υψηλού κινδύνου. Η ανάπτυξη και η βελτίωση του συντονισμού των υπηρεσιών και η ανταλλαγή πληροφοριών μέσω πρωτοκόλλων, η δια-τμηματική κατάρτιση όλων των σχετικών επαγγελματιών, και ο συντονισμός μεταξύ του λειτουργών του ποινικού συστήματος και άλλων υπηρεσιών ως προς τις πρακτικές που αφορούν σε εκτιμήσεις κινδύνου, είναι μερικοί βασικοί στόχοι της δια-τμηματικής αυτής πρακτικής. Οι διαδικασίες για την ανταλλαγή πληροφοριών μεταξύ των εμπλεκομένων διαφέρουν από χώρα σε χώρα και το μοντέλο χρειάζεται να προσαρμόζεται αναλόγως.
6. Η εναρμόνιση και ο συγκερασμός πτυχών του οικογενειακού/αστικού και ποινικού δικαίου σε σχέση με διαχείριση ζητημάτων βίας στην οικογένεια, έχει επίσης αποδειχθεί ως ένας άλλος βασικός παράγοντας για την αντιμετώπιση της φθοράς. Χωρίς μια πιο στενή λειτουργική σχέση μεταξύ δομών και διαδικασιών του οικογενειακού, αστικού και ποινικού δικαίου η ύπαρξη εξαρτώμενων ανηλίκων, καθώς και ζητήματα φόβου και ασφάλειας των θυμάτων θα εξακολουθούν να αποτελούν αδύναμα σημεία στις αφ' εαυτού προσεγγίσεις της ποινικής δικαιοσύνης.
7. Η μεγιστοποίηση της συμμετοχής και συνεργασίας των θυμάτων προϋποθέτει την παροχή στήριξης, η οποία να περιλαμβάνει στηρικτικά μέτρα που να στοχεύουν στην οικονομική απεξάρτηση των θυμάτων από τους δράστες και στην κοινωνική τους ενσωμάτωση.
8. Ο θεσμός των ανεξάρτητων Σύμβουλων για ζητήματα ενδοοικογενειακής βίας έχει αποδειχθεί κρίσιμος παράγοντας για την υποστήριξη των θυμάτων ως προς την εμπλοκή τους με το σύστημα ποινικής δικαιοσύνης και τη συνέχιση της συμμετοχής τους σε αυτό. Οι σύμβουλοι θα πρέπει να έχουν επαρκή γνώση των άλλων υπηρεσιών (υπηρεσίες στήριξης/προστασίας, υγείας, πρόνοιας, στεγαστικά σχέδια,

υπηρεσίες ποινικού δικαίου κλπ) και θα πρέπει να είναι σε θέση να εξηγήσουν τις ποινικές και αστικές δικαστικές διαδικασίες και να ενεργούν ως σύνδεσμοι μεταξύ του θύματος και του συστήματος ποινικής δικαιοσύνης. Οι σύμβουλοι πρέπει να τυχάνουν εξειδικευμένης επιμόρφωσης και υπηρεσίες τους πρέπει να χρηματοδοτούνται κατά τρόπο που να μην επηρεάζεται η ανεξαρτησία τους.

9. Όλες οι παρεμβάσεις σε σχέση με την ενδοοικογενειακή βία πρέπει να έχουν μια δια-τμηματική προσέγγιση ως βάση τους.
10. Στο πλαίσιο αυτής της βασικής αρχής, πολιτικές και πρακτικές που ευνοούν τη διερεύνηση και δίωξη ανεξάρτητα από το θύμα συστήνονται, καθότι τείνουν να μεγιστοποιούν τις πιθανότητες ολοκλήρωσης ποινικών διαδικασιών και ως εκ τούτου να μειώνουν τη φθορά. Συστήνεται επίσης η καλύτερη τεκμηρίωση των υποθέσεων έτσι ώστε να αποσυνδέεται στο μέγιστο δυνατό βαθμό το θύμα από την ποινική διαδικασία και την έκβασή της.
11. Πολιτικές που ευνοούν ή επιβάλλουν τη σύλληψη, προσαγωγή και δίωξη είναι σημαντικές προσεγγίσεις ποινικής δικαιοσύνης για την ενδοοικογενειακή βία. Οι πολιτικές αυτές πρέπει να συνοδεύονται με συντονισμένη δια-τμηματική προσέγγιση και δράση που να περιλαμβάνει υποστήριξη των θυμάτων μέσα από την ποινική διαδικασία, καθώς επίσης και πρόσβαση σε υποχρεωτικά προγράμματα θεραπείας για το δράστη.
12. Πολιτικές που ευνοούν την προστασία των θυμάτων, ειδικά μέσω άμεσων απαγορευτικών προστατευτικών διαταγμάτων, που εκδίδονται στη βάση αστυνομικών εξουσιών, τείνουν να θέτουν τις βάσεις για άμεση προστασία των θυμάτων, στη βάση της αρχής ότι την οικογενειακή κατοικία θα πρέπει να εγκαταλείπει ο δράστης και όχι το θύμα.
13. Η δημιουργία ειδικών δικαστηρίων για την ενδοοικογενειακή βία θεωρείται καλή πρακτική και έχει διαφανεί ότι έχει θετικά αποτελέσματα στη μείωση της φθοράς και στην αύξηση της συνολικής ικανοποίησης των θυμάτων, αλλά επίσης και στην πιο αποτελεσματική απόδοση ευθύνης στους δράστες.
14. Η εξισορρόπηση των επιθυμιών και των αναγκών των θυμάτων με τους δείκτες επιτυχίας του ποινικού συστήματος είναι μια μεγάλη πρόκληση, που μπορεί να επιτευχθεί με ανά περίπτωση ευέλικτη προσαρμογή παρά με υιοθέτηση ενιαίας προσέγγισης για όλες τις περιπτώσεις. Οι στόχοι ενός ποινικού συστήματος θα πρέπει να εμβολιάζονται με τις ανάγκες και ιδιαιτερότητες των θυμάτων και να τις λαμβάνουν υπόψη.

15. Για την προσέγγιση συγκεκριμένων ευάλωτων κοινωνικών ομάδων υψηλού ρίσκου, όπως οι μετανάστες, χρειάζονται ειδικές εφαρμογές και προσαρμογές στις ιδιαιτερότητες τους. Τα θύματα βίας στην οικογένεια γενικά, δε θα πρέπει να προσεγγίζονται ως ομοιογενής και συμπαγής ομάδα.
16. Θεσμικά όργανα της Ευρωπαϊκής Ένωσης (όπως το Ευρωπαϊκό Αστυνομικό Κολλέγιο – CEPOL, το Δίκτυο Πρόληψης του Εγκλήματος της ΕΕ – EUCPN, και ο Οργανισμός Θεμελιωδών Δικαιωμάτων της ΕΕ - FRA), μπορούν να θέσουν το ζήτημα της φθοράς στις ημερήσιες τους διατάξεις ή να το συζητήσουν και να το προωθήσουν περισσότερο, με στόχο την πιο αποτελεσματική αντιμετώπισή του.
17. Γίνεται εισήγηση όπως στρατηγικά σχέδια δράσης σε επίπεδο αστυνομιών, ή οργάνων του ευρύτερου ποινικού συστήματος, ή προτιμότερο σε εθνικό επίπεδο, ενσωματώσουν το ζήτημα της φθοράς στη στοχοθέτησή τους.
18. Χρηματοδοτικά προγράμματα σε Εθνικό επίπεδο ή στο επίπεδο της ΕΕ, μπορούν να προσφέρουν ευκαιρίες για χορηγίες σε έρευνες ή παρεμβάσεις πεδίου που αποσκοπούν στην αντιμετώπιση της φθοράς, προτιμότερο δε, να δώσουν προτεραιότητα σε τέτοιες χορηγίες.
19. Προτείνεται όπως η απόλυτη σύνδεση μεταξύ του προβλήματος της φθοράς και των αποφάσεων δικαστηρίων, που προϋποθέτει η επικρατούσα στη βιβλιογραφία ερμηνεία της φθοράς, επανεξεταστεί.
20. Σε σχέση με τα πιο πάνω και ως καταληκτική εισήγηση, σημειώνεται πως στους περισσότερους τομείς επιβολής του νόμου στο εύρος της Ευρωπαϊκής Ένωσης, φαίνεται να υπάρχει χώρος και σκοπιμότητα για περισσότερη ανάδειξη του ζητήματος της φθοράς μέσω εκπαίδευσης, έρευνας, συλλογής δεδομένων, πολιτικών, παρεμβάσεων, πρακτικών και πρωτοκόλλων συνεργασίας.

1. INTRODUCTION

1.1 Background

The present study is a literature review and analysis that aims to contribute to the understanding of attrition in domestic violence cases and through this to increased awareness on related to the issue functions and responses of the criminal justice system, as well as to their corresponding reluctance, engagement, cooperation and withdrawal on behalf of victims. The study aims to the sharing and/or development of effective policies and programmes to settle the issue of attrition and to overcome the challenges involved at the level of the European Union, with a focus primarily on Law Enforcement Agencies. This study, which was commissioned by Cyprus Police, is part of a broader action/project initiated by Cyprus Police within the framework of the Cyprus Presidency of the Council of the European Union (July–December 2012). The Project aims to drafting a European Union Police Manual on Good Practices on Overcoming Domestic Violence Attrition, or to the addition of a chapter to the European Union Handbook of Best Police Practices on Tackling Violence Against Women, which was adopted and issued in April 2010 by the Council of the European Union⁶, following an initiative of the Spanish Presidency of the Council of the EU. Further to a literature review (desk study), contributions on the subject from Law Enforcement Agencies of EU Member States were collected⁷ and an Expert Conference is scheduled in Limassol-Cyprus in July 2012 to discuss the issue. The former actions, which take place at the EU level, are facilitated by the Law Enforcement Working Party and the General Secretariat of the Council of the European Union. The Conference is organized by the European Police College (CEPOL). The title of the Conference, “Overcoming Attrition in Domestic Violence through Policing”, is the theme of CEPOL’s Presidency Conference 2012. In this sense, this study serves as the background and guiding paper for the Conference and for drafting the above mentioned Police Manual. The overall focus of the Project is on the interests, welfare and protection of vulnerable victims of domestic violence, and thus falls within Chapter 2 of the Stockholm Programme (Promoting Citizens’ Rights) and more specifically on points 2.3.3 and 2.3.4 of the Program⁸.

For the purposes of this report, an initial study/literature review was prepared in winter 2011 for Cyprus Police by Mrs. Susana E. Pavlou and Mrs. Anna Zobnina of the

⁶ DG H 3A, 7488/2/10 REV 2 or 7488/2/10 REV 2 ENFOPOL 60

⁷ General Secretariat of the Council of the European Union, CM 5492/11.

⁸ The Stockholm Programme — An Open And Secure Europe Serving And Protecting Citizens.

Mediterranean Institute of Gender Studies. The initial study was later reviewed, revised, enriched with additional research and edited by Veis Costas M. of Cyprus Police Headquarters.

1.2 Domestic Violence: definition and scope

There is no internationally agreed definition of domestic violence that addresses the issue in its entirety. To a great extent, this is linked to the lack of a commonly accepted legal, social, or other term to describe the phenomenon. Terms like domestic or family or intimate partner violence may be similar, but do not necessarily refer to the same condition. This variance tends to be even greater when one looks into the definitions of the components of these terms. It is possible, for example, for the same term “family violence” to be adopted in different legal or social contexts, but the way “family” or “violence” are further defined may be quite varied. Three main and most relevant definitions of Domestic Violence at the international level are those included in three most important policy documents, namely in the United Nations Declaration on the Elimination of Violence Against Women⁹, in the Council of Europe Recommendation Rec(2002)5 on the Protection of Women Against Violence¹⁰, and in the Beijing Declaration and Platform for Action.¹¹ All three policy documents agree that domestic violence is violence occurring in the family or domestic unit, including, *inter alia*, physical aggression/battering, mental, emotional and psychological aggression/abuse, rape and sexual abuse, rape between spouses, regular or occasional partners and cohabitants, traditional practices harmful to women, such as crimes committed in the name of honour, female genital mutilation, forced marriages, and dowry-related violence.¹²

Although domestic violence affects both women and men and is increasingly being viewed as such, based on available data and existing literature, it affects women disproportionately. Domestic violence is an epidemic of global proportions that has devastating physical, emotional, financial and social effects on victims, primarily women and children and their families and on communities at large around the world.

⁹ United Nations Declaration on the Elimination of Violence against Women

¹⁰ Council of Europe (2002), Recommendation Rec(2002)5

¹¹ United Nations Division for the Advancement of Women, Beijing Declaration and Platform for Action

¹² Crepaldi C., Lodovici M. S., and Corsi M., *Violence against women and the role of gender equality, social inclusion and health strategies*

1.3 Domestic Violence and Attrition

Demands for the criminalisation of domestic violence found fertile ground over the past three decades, in the context of wider struggles for gender equality and women's rights and the rights of victims of crimes. Despite all developments in criminalizing and penalizing domestic violence, the criminal justice system's response to domestic violence has been, and continues to be, the subject of extensive and persisting criticism primarily but not exclusively by researchers and victim advocates that observed a persistent "justice gap" in processing and prosecuting domestic violence cases, in protecting victims from further harm and thus in holding perpetrators accountable.

Attrition is the term used to describe the phenomenon where cases fail to make it through the criminal justice system and do not result in a criminal conviction^{13&14}. Attrition can take place at many junctures in a criminal justice process. Many incidents of violence may never be reported to the police. Although, given the definition above, this is not strictly a stage of attrition, reporting to the police is a critical indicator of a victim's willingness to engage with the criminal justice system. As it will be discussed below, domestic violence is largely underreported, with registered rates persistently low when compared with prevalence studies on domestic violence. Thus, although quite paradoxically for traditional law enforcement practices, an increase in reporting rates is and correctly so should be seen as a performance indicator for successful domestic violence interventions. Notwithstanding reporting, attrition normally takes place at any point between the reporting of an incident to the competent law enforcement authority and the final outcome or adjudication of a case. Depending on the jurisdiction, incidents reported to the authorities may not become the subject of official criminal investigations or proceedings. Even if they become so, they may be dropped somewhere in the process, at the point of filing charges, during the criminal investigation, or just before or during legal proceedings.

Attrition is usually a result of acts, omissions, or decisions of the police, the prosecution, the courts, the victims/complainants themselves, or most likely of combined synergies between these actors. Police officers and prosecutors often perceive decisions made by victims as the main point of attrition. Hester et al cited claims for attributing attrition to women dropping out of the criminal justice system "usually for relationship or other family reasons"¹⁵. "However, the willingness and thoroughness with which the police are prepared to pursue a case, including the level of evidence collected, may also be crucial, as may the basis of

¹³ Kelly, L. & Lovett, J. (2009)

¹⁴ Hester M., (2005).

¹⁵ Hester, M., Hamner, J., Coulson, S., Morahan, M. and Razak, A. (2003).

decisions by prosecutors and the approach of particular courts".¹⁶ The extent to which attrition is a result on the one hand of individual choice and victim-related factors, or/and on the other hand of the criminal justice response and system-related factors, is of primary concern to this study. In other words, is attrition the outcome of personal or of systemic factors? Or is it the product of pathogenic synergies between the two?

Irrespective of the dynamics of attrition, of any and all of its causes and effects, it is more than evident that attrition is not only a challenge to a criminal justice system, but it is also a major pathology with several serious consequences to the system at large, to its professionals and to its clients. Suffice it to say that for the portion of cases or incidents that are handled by the system and fall into the pool of attrition, by definition the criminal justice system is being proven unable or incompetent to handle and respond. Consequently, reported or prosecuted crimes and their alleged offenders and victims may not be handled and dealt with by the criminal justice system.

It seems that "attrition" as a term and concept was introduced in the context of criminal justice in recent years, after 2000. This is attributed to a successful attempt to conceptualize and codify the phenomenon/condition described by the definition of the term and to provide a new working and research definition, in order to facilitate its study, approach and settlement. The term has been applied to gender related crime, primarily to rape and intimate partner violence. It is argued here that this academic and professional rather "neo-linguistic" development has been well received, that it has already been proven quite useful in many respects and that it is likely that it will further contribute to the understanding and settlement of gender related violence.

One of the major advantages and contributions of attrition as a term is that it "neutralizes" the approach to the issue. Other alternative terms used to describe attrition, such as victim reluctance, retraction, withdrawal, disengagement and non-cooperation, tend to focus all attention on the victim and thus indirectly place any responsibility for the situation to the victim, as though the victim is the only actor and protagonist participating in play which takes place in a vacuum. By approaching the same phenomenon, but through a broader and more objective concept such as "attrition", a more contextual and systemic approach is facilitated, in which the victim is still one, but not the only actor, together with many others discussed in this report.

¹⁶ Hester M. and Westmarland N., Tackling Domestic Violence: effective interventions and approaches.

Interestingly enough, from a neuro-linguistic perspective, when one explores and contrasts the concept of attrition/attrition rate as in the context of this report with the standard dictionary meaning of attrition, several different but related meanings seem to be applicable¹⁷. One is a rather business meaning, namely the degree of losses of personnel or material due to various causes (e.g. due to retirement, resignation or death or due to customers moving away respectively). Another is a rather military meaning, namely the act of weakening or exhausting the enemy by constant loss of strength or of resistance (e.g. war of attrition). A third meaning, which is rather applicable in physics, is the wearing away by rubbing or friction. With the exception of the implied deliberate effort in the latter two meanings, all the above dictionary meanings metaphorically reflect on the systemic functionality of the concept of “attrition”.

However, a concern should be raised as to the prevailing definition of attrition, and more specifically to the unconditional reference to cases that “fail to result in a criminal conviction”. Admittedly, there are domestic violence cases which are filed in court and result in acquittal of the accused due to acts or omissions of the victim as a witness before the court, which can be considered as part of the problem or at least as of major concern to the investigating, prosecuting and adjudicating authorities. For example, a victim–witness may testify under oath as though he/she is a witness for the defence rather than the prosecution (e.g. declare that is not willing to testify on the events and/or that the relationship is still valid and no longer violent), or the victim–witness may deliberately testify in such way as to nullify and discredit his/her original statement. These should be considered as challenges for the authorities and are for the most part factors that impede the administration of justice. However, there are domestic violence cases where, much like any other criminal case, persons accused are acquitted simply because they are not guilty of the charges, or because the evidence is not sufficient to support the charges. Likewise, suspects may not be prosecuted, or prosecutions in progress may be dropped on the merits of the available evidence.

Given that the historically increasing attempts to combat domestic violence are to a great extent attributed to women’s and to the broader human rights activism and advocacy, it seems quite oxymoron to approach the further settlement of domestic violence through conceptualizing the related “attrition” term as though all suspects should be prosecuted, or that all accused should be convicted by criminal courts, and if not so this should be indicative of a problematic situation. After all, on the basis of the prevalent burden of proof,

¹⁷ E.g. The New Lexicon

all suspects/accused are considered in the context of European criminal justice systems as innocent until proven otherwise.

Furthermore, any interventions targeting attrition as measured on the basis of its prevalent above definition, which includes the number of cases not leading to conviction, are at least partly doomed to be proven futile, simply because they are targeting an impossible to attain goal, namely to convict all those accused for domestic violence offences. Likewise, an additional part of attrition is quite difficult or even impossible to tackle, as "The withdrawal of DV [domestic violence] cases can be a conscious, deliberate and uninfluenced choice of the victim"¹⁸, who may have priorities such as safety and end of violence, which may not necessarily be served by the administration of justice or may simply be in conflict with priorities of the criminal justice system.

Indeed, the traditional approaches to attrition, especially from the point of view of the criminal justice system, tended to be one sided and as such to a great extent victim blaming. However, it does not hold that the settlement of the issue can be better served by eradicating the previous approach in taking the opposite extreme position, that attrition is exclusively linked to functions of the criminal justice or victim support systems. As it will be further elaborated in this report, there's an interface and an overlap between the two extremes, and the approach taken should account for and be responsive to this interaction.

It is suggested here that there is a need to discuss and review the definition of attrition in relation to its link to conviction or not, and probably to either dissociate the term from the final court verdict or to qualify the link so as to distinguish between on the one hand the so called "pure" court verdicts (acquittals) which are based on the merits of the case and the evidence brought before justice, and on the other hand the acquittals which are attributed to victim or systemic dynamics as described above. Such discussion could follow references to differentiation between negative and positive attrition with regards to benefiting the victim, as has been suggested by Hester¹⁹. An alternative definition, which has been recently introduced by the Irish Justice Committee²⁰ and seems to be more responsive to previously discussed concerns as to the prevalent definition of attrition, is the following:

"Attrition, in cases of domestic and sexual violence, relates to the lack of progress on to completion of criminal cases, and more specifically, to the stages at which

¹⁸ Irish Justice Committee, February 2011.

¹⁹ Hester M. (2005)

²⁰ Irish Justice Committee, February 2011

cases drop out from the criminal justice system, that is, from the initial report stage to the final stage of court proceedings.”

Irrespective of the issue in relation to the definition of attrition, as stated earlier, the introduction of the concept is being well received and it is attempted here to further introduce it in the field of European Union law enforcement. Such need seems to be very important, especially when considering the fact that at present, attrition tends not to be covered in any of the police related policy or training documents at the European level. For example, in none of the six documents (Description I & II, Study Guide I & II, Trainer’s Manual I & II) of the entire package of the Common Curriculum of CEPOL (European Police College) on Domestic Violence²¹ is there a single reference to attrition. The same lack of reference to attrition applies to a compilation paper of the European Union Crime Prevention Network²² (EUCPN) on domestic violence. None of the 24 projects presented during the 6th EUCPN Best Practices Conference on Domestic Violence²³ makes reference to attrition. Neither the European Union Handbook of Best Police Practices on Tackling Violence against Women, which was adopted and issued in April 2010 by the Council of the European Union²⁴, nor its Appendix²⁵ (Member States’ contributions on Best police practices on violence against women) refer to attrition in any way. The same lack of references applies to UNICEF’s Innocenti Digest 6²⁶ on Domestic Violence against Women and Girls. A compilation of good practices, published by OSCE²⁷ includes three references to attrition, but only with regards to rape.

An indication of the acknowledgment of the issue of “attrition” in policing in the EU is given by the fact that when the invitation package for the conference on the subject of this study was circulated to police contact points in the EU member, associated and candidate countries, the editor of this report, who had been named in the package as the chair of the conference, received a number of requests from recipients to either define attrition or to comment on their understanding of the concept. Further to replying as requested, it was decided to circulate an explanation on the term to all initial recipients of invitations. Indeed, one of the major “upsets” in the progression of this report has been the revision of its very title! Whereas it initially began with the title “Overcoming Victim Reluctance in Domestic

²¹ CEPOL-European Police College, Common Curricula – Domestic Violence

²² Machado Paulo and Penedo Rita

²³ Best Practices Conference on Domestic Violence. a) Entries to European Crime Prevention Award and b) Additional Projects Presented, European Union Crime Prevention Network, 2007

²⁴ DG H 3A, 7488/2/10 REV 2, ENFOPOL 60

²⁵ DG H 3A, 9309/10, ENFOPOL 119

²⁶ Domestic Violence against Women and Girls, UNICEF: Innocenti Digest 6

²⁷ Bringing Security Home: Combating Violence Against Women in the OSCE Region - A Compilation of Good Practices

Violence”, with a necessary explanatory qualification of the term “reluctance”, upon review of the literature, at the editing stage it was decided to rename its title by replacing the reference made to “victim reluctance” with reference to case attrition.

1.4 Methodology

In regard to terminology, “family violence” and “domestic violence” have been used interchangeably in the literature, while some authors use “domestic violence” to refer specifically to partner violence. Other authors prefer the term “intimate partner violence” (IPV) to differentiate between violence between partners or ex-partners and violence between people with other domestic/family relationships or to include in the definition non formalized and thus legally non recognized relationships (e.g. boyfriend/girlfriend).

Due to the nature of the topic of this study, a rather limited working definition of “domestic violence” is adopted. For the purpose of this report, domestic violence is defined as violence between ex or current spouses and cohabiting couples. Discussions in this report may be partly relevant to abuse between other household and family members, such as minor or elder, or to intimate partners in the broader context. However, the focus of this report is on domestic abuse between current or previous spouses and cohabiting partners. This report predominantly uses the term “domestic violence” as defined above, except where quotations by other authors are used.

Specifically in relation to attrition, domestic violence should be further qualified as any act or omission on the basis of the previously provided policy document definitions between current or previous intimate partners, which is perceived by the receiving party as violating the Law, and as such leads the partner-victim to report it to the competent Law Enforcement Authority. The approach is thus twofold: it is legal in the sense that it has to be reported to the Police so as to trigger the criminal justice system’s response, and social in the sense that it is largely for the parties involved to appeal to the police on the basis of their realities, limitations and perceptions over the situation and the response system. It is a rather practical approach to defining domestic violence so that it fits with the realities and definition of attrition, which as explained above, starts with reporting to the Authorities.

The present study is based on an extensive review of existing literature on domestic violence and criminal justice responses, with a primary focus on elements related to attrition. Given the complexity of the issue, domestic violence continues to be of interest to a variety of academic disciplines including the medical discipline, health, psychology, law and civil/family or criminal justice, and sociology, among others. Sources used include academic and

scholarly articles, government and government agency reports, reports commissioned by international organisations such as the World Health Organisation, the Council of Europe and the United Nations, criminal statistics, the European Commission Daphne Programme Toolkit, the European Union Crime Prevention Network, and CEPOL (European Police College) among others.

This study is European in scope and it targeted coverage of the European Union context as much as possible. However, due to a language barrier, the review was limited primarily only to sources of information available in English. Attempts were made to overcome this limitation through the use of data published in English by international sources, but the inability to access and review primary sources due to language barriers was a major limitation in the research methodology. In terms of police related practices, this challenge was to an extent settled through input received by police agencies of the EU Member States, as explained elsewhere in this report.

With regards to writing style, the use of short citations in page footnotes, with full references at the end has been preferred, in order to allow for easier report reading. Wherever possible, the reader is referred to documents publicly available on internet sites.

1.5 Criminal Justice Responses to Attrition

A number of approaches have been pursued by criminal justice systems all over the world to improve the criminal justice response to domestic violence, and in particular to address and intervene in the area of investigation, prosecution and conviction and secure high rates. A central focus of such approaches has been to keep victims engaged in the criminal justice process for as long as possible and secure or maximize their engagement and cooperation. Such approaches will be described and analysed in this report and consequently a selection of good practices and programmes to overcome victim and/or system related processes and to reduce attrition will be presented. Finally, a number of recommendations will be made based on the analysis of the data and the literature reviewed.

2. EXTENT, SCOPE, AND MANIFESTATIONS OF ATTRITION IN DOMESTIC VIOLENCE

2.1 Who is the Victim?

When exploring the causes of attrition and identifying positive practices in addressing them, it is vital to have an objective and comprehensive image of the victim. The departing issue in the discussion is addressing the fact that violence in family, intimate partner violence and domestic abuse are violations of human rights and integrity that affect foremost and at a large scale females. The research carried out at state, regional and international levels for the period of over thirty years, clearly suggests that domestic violence disproportionately affects women and is a form of gender-based violence.

According to the World Health Organization, in 48 population-based surveys from around the world, 10-69% of women reported being physically assaulted by an intimate male partner at some point in their lives. In large national studies, the range is between 10-34%.²⁸ According to Walby and Allen, 45% women and 26% men had experienced at least one incident of inter-personal violence in their lifetimes, but when there were more than 4 incidents (i.e. ongoing domestic or sexual abuse) 89% of victims were women.²⁹

In Europe, the European Women's Lobby estimated that between 20 and 25% of women have been subjected to physical violence by a partner, that is approximately one in five. Some 12-15% of women are estimated to have been in a violent relationship after the age of 16.³⁰ The UK's Women and Equality Unit considers that domestic violence against women has the highest rate of repeat victimization of any crime, with 35% of households having a second incident within five weeks of the first. One incident of domestic violence is reported to the police every minute in the UK and on average two women a week are killed by a male partner or former partner.³¹ The latest Eurobarometer survey by the European Commission on domestic violence against women (September 2010) showed that across the EU27, 25% of respondents say that they know a woman within their circle of friends and family who has been a victim of domestic violence.³²

²⁸World Health Organization Fact-sheet on Intimate Partner Violence

²⁹Walby S. and Allen J., *Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey*

³⁰European Women's Lobby, *Unveiling the hidden data on domestic violence in the EU*

³¹Daphne Booklets: *Issues and experiences in combating violence against children, young people and women*

³²Special Eurobarometer 73.2 (344)

Despite the overwhelming evidence that domestic violence predominately (although not exclusively) affects women, the relevant to the issue legal frameworks in most EU countries tend to approach domestic violence from a gender neutral perspective, thus they tend not to focus on or to adapt to the specificities of the numerically and otherwise vulnerable in the case gender, or to differentiate among the genders on the same principle. This legal and consequently procedural ‘gender-blind’ image of the victim, according to some researchers, has serious implications on further prevention, implementation and research. Although all across the available research, there is a repeated reference to the fact that victims of domestic violence are women in their majority, nowhere in the framing definitions it is made clear that the measures needed to address the problem need to be gender-specific.³³

Additionally, as domestic violence occurs across all social strata (including well-off and poorer households, highly educated and less educated families, migrant and non migrant communities)³⁴, it is important to recognize that the victims of domestic violence are in many respects a quite more diverse group, compared to their gender composition. It follows from this diversity that their needs as victims, are also diverse and group-specific. Thus, the reasons for attrition and especially for its aspects which tend to be conceptualized as victim related (e.g. reluctance, non-cooperation, retraction, etc.) may vary considerably depending on the personal circumstances of victims. In developing strategies for overcoming attrition in cases of domestic violence, it is therefore crucial to distinguish between various groups of victims, having of course in mind on the one hand that the overwhelming majority are women and on the other hand that victim attitudes are not independent of systemic approaches and responses. Such an intersectional approach to problem-solutions in the context of attrition has been proven to be helpful in understanding and addressing specific causes of attrition and of victim engagement. As opposed to looking for ‘one-size-fits-all’ causes and finding ‘one-size-fits-all’ solutions, the ‘intersectional’ approach to domestic violence attrition, offers firstly an objective analysis of victims’ profiles, and as a consequence, focuses on finding differentiated solutions.

The literature reviewed for the purposes of this report, overwhelmingly focused on women, or did not differentiate between the genders in their analysis. However, it is important to point out here that based on the analysis below on good practice interventions to overcome attrition in domestic violence, the most effective and promising practices tend to be based on gender-sensitive, case-sensitive and inter-agency holistic approaches.

³³ Artz, L. and Jefthas, D. (2011).

³⁴ Crepaldi, C., Lodovici, M. S., and Corsi, M., *Violence against women and the role of gender equality, social inclusion and health strategies*

2.2 Attrition or/and victim reluctance: From subjective to objective framing

The issue of focusing on attrition either in relation or as an alternative to victim attitudes, processes and decisions with regards to the progression of domestic violence cases has been briefly discussed earlier. When addressing the issues of victim reluctance, retraction or cooperation and attrition in domestic violence it is not only worth but also quite important contextualizing them, instead of approaching them as though they exist in a vacuum. Much attention has been drawn to the reluctance of domestic violence victims to report to and engage and cooperate with the criminal justice system, and one or the other way victims have traditionally been held responsible for these. However, it is worth considering that problems of engagement and cooperation with the criminal justice system cut across most crime contexts and that in relation to this, there seems to be a much wider generalized victim reluctance on a larger scale and irrespective of the specific crime category. Each specific crime category tends to be instrumental in the level which this challenge reaches, with the area of domestic violence being quite vulnerable to this effect, but the issue is more or less prevalent across all crime categories. This, in and of itself, constitutes a major challenge for criminal justice systems and their respective professionals.

According to Jansson³⁵, on the basis of a series of British Crime Surveys conducted by the UK Home Office, among the emerging trends in 1990's deserving serious attention in terms of its scope, was the confidence in the criminal justice system. The research, summarizing the trend over the period of 25 years, has shown that only about 50% or less of the respondents were rating the police, the prisons, the Crown Prosecution Service, the probation services and judges as performing good to excellent job. Notably, the least trusted agency within the whole of criminal justice system were the "Judges" (excluding Magistrates and Youth Courts). Their effectiveness was rated between 20% and 30%, which may be interpreted as a general public scepticism toward the Judiciary. Another UK Home Office report³⁶ on crime, highlights that on the basis of British Crime Survey findings, 58% of all comparable crimes in 2003-2004 were not reported to the police. Another 11% of crimes were reported but not recorded, and only 31% were both reported and recorded. Among common assault and wounding (that would include cases of domestic violence as well, but not exclusively) only 30% and 48% respectively were reported to the police.

It should not come as a revelation then, given the general lack of trust in the criminal justice

³⁵ Jansson, K., 2007

³⁶ Dodd, T., Nicholas, S., Povey, D., Walker, A., Crime in England and Wales 2003/2004.

system, that victims of domestic violence should experience at least the same doubts as to whether their reporting or cooperation will have positive effects on their lives. Considering the fact that DV as an offence, stands apart from other crimes due to its complexity (i.e. crime committed in private households, long-term relationship between abuser and victim) and very specific characteristics, such as repeated on-going abuse (discussed later), it is naturally expected that victims may be even less inclined to cooperate and may also face additional obstacles in overcoming their reluctance to engage or to remain engaged with the criminal justice system.

It is also important to note here, that the tendency to view victims as key to attrition in domestic violence and to scrutinise their reluctance, while ignoring the more generalized lack of public confidence in the help provided by the criminal justice system, might underscore the cumulative interaction and cooperation of victims of DV with the criminal justice system. Thus, in her paper “Making it through the Criminal Justice System: Attrition and Domestic Violence”, Marianne Hester argues that the criminal justice system usually views

“the women experiencing domestic violence who decided, usually for relationship or other family reasons, to drop out of their engagement with the criminal justice system. However, staff from a range of agencies and the victimized women interviewed also indicated that criminal justice agencies did not always pursue cases to the extent possible and/or did not provide victims with the support they needed to proceed. In this sense it was not those victimized who were necessarily responsible for attrition, *even if they took the decision to drop out*”.³⁷

In this sense, the present research that addresses the role of the criminal justice system in handling domestic violence and its relation to victim cooperation is of special importance and can make a valuable contribution to the body of research traditionally looking into causes of attrition and victim reluctance using a victim and gender sensitive perspective.

As other forms of violence against women, domestic violence is known to be largely underreported. Only a fraction of domestic crimes are reported to the police and many of those reported never make it through the justice system to the stage of prosecution. The available data on domestic violence, including the cases that fall out at the pre-litigation or litigation stages, is therefore mainly indicative and generally given as a broad range rather than as a single figure. With regards to academic research on the causes of attrition and reluctance, it has been observed that only a few studies have specifically examined the issue

³⁷ Hester, M. (2005).

of victim retraction from cases or their follow-through with the criminal justice process.³⁸ Although contemporary research specifically focusing on domestic violence attrition is beginning to emerge³⁹, the complexity of domestic violence itself makes this area of research difficult to undertake. However, more generalized research on women's experiences with criminal justice processes does point to possible factors that may contribute to such problematic phenomena as victim reluctance, retraction and attrition.⁴⁰

2.3 Scope and Extent of the Problem: Available Data

Domestic Violence Reporting Rates in Europe

According to a stocktaking study of the Council of Europe, not all Member States collect national data on the number of cases of violence occurring in the family or domestic unit that come to the attention of the police and track neither referral nor judicial outcomes in a systematic process. Crucially for the purpose of this study, the Stocktaking study notes that “no member state has national data on the number of cases of domestic violence that come to the attention of the police, and no systematic process to track either referrals or judicial outcomes. Thus, there is no baseline from which the effectiveness of the legal reforms penalising violence against women can be measured”.⁴¹ Since the timeframe of this report, things have improved and although there is quite a lot of room for improvements, especially in the field of data related to attrition, there are examples of more systematic, comprehensive and holistic data collection systems.

Further to the issue of systematic data collection, there is an issue with the comparability of such data across different jurisdictions. The number, types, and episodes of domestic violence recorded within European countries depend on the national definition, the form of data collection (methodology), and the nationally defined indicators.⁴² Many domestic violence laws include a wide range of relationships so that it is not possible to distinguish partner abuse from child abuse in the data. In some of the definitions, domestic violence is restricted to violence taking place inside the family home, while in others the relationship between the perpetrator and the victim is the determinant variable. Other countries adopt a much broader definition, to include for example stalking and threatening behaviour. Consequently, the available national data which is related to criminal justice systems may

³⁸ Artz, L. and Jefthas, D. (2011).

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Hagemann-White, C. (2006). p. 37

⁴² Crepaldi, C., Lodovici, M. S., and Corsi, M., *Violence against women and the role of gender equality, social inclusion and health strategies*, p.49

not be easily and securely compared across countries or jurisdictions, or it may be so but only with great caution.

While population-based surveys are considered the most reliable method for obtaining information on the extent of domestic violence in the general population, data obtained from administrative and criminal data sources collected by the police shows how the police, judiciary and social welfare systems are serving victims of violence and is therefore essential in monitoring the enforcement of laws, the effectiveness of policies and the achievement of goals set out in national plans of action.

Whether or not a victim reports a domestic violence incident to the police, is a crucial indicator of engagement with the criminal justice system. However, it is increasingly recognized that only a minority of incidents of domestic violence are reported to the police.⁴³ Traditionally, a decrease in a number of reported and recorded offences is being used as a general crime reduction performance indicator of success. However, in fields of crime, such as domestic violence, which are very susceptible to underreporting, this approach tends not to be applicable. As mentioned earlier, although paradoxical, given the significant level of non reported and thus non registered level of violence, it is rather proper and functional to consider an increase in reported and recorded incidents as indicative of successful interventions by stakeholders involved in combating domestic violence, the police and the criminal justice system included.

Despite previously mentioned limitations in data collection, it is possible to conclude from the data available that there is a discrepancy between domestic violence incidents reported and recorded by the police and other state services, and prevalence rates as recorded by population based surveys. For example, in the UK only a minority, varying between 23% and 35%, of incidents of domestic violence are reported to the police.⁴⁴ According to the British Crime Survey for 2006-2007, 0.5% of people (0.6% of women and 0.3% of men) reported being victims of domestic violence during that year and 44.3% of domestic violence was reported to the police.⁴⁵ The Northern Ireland Crime Survey for 2005 reported that 13% of people (16% of women and 10% of men) had been victims of domestic violence at some point in their lives.⁴⁶ In Ireland, according to the National Study of Domestic Abuse for 2005, 1 woman in 11 has experienced severe physical abuse in a relationship, 1 in 12 has experienced sexual abuse and 1 in 13 has experienced severe emotional abuse. One man in

⁴³ Walby, S. and Allen, J. Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey,

⁴⁴ Ibid.

⁴⁵ Nicholas, S., Kershaw, C., Walker, A. Crime in England and Wales 2006-2007

⁴⁶ Carmichael, M., Experiences of Domestic Violence: Findings from the 2005 Northern Ireland Crime Survey,

25 has experienced severe physical abuse, 1 in 90 has experienced sexual abuse in a relationship and 1 in 37 has experienced severe emotional abuse. According to the same study, only a minority (one in five) had reported the behaviour to the Gardaí (Police). Interestingly, men were less likely than women to report to Authorities, with 5% of those severely abused compared to 29% of women.⁴⁷

In Denmark, survey data and police records on domestic abuse by a current or former partner also differ markedly. National self administered surveys show that 40% of all cases of violence are committed by former or current male partners. In cases reported to the police, only 20% are defined as partner-related abuse.⁴⁸ In the Netherlands, the police are notified in only about 10% of domestic violence cases. Out of 63,841 notifications made to the police in 2008, only 23,671 cases (37%) resulted in police reports.⁴⁹

In Italy, according to the ad hoc ISTAT survey⁵⁰ on violence against women (2006), 14.3% of women (16 to 70 year old) in a current or previous relationship, had been victims of at least one episode of physical or sexual violence perpetrated by their partner. In almost all such cases, the violence is not reported to the police. The hidden share of violence is very large, amounting to 96% of acts of violence by non-partners and 93% by partners. The share of women not talking with anyone about the violence suffered by a partner is 33.9%.

In Sweden, according to the Swedish National Council for Crime Prevention⁵¹, reported assaults against women have been on the increase for a long time. This is attributed to changes in legislation and to increased proneness of victims to report to the Police. In 2010 there were 27200 cases of abuse of adult women, with 85% of abusers being men. However, the percentage of the reports that led to a suspect being tied to a crime was 20%.

Despite the obvious discrepancy in prevalence and reporting rates of domestic violence, the available statistics provide evidence on a general increasing trend in reporting rates across Europe as well as in the US, Canada and Australia. The number of victims of domestic violence follows an increasing tendency over the past years. To an extent, this is partly related to the fact that through campaigning by State and inter-State Authorities, by the women's and victims' movement and by other stakeholders, there is increased awareness

⁴⁷ Waston, D. and Parsons, S. *Domestic Abuse of Women and Men in Ireland: Report on the National Study of Domestic Abuse*

⁴⁸ Crepaldi, C., Lodovici, M. S., and Corsi, M., *Violence against women and the role of gender equality, social inclusion and health strategies*, p.57

⁴⁹ In the Netherlands, as in other jurisdictions such as Cyprus, a distinction is made between an official report made to the police, which is signed by the victim or the witness and a notification given to the police.

⁵⁰ Italian National Institute of Statistics - ISTAT, (2006).

⁵¹ Swedish National Council for Crime Prevention (2011)

on and visibility of domestic violence. Further to this, the continuing criminalization approach still increases the defining or re-defining of domestic violence as a crime and thus increases its registered victims.

Following this, and contrary to popular perceptions, such a shift in the reporting rates of domestic violence provides strong evidence of victims' willingness to use available measures and disclose the instances of domestic violence. However, if in the process of trying to understand and settle attrition and its related inefficiencies of the criminal justice system, overwhelming stringent attention keeps being paid to "victims' reluctance", there lures a danger to keep perpetuating a subjective acknowledgment that the victims (primarily women) are intentionally and consciously obstructive to criminal justice procedures. Such approach towards the issue of victim reluctance, according to Hester, "calls for an examination of 'system uncooperativeness' and highlights some of the critical failings of the criminal justice process that directly contribute to victim reluctance."⁵² System-related factors affecting victim reluctance will be further analyzed below.

According to the British Crime Survey, when asked why they did not report the worst incident of domestic violence in the last year, 41% of women and 68% of men replied that they thought that it was too trivial, 38% of women and 39% of men that it was a private family matter, 7% of women and 5% of men that they did not want any more humiliation, and 13% of women, but no discernible percentage of men, that they feared more violence or that the situation would get worse as a result of police involvement.⁵³ The Irish survey shows similar results, with both men and women stating that they felt the incident was not serious enough to report, felt ashamed, embarrassed or blamed themselves, or felt that it was a private matter. The desire to protect their partner, or a desire to maintain the relationship, was also a contributing factor.⁵⁴ Only a small fraction of respondents in the above surveys stated bias towards the police or police incompetence as reasons for not reporting to the Police. These findings are consistent with domestic violence literature that identifies shame and embarrassment, sympathy with or desire to protect the offender, fear of reprisal, and unwillingness to engage in the legal process as factors influencing the decision to report to the police.⁵⁵

⁵² Hester, M. (2005) p. 82

⁵³ Walby, S. and Allen, J., Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey

⁵⁴ Watson, D. and Parsons, S. Domestic Abuse of Women and Men in Ireland: Report on the National Study of Domestic Abuse

⁵⁵ Felson, R. B., Messner, S. F., Hoskin, A. W. and Deane, G. (2002)

For the purposes of this report, it is useful to also look at those factors that tend to promote, facilitate or maximize reporting to the police. Assault victims tend to have at least three reasons for calling the police. The most important reason provided by victims is the need for protection and safety. Protection is likely to be a more important factor and incentive for calling the police in cases of domestic violence, or when the victim and offender have any ongoing relationship, compared with when the offender is a stranger, due to the fact that the immediate family or social circle, to which a victim usually tends to resort prior to calling the police is part of the problem. In relation to protection, fear of reprisal, although often cited as a disincentive to reporting, could also prove to be an incentive particularly important when the offender is a spouse or partner, because there is naturally frequent contact between the parties and consequently protection is compromised. A second reason may be a desire for retribution or justice, and a third a desire to protect one's children from direct or secondary abuse.⁵⁶ The real or perceived seriousness of an assault will also contribute to the decision to report to the police, and as mentioned above, the perceived triviality of incidents is one of the most important reasons for non-reporting.

Gender also plays an important role in the victim's decision whether to report the incident to the police. According to a study by Felson et al. (2002)⁵⁷ women are more likely than men to call the police for three reasons: they are more likely to desire protection, they are less likely to think that their partner's violence is a private matter, and they are less likely to think that the incident was trivial. Only one factor under investigation, fear of reprisal, inhibits women from calling the police, at least when the offender is an intimate partner.

Domestic violence attrition rates in Europe

Further to previous references to the prevalence of domestic violence as measured by population surveys or as indicated by service statistics, to its reporting rates by the complainants and to the corresponding recording levels by the Authorities, a more focused approach is needed here on the progression of incidents or cases in the context of the criminal justice systems, once they have been reported to the competent law enforcement agency and until they are settled, adjudicated or until they cease to be of concern to the system. We are then trying to look into data and rates on the proportion of violations that come to the attention of the police and are prosecuted or not, and on their outcome before the Courts, including of course conviction rates. Further to data on these rates, we are interested in assessments of the reasons, explanations and dynamics behind the rates. A

⁵⁶ Ibid.

⁵⁷ Ibid.

reminder is proper here over the fact that although in most states across Europe all forms of violence against women are now generally considered a criminal offence, this does not necessarily mean that such acts will be prosecuted or punished.⁵⁸

While domestic violence data on prosecution and conviction rates are not widely and consistently available, it is even rarer to see data on the extent to which the fall out rate is a result of victim related and individual factors traditionally viewed as “reluctance”, to the extent that the latter could be exhibited and measured through withdrawal of charges, changes in testimony, unwillingness to press charges, etc. Furthermore, it is not always possible to define or deduce the extent to which failure to prosecute or to convict is a result or also a result of inadequacies of the criminal justice system’s response to domestic violence, that is to define the contribution of systemically related factors. An additional obstacle in answering such questions is the great difficulty in explaining decisions of the criminal justice system which are dependent on the role of actors such as the complainants, in an objective and valid way. For example, prosecution may be suspended while a case is before a Court, on the basis of an appeal filed by the Prosecution. Officially it is an act requested by the Prosecution and accepted by the Court. When one looks into this case from a research perspective and tries to account for it, it is likely that the Prosecution acted upon a substantiated request of the complainant/victim, claiming personal and family reasons. A closer and more qualitative review of the case might indicate that the request of the complainant was related to elements of the criminal justice system, such as delays or alienation in the process, or to insufficient support and care provided to the victim.

For the purposes of this study, official statistics on prosecution and conviction rates were difficult to come by with some exceptions that will be reviewed below. Further to the obstacle of not having access to adequate samples of criminal statistics on the subject, there is the previously briefly discussed concern over the adequacy and comparability of criminal statistics on domestic violence. Crime statistics do not provide adequate information or data on domestic violence according to the European Women’s Lobby (1999), which further explains that,

“The failure to refer to the relationship between perpetrator and victim, in all forms of crime, is a serious deficiency and hides the full extent of crimes committed against the person. Within the definition of domestic violence and other forms of violence... the failure to cross-reference different crimes is a serious hindrance.

⁵⁸ Hagemann-White, C. (2006)

Together with the omission of references to the relationship between the perpetrator and the victim, it contributes to the veiling of domestic violence as an offence against the person - that is, against a woman.”⁵⁹

Furthermore, rates differ widely according to jurisdiction and data is not always adequately broken down into rate of arrest per offence, persecutions per reported offence, convictions per reported offence, convictions per arrest, and convictions per prosecution, etc. in order to give a clearer and more focused picture of the rate of attrition in domestic violence cases.

Where data is available, these figures cannot be presented in a comparative way, due to inherent differences in civil and criminal legal frameworks, differing policies and structures to reduce attrition and increase conviction rates being implemented in a number of countries and jurisdictions, definitions and reference years used, among others. Nevertheless, research has highlighted that a large proportion of cases involving domestic violence incidents “fall out” as they progress through the criminal justice system.⁶⁰

Hester (2005)⁶¹, in an article on attrition in domestic violence, in which among others she summarizes findings from a previous publication⁶², recalls that over a sample of three Northumbria Police Commands for a period of three months, out of all (869) domestic violence incidents recorded by the Police, 26% (222) resulted in arrest, in 7% (60) charges were raised, 4% (31) led to convictions, and that only 4 of the convictions included a custodial sentence. Hester further proceeds to compare these findings to similar results from other jurisdictions. Recent data from the UK Crown Prosecution Service⁶³ indicate a steady decrease in attrition and an opposite increase in the rates of successful prosecutions (leading to convictions) with the quoted annual percentages of 59.7, 65.2, 68.9, 72.2, 72.0 and 71.9 during the period from 2005-06 until 2010-11 respectively.

In a study⁶⁴ undertaken in Ireland in the period 2000 to 2003, 15 to 19 per cent of incidents of domestic violence led to arrests and the average rate of charges was 88%. The national average rate of conviction was 46%. Interestingly, the report showed that regions that showed the highest proportion of arrests, also recorded the lowest proportion of

⁵⁹ European Women’s Lobby, *Unveiling the hidden data on domestic violence in the EU*, p. 17

⁶⁰ *Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs)*, Sections 24-33 Crime and Security Act 2010 Interim Guidance Document for Police Regional Pilot Schemes, June 2011 – June 2012, p. 1, viewed 10 November 2011, <<http://www.homeoffice.gov.uk/publications/crime/DV-protection-orders?view=Binary>>.

⁶¹ Hester, M. (2005)

⁶² Hester, M., Hanmer, J., Coulson, S., Morahan, M. and Razak, A. (2003)

⁶³ Violence against Women and Girls: Crime Report 2010-2011, Crown Prosecution Service, p13.

⁶⁴ Watson, D. and Parsons, S., *Domestic Abuse of Women and Men in Ireland: Report on the National Study of Domestic Abuse*

convictions. Thus, it does not follow that because a higher proportion of arrests are made this will lead to a greater proportion of convictions.

In Cyprus, since 2005 the Police track all registered incidents of domestic violence from initial reporting to final adjudication in Court. A study by Veis⁶⁵ of the progression of all (941) incidents registered by the Police in 2005, revealed that 55% of the incidents do not lead to official criminal investigations and are rather otherwise dealt with (e.g. warning), which compares lower to the corresponding 64% for the same year in the Netherlands⁶⁶. Of all the 425 criminal investigations that were conducted, 92% were filed in Court. Of the 390 cases that were filed in Court, 42% were interrupted, suspended, withdrawn or rejected, which compares lower to a similar finding in the UK⁶⁷. Of the 226 cases which were finally adjudicated by Courts, there were 64% convictions and 36% acquittals. The sentences imposed included fine and/or bindover by 74%, imprisonment (including suspended terms) by 21% and custodian sentence for the remaining 5%. Although Veis (2010) suggested the need to conduct further research to look into the reasons behind the cases that fall out of the criminal justice system, including data from the point of view of the complainants and he hypothesised from the point of view of the system, incidents may not be officially investigated due to the absence of an official and signed complaint and that Court procedures may be discontinued in relation to requests made by the complainants to the Attorney General, or due to complainants informing the Prosecution that they intent not to testify in Court. A similar report⁶⁸ covering the years 2005-2008 (4012 incidents) reveals that the previously mentioned numbers remain more or less the same as quoted for the year 2005 both for the four year period as a whole as well as per year of reference. Although the relationship between sentencing and victim protection is in and of itself a major research question, especially for domestic violence, on the basis of the deterrent compound of sentencing, given the fact that in Cyprus there seems to be an overwhelming preference for monetary fines, notwithstanding the “immediacy” element, one may seriously consider the argument raised that “the sentences imposed cannot be considered adequate to ensure the protection of the victim from immediate danger from the perpetrator”⁶⁹. Concerning the scientifically unexplored so far in Cyprus relationship between domestic violence victims and attrition, as it will be seen further below, among others, fear of reprisal and safety

⁶⁵ Veis, Costas M. (2010)

⁶⁶ Domestic Violence, August 2005 / F&A 5840, Ministerie van Justice, Directie Voorlichting.

⁶⁷ Robinson, Amanda and Cook, Dee (2006).

⁶⁸ Veis, Costas M. (2012)

⁶⁹ REACT to Domestic Violence: *Building a Support System for Victims of Domestic Violence*, p.5.

issues are major contributors to victim decision making and/or acts or omissions in relation to the criminal justice system, particularly with regards to women with children.

In Germany, a study⁷⁰ of preliminary proceedings in two different prosecution authorities found that the majority of domestic violence cases were dismissed. In 96% and 82% of cases no court action was initiated. The prosecuting Agencies argued that according to their statistical services the corresponding numbers were 90% and 70% respectively, but even so the numbers remain quite high. A case dismissed in this way has no legal consequences for the accused. According to this study, there was a significant connection between the decision of the victim to be involved in the criminal proceedings and the outcome of the case. A standard procedure in the public prosecution services had been to refer cases of domestic violence to private prosecution, thus sending a message that prosecution is not a public concern, a practice which together with others were the subject of interventions in the years before the publication of the report.

In the US, prosecutors have indicated that family violence victims were “uncooperative” in nearly 50% of cases.⁷¹ In Australia’s only research in this area, the proportion was far less. In the ACT, 21% of victims surveyed in cases that were prosecuted indicated that they wanted the charges dropped at some point in proceedings.⁷²

A recent review⁷³ of studies on attrition points reveals consistent findings concerning procedures related to protection orders. Studies have shown that less than half of the thousands of women who had initiated the process of protection orders in the United States did not return to court to obtain final orders⁷⁴. Similar results had been reported by Kaci⁷⁵, who found that only 39% of her sample completed the court process to make their orders permanent. In a related line of research, Lazarus-Black⁷⁶ found that 38% of requests are dismissed or withdrawn from courts, largely because women do not return to court to finalize the matter, Holt et al.⁷⁷ found that only 57% of women finalize temporary protection orders that they receive, and Gondolf et al.⁷⁸ found that 76% of women succeeded in obtaining final protection orders and notes that the failures were linked to withdrawal of applications (44%) and to not appearing for the final hearing (37%).

⁷⁰ Working together to combat domestic violence: Cooperation, Intervention, Research: Findings from the evaluation research assessing intervention projects against domestic violence (WiBIG Project)

⁷¹ Rebovich, D. (1996), p4

⁷² Urbis Keys Young (2001)

⁷³ Artz, L. and Jefthas, D. (2011).

⁷⁴ Zoellner, L., Feeny, N., Alvarez, J., Watlington, C., O'Neill, M., Zager, R., & Foa, E. B. (2000).

⁷⁵ Kaci, J.H. (1992).

⁷⁶ Lazarus-Black, M. (2001).

⁷⁷ Holt, V.L., Kernic, M.A., Lumley, T., Wolf, M.E., & Rivara, F.P. (2002).

⁷⁸ Gondolf, E.W., McWilliams, J., Hart, B., & Stuehling, J. (1994).

In reviewing research on attrition in domestic violence, it is important to keep in mind the diverse legal and social contexts in which attrition takes place, which impede comparative analysis. Furthermore, in the studies cited above, a range of methodological approaches and sampling techniques have been employed, further hampering comparative analysis.

3. EUROPEAN LEGAL AND POLICY FRAMEWORKS IN RELATION TO ATTRITION

3.1 European Legal Frameworks

The way domestic violence is defined, approached and targeted through national criminal justice or other legal frameworks is a key area and a starting point in identifying factors related to attrition in domestic violence cases, specifically related to victim engagement with the system and its components. The lack of a comprehensive detailed legal definition of domestic violence, which would fully capture experiences of violence in all its manifestations from a gender sensitive perspective, allows for the possibility for many victims not to go forward with their cases, because their experience may not fit into the rigid “boxes” of legal definitions and structures. Furthermore, the same gender blind and vague constraint, tend to hinder professional objectivity with regards to decision making, as it allows substantial room for discretion, which depending on circumstances might be susceptible to biases, once a case is reported to, received, or handled by the Authorities. There is no internationally agreed definition of domestic violence that addresses the issue in its entirety and most European States do not have specific legislation on domestic violence, but they rather cover it by general provisions of their criminal law.⁷⁹ Reference to earlier internationally agreed definitions relating to violence against women as provided for in the UN Declaration on the Elimination of Violence against Women⁸⁰, the Council of Europe Recommendation Rec(2002)5 on the protection of women against violence⁸¹, and the Beijing Declaration and Platform for Action⁸² are rarely present in national legislations addressing domestic violence with some exceptions. It is too early to assess and judge references made to more recent international instruments such as CAHVIO⁸³. In countries where domestic violence is penalized as such on the basis of specific laws and offences, it tends not to be defined as a form of gender-based violence and thus as related to unequal power relations. Consequently, public policies aiming to combat domestic violence may be channelled to do so from a gender blind perspective, without due consideration of the gendered power relations at stake. It has been argued that not only gender-neutral legislation may be subject

⁷⁹ Hagemann-White, C. (2006), p. 19

⁸⁰ United Nations Resolution 48/104, adopted on 20 December 1993, (Articles 1&2).

⁸¹ Council of Europe, Recommendation Rec(2002)5, (Article 1, – 1a specifically on domestic violence)

⁸² United Nations Division for the Advancement of Women, Beijing Declaration and Platform for Action, (Articles 113-115),

to manipulation by violent offenders, but it may also serve to prioritize the stability of the family over the rights of the victim.⁸⁴ Such gender-blind approaches to policies and measures to combat domestic violence have been criticized for failing to address the root causes of violence, as well as to meet the specific needs of women victims and their children.⁸⁵

Legal definitions on domestic violence or intimate partner violence vary across the states according to three main characteristics:

1. Forms of violence addressed (physical, psychological or sexual), with most definitions addressing physical violence;
2. Range of persons to whom the law applies (current/ex marital/non-marital or cohabiting/non-cohabiting, family member/non family member);
3. Gender-specificity or gender-neutrality.

The Council of Europe Stocktaking Study⁸⁶ provides a detailed overview of the various legal provisions addressing domestic violence in Europe. According to the report, there is a general trend towards ensuring that the crimes within the domestic sphere are no longer ignored within criminal or civil/family legislation, and this trend can be observed in all European countries. As mentioned above, in most European States, domestic violence is covered by general provisions of the criminal code (e.g. UK, Greece, Germany, and Malta) and mainly punished under the section of violence against a person. Where provisions have been added, the intent was to ensure that violence will be considered equally serious within the family as it is outside family. Some member states cover domestic violence with the provisions of Family Law (e.g. “Law on Counteracting Family Violence” in Poland, “Crimes against the Family and Children” in Lithuania, and “Offences against Family Relationships” in Denmark). Other member states have passed specific legislation on violence against a spouse, a cohabiting partner or a “close person” (Slovak Republic). In some countries the law foresees a higher sentence when a crime has been committed against a spouse or a partner (e.g. Luxembourg, France). In Cyprus the “Violence in the Family Law”⁸⁷, which is gender-neutral, was first enacted in 1994⁸⁸ aiming at the protection of the vulnerable members of the family, and states that violence within family is an aggravating factor leading to a more

⁸³ Council of Europe, Convention on preventing and combating violence against women and domestic violence (CETS 210), adopted on 4 July 2011, (Article 3)

⁸⁴ United Nations (2010), Handbook for Legislation on Violence against Women, p. 15

⁸⁵ *REACT to Domestic Violence: Building a Support System for Victims of Domestic Violence*, p. 3.

⁸⁶ Hagemann-White C. (2006)

⁸⁷ The Violence in the Family (Prevention and Protection of Victims) Law 119(I)/2000, available at <http://www.familyviolence.gov.cy/cgi-bin/hweb?-V=legislationgr&_FSECTION=10040&-dlegislationgr.html&-Sr&_VSECTION=0000&_VCATEGORY=0000>

⁸⁸ Law 47(I)/1994, which was later replaced by Law 119(I)/2004.

severe penalty than for other forms of identical violence (offence) punishable under the Criminal Code. Additionally, it states that any domestic violence offence committed between adult family members in the presence of a child is considered violence against that child and it constitutes an additional distinct offence.

Another legislative approach, which is gender-focused, has been to adopt specific legislation on violence against women, thus shifting the focus from the family to the gender in addressing domestic violence. Only very few countries, including Spain and Sweden, have adopted legislation that explicitly provides for protection to women victims of domestic violence and also adopts a holistic inter-agency approach to tackling violence between intimate partners. In Sweden, the law defines the “gross violation of a woman’s integrity” offence as repeated punishable acts directed by a man against a woman with whom he has, or has had a close/intimate relationship. If a man commits a certain criminal act, such as assault, threat or coercion, as part of a series or a course of conduct, he can be sentenced for “gross violation” rather than for a single offense. In Spain, the Organic Law passed in 2004 (Integral Protection Measures against Gender Violence) as an amendment to Criminal Law, can be considered as the widest in scope legal framework on violence against women and domestic violence in Europe. It highlights the typical aspects of domestic violence, regulates dangerous aspects of carrying weapons in the domestic sphere and deals with the treatment of perpetrators.

The legal framework adopted by each state to regulate domestic violence tends to have a direct impact on how the issue is addressed and handled in terms of prevention, protection, and most importantly for the purposes of this report on criminal justice system functioning (policing, prosecution, adjudication). The criminal justice system can only function to deter and punish domestic violence if all cases are recorded and investigated and a significant proportion of cases are actually prosecuted.⁸⁹ Inevitably therefore, although not exclusively and independently of other factors and actors, the legal framing of domestic violence will also impact upon the level at which victims engage with and cooperate with the system and on the rate of attrition.

3.2 How do legal systems affect attrition?

Although most aspects of a criminal justice system are distinct from civil law administered in the same jurisdiction, domestic violence is unique in that the response crafted by advocates and legal professionals to this area of the law includes a combination of civil and criminal remedies. The addition of civil remedies has been important, in part to emphasize the public

⁸⁹ Hagemann-White, C. (2006). p. 21

nature of these crimes, and to address the relative ineffectiveness of the traditional criminal justice system in ensuring the protection of women and children.⁹⁰ The lack of protection remedies (criminal or civil), may also be linked to victims not choosing to support prosecution, as the period between a violent incident and charging a perpetrator can be the most dangerous for a victim.⁹¹ It is, however, not always easy to establish a cause and effect link between protective orders and dangerousness or risk, due to the fact that the mere issuance of an order by the competent authority (police, prosecution or court) may inherently include severity and previous offences as prerequisite criteria, as is for example the case in Cyprus.

Civil remedies range from measures to provide physical distance between the victim and the perpetrator to measures requiring the perpetrator to desist from actions that cause fear and distress. These include police eviction and barring orders enabling the police to ban the perpetrator from the home and its immediate surroundings and bar him/her from re-entering it, regardless of ownership of the residency. In some countries, the victim has no control or say over the imposition of an eviction or barring order (for example in Austria), at least at the initial stage, in order to prevent the victim from being pressured or influenced by the perpetrator and to remove the burden of such decision making from the victim to the authorities competent and powered to provide for protection and safety. There is, however, a remaining and unsettled issue in such cases in that the authorities are called upon to enforce an order against the will of its beneficiary, which may be to an extent problematic. For example, it may be quite difficult to monitor the enforcement of such order, given that the expelled offender is received by the victim at the home, something that among other things nullifies and to an extent ridicules the effect of Law. Other measures include protection orders issued by the courts such as non-molestation orders that prohibit a person from making contact with the victim and/or any relevant child, and occupation orders that regulate the parties' occupancy of their common home. Civil protective orders are an important additional legal remedy available to victims of domestic violence. Research indicates that women typically seek orders of protection after serious levels of victimization and after a repeated abuse over a significant length of time⁹², which as previously stated, may also constitute grounds for decision to apply such order. Furthermore, there is also substantial evidence to suggest that there is also significant attrition and victim retraction in

⁹⁰ Jordan, Carol E., (2004). p. 12

⁹¹ Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violencep. 63

⁹² Jordan, Carol E. (2004). p. 12

the completion of civil protection orders with women not completing the process or not meeting the statutory eligibility requirements, making them difficult to obtain. There are other difficulties such as the cost of gaining a protective order in the absence of legal aid (in the UK for example it could cost up to 2,000 euro), the level of evidence required, and the period of time within which emergency orders have to be issued, among others. As a result, research suggests that in many countries many women seeking protection orders fail to receive them. For example, an evaluation in Sweden indicated that only half of the applications by women seeking protection from a violent husband were granted and in Germany many protection order cases are closed with a settlement or withdrawal of the victim's application, and only a minority with a decision of the court.⁹³ Furthermore, many police authorities may not have effective procedures for when protection orders are breached or penalties may be light and delayed, thus not providing a real deterrent.

One major issue that emerges from the literature with regard to the failure of civil remedies to fully protect victims, is the poor link between civil and criminal law in many countries where the two are perceived as distinct and even mutually exclusive.⁹⁴ One prominent exception to this rule is the case of Austria, where milestone legislation on domestic violence was enacted in 1997. The Federal Act on Protection against Domestic Violence consists of three elements that are linked to each other: the eviction order by the police banning the perpetrator from the flat, a following interim injunction under civil law providing protection for a longer period, and support of victims by domestic abuse intervention centres which are available in all nine provinces of Austria.

Two studies evaluating the Protection against Violence Act conclude that the intervention centres are of great significance for the empowerment of women suffering violence. From 1997, when the Law entered into force until 2007, the number of eviction orders issued by the police had steadily increased, from 2,673 in 1998 to 6,347 in 2007. Despite this relative success of the Protection against Violence Act, Logar⁹⁵, still viewed the criminal justice system as the "missing link" in Austria in the chain of measures of protection against violence, due to low levels of prosecution. As she put it,

"The state follows an inconsistent strategy and its message to both victims and perpetrators is a contradictory one: On the one hand, the police evicts the endangerer and on the other the public prosecution dismisses proceedings initiated after a wife was battered, which weakens the efforts to prevent violence." (p. 12)

⁹³ Hagemann-White, C. (2006), p. 16

⁹⁴ Ibid, p. 16

⁹⁵ Logar, Rosa (2005)

Eviction orders by the police and interim injunctions under civil law do not always constitute adequate instruments to prevent dangerous perpetrators from committing further violence. If the professionals involved lack awareness, sensitivity, skills and diligence to take account of and seriously consider and assess the risk in repeated threats and acts of violence, instead of ignoring and dismissing them as typical or minor (petty) or simply because a victim does not testify, it may not come as a surprise when the situation escalates even to the level of lethal violence. Some countries have proceeded to develop links between criminal justice measures and civil law. For example, in the United Kingdom the Domestic Violence, Crime and Victims Act, 2004 makes the breach of a protection order a criminal offence. This will allow a court to place a restraining order on a defendant even when they are acquitted of a criminal offence in order to protect the victim. This is also the case in Germany under the Protection against Violence Act 2002. A further measure is the establishment of specialized domestic violence courts, a practice which is further analysed below.

Another important issue is that recent laws to combat domestic violence adopt a broad definition of domestic violence with strong penalties for severe physical abuse. The result of such an approach is the law's inapplicability in cases where there is no evidence of physical injury. Thus, there is a risk that laws will exist only on paper as psychological and economic violence against women happens significantly more often than physical or sexual violence.⁹⁶

⁹⁶ Hagemann-White, C. (2006), p. 21

4. FACTORS THAT CONTRIBUTE TO ATTRITION IN DOMESTIC VIOLENCE

There are a number of specific and often interrelated factors that contribute to attrition, which may arise at various stages between the occurrence of an offence until the final point of legal adjudication, if such achieved. Attrition often stems from different causes and sources depending on the point at which it occurs. Many such factors interrelate and are overlapping and they tend to be widely contextual, societal, structural and legal. This makes it difficult to identify and list these causes and their effects on the issue with the precision required by objective research. Domestic abuse is in and of itself a complex and to a great extent invisible phenomenon, and although the volume of research on attrition in domestic violence has considerably increased in recent years, there is admittedly considerable room for further research and more than that for interventions to tackle it. Interventions in the field seem to be more difficult, due to the fact that although individual related factors that contribute to attrition may be to an extent common and universal, the systemic factors with which the former interact are still quite diverge. This chapter presents a listing of attrition related factors and attempts to be comprehensive as per available data, but given the complexity of the issue, it may not be fully exhaustive.

4.1 Victim-Related Factors

Attitudes toward Domestic Violence and Victim-Blaming

One of the socio-cultural dimensions of domestic violence that is important to bear in mind in discussions over attrition, is the persistent “silencing” and “privatizing” of domestic abuse. Despite considerable legislative progress and increased awareness among the general public, domestic violence still remains an issue understood by many as private, unimportant or shameful to disclose. According to the 1999 Eurobarometer survey⁹⁷, a significant percentage of respondents reported having known a woman in their neighbourhood/friends/family environment who was a victim of domestic abuse (11%, 18% and 19 % respectively). At the same time they also reported to have known an abuser who had subjected a female to violence in the same places (7%, 16%, and 17%). A decade later, the 2010 Eurobarometer⁹⁸ shows that “one respondent in four [25%] across the EU knows a woman among friends or in the family circle who is a victim of domestic violence” and “one person in five [21%] knows of someone who commits domestic violence in their circle of friends and family”. The overwhelming majority of the interviewees (98%) said that they

⁹⁷ Eurobarometer 51.0

⁹⁸ Special Eurobarometer 73.2 (344)

consider it the responsibility of friends and family to help women who are abused in their households.

Fields⁹⁹ discussed the very sensitive issue of public and professional approaches to domestic violence from a victim-blaming perspective, which she found commonly adopted. Such approach constitutes a serious issue, which jeopardizes the progress towards a just society as a whole. In the context of domestic violence, such victim-blaming attitudes have long-lasting implications and have been particularly hindering efforts to combat the phenomenon in general and its attrition specifically. Despite much progress made, victim-blaming is still prevalent in the European Union. According to the 1999 Eurobarometer Survey¹⁰⁰, 46% of European citizens thought that the provocative behaviour of women was the cause of domestic violence. Such a high percentage of Europeans that only a decade or so ago shared such conceptions about a victim's responsibility for the abuse, indicates a serious problem, despite the fact that considerable efforts in informing EU citizens on the notions of human rights and equality have been made. Notably, according to Eurobarometer 2010¹⁰¹, an overall shift in public opinion on domestic violence was observed: 84% of respondents responded that domestic violence against women is unacceptable and should always be punishable by law and a minority (12%) stated that this kind of violence is unacceptable but should not always be punishable by law, while a very small fringe thought that domestic violence is acceptable in certain circumstances (2%) or in all circumstances (1%).

However, despite the observed attitudinal change and seemingly high awareness of Europeans as to the seriousness of domestic violence, according to the same report, no progress whatsoever has been made when it comes to the understanding of causes of domestic violence: 52% still express victim-blaming sentiments ("provocative behaviour of women as the cause of domestic violence"). This indicates that perceptions of victims being responsible for being abused still remain prevalent. This may be defined as a common social problem that cannot be easily attributed to a specific actor, be it perpetrator, victim, professionals, etc. Rooted in uninformed and biased attitudes that often support the strongest, such social behavioural norms play an invisible but crucial part in deterring victims from reporting abuse or pursuing cases at later stages in the legal process. The climate of tolerance, social passivity and victim-blaming fosters violence, but also, as has been indicated by behavioural studies, considerably reduces chances for victims to ask for and

⁹⁹ Fields, M. D. (2008)

¹⁰⁰ Eurobarometer 51.0

¹⁰¹ Special Eurobarometer 73.2 (344)

receive help.¹⁰²

Severity & Extent of Emotional Abuse and its Enduring Psychological Effects

One of the crucial factors, which can only be understood by consulting professional studies in the fields of psychiatry and psychology, is the mental health of victims of domestic violence. Depending on its severity, any form of violence, be it physical, sexual or psychological, may have a traumatic and disempowering impact on a victim. Any form of attack on a person's integrity or freedom, even in the form of a theft, tends to have negative psychological effects. However, unlike other forms of violence that may occur sporadically and may be perpetrated by strangers, violence in the home, within the family and behind closed doors, has a number of characteristics, only applicable to this type of assault.¹⁰³ According to the literature, domestic violence has repeated and on-going patterns, it happens in an escalating manner (both in severity and frequency), it is never limited to physical/sexual attacks only, but it also involves psychological/emotional abuse, it often includes "discrete acts of violence", is perpetrated by partners and close family members and it involves instruments of control, manipulation & power.¹⁰⁴

Specifically in domestic violence against women, characteristic features of emotional abuse include "restriction of the woman's independence, control of the household finances, isolation of the woman from friends, family and other potential sources of support, interruption of her sleeping and eating, constant belittling and critical comments".¹⁰⁵

All the above features, not necessarily present in other types of violence, have severe enduring psychological effects that have been thoroughly documented through research.¹⁰⁶ The feelings of guilt, anxiety, vulnerability, dependence, isolation, low confidence and self-esteem and the loss communication skills, are quite common in domestic abuse. In medical circles it has been long established that "Domestic violence is associated with psychiatric illness, including depressive disorder, suicidality, anxiety, alcohol and drug misuse and post-traumatic stress disorder (PTSD)".¹⁰⁷ Additionally, there are intense feelings of shame that have been termed in professional circles as "gendered" and "battered" shame¹⁰⁸. For

¹⁰² Weiner, B. (1980)

¹⁰³ Carlson, R.G. and Jones, K.D. (2010)

¹⁰⁴ As highlighted in Domestic Violence Handbook for Police and Crown Prosecutors in Alberta, Alberta Justice Communications, January 2008.

¹⁰⁵ Domestic Violence, Council Report CR102

¹⁰⁶ See for example a) Domestic Violence, Council Report CR102; b) Fischbach, R. and Herbert, B. (1997); c) Garcia Moreno, C, Watts, C., Jansen, H., Ellsberg, M. and Heise, L. (2003) d) Humphreys, J. (2003)

¹⁰⁷ Domestic Violence, Council Report CR102

¹⁰⁸ Enander, V. (2010)

example, shame in the face of recognition of failure to take action or for not leaving the abusive relationship, is a psychological factor specific to domestic violence only. Based on medical research, the numerous manuals on domestic violence for the police, the social welfare services and medical professionals, as well as the assessment tools developed for victims, also feature long lists of very specific “emotional / mental warning signs” that allow professionals to identify victims and apply appropriate intervention practices. Despite such overwhelming evidence of severe psychological implications for victims of domestic violence, a noteworthy percentage of women-victims are reluctant to report to Authorities, to leave abusive partners and find it difficult to finalize their cases in court.

In light of this, there is even more urgency to re-frame the question and go beyond “why victims do?” into “what solutions can?” It seems that a person with the conditions listed above, will find it exceptionally hard to pragmatically take the decision of leaving a violent relationship or taking legal action without carefully-thought victim-oriented assistance, designed to address a complex web of needs (psychological, legal and safety needs being of major importance). Questions scrutinizing victims’ ‘non-cooperativeness’, point to the important assumption that victims of domestic violence are able to make decisions and take action as any other “non-victim” would do. In other words, when it comes to rationalizing victims’ behaviour, the victims of domestic violence tend to be presumed not to be victims. This, regrettably, shows a general lack of diversification between different types of crimes and crime-specific implications, as well as between different types of victims and victim-specific needs. The non-recognition of the psychological effects caused by domestic violence has been an issue called to the attention of policy-makers dealing with violence.¹⁰⁹ The importance of emotional and mental factors, as well as their role in wider interactions between victims and system professionals cannot and should not be underestimated. The importance of mental and emotional loss of victims is substantiated by evidence on the severity of emotional abuse, and also by the extent of human mental and emotional damage on a large scale. This extent becomes easier to rationalize with the growing international trend of estimating costs of domestic violence by measurements of human emotional suffering. It is increasingly becoming an international practice to include the human factor in the costing methodology. Emotional loss does not directly translate into monetary terms, but it has a vast cumulative impact through various intermediate factors, such as low productivity, interrupted employment, health benefits, police and medical professional

¹⁰⁹ Walby, S., *The Cost of Domestic Violence*, National Statistics & Women and Equality Unit, September 2004

involvement. As argued by Walby in her latest report on the costs of domestic violence¹¹⁰, only in the UK, “The estimated cost of the human and emotional impact of domestic violence is £17,085,570. Of this, an estimated £13,877,165,000 is for domestic violence against women and £3,208,405,000 for domestic violence against men”. Translated in monetary terms, the emotional and mental loss, presents a challenge of major dimensions. As long as the emotional/mental dimensions of DV remain under-recognized by the criminal justice system, civil and legislative remedies, as well as intervention programmes, are likely to continue to only partially correspond to victims’ needs, and by implication, victims will continue to dissociate from interventions that are not appealing and responding to them.

Non-Recognition of Abuse & Self-Blaming

Another serious issue directly linked to mental and emotional abuse, and prominent in the discussion of reluctance, is under- or non-recognition of actual violence by victims. As most cases of domestic violence tend to only make it to the police when the damage becomes too obvious to ignore (i.e. when abuse takes serious physical forms)¹¹¹, by that stage victims’ threshold of what is acceptable and normal is considerably lower than what is expected from an average individual. According to many reports analyzing women’s victims’ perceptions of abuse¹¹², self-blaming becomes ingrained in the perceptions by the abused. Very often victims say they prompted the violence themselves by doing or saying something ‘wrong’, and that they ‘deserved it’.¹¹³ The blame-shifting techniques are also known to accompany abusive behaviour¹¹⁴ and too often, in light of a number of psychological symptoms described above, the victims become convinced that it was them who triggered the abusive behaviour. They even can convince themselves that violence was a sign of affection. “Victims of violence by a partner often say they think the violent person will change, that she or he is not always violent but at times loving and kind, and that it was just too much alcohol, or drugs, or something else that triggered the violence”.¹¹⁵ In the absence of serious safety protection and prompt psychological support that should be provided by specifically trained professionals, the risk of a victim withdrawing into self-blaming doubts as to whether it was a right decision to report the abuse, always remains very high. This emphasizes the importance of professional assistance, especially in relation to engagement

¹¹⁰ Ibid. (p. 95)

¹¹¹ Gillis, J.R., Diamond, S.L., Jebely, P., Orekhovsky, V., Ostovich, E.M., MacIsaac, K., Sagrati, S. & Mandell, D. (2006)

¹¹² Crepaldi, C., Lodovici, M. S., and Corsi, M. (2010).

¹¹³ Ibid.

¹¹⁴ a) Carlson, R.G. and Jones, K.D. (2010); b) Douglas, H. (2008)

¹¹⁵ Crepaldi, C., Lodovici, M. S., and Corsi, M. (2010)

of the victims with the criminal justice system. In Cyprus, for example, where the legislation on domestic violence is relatively strong (see Good Practices and Interventions, Chapter 6) the attrition rates remain high and, as argued by Veis¹¹⁶ in his research on criminal justice outcomes in cases of domestic violence, the absence of timely and adequate victim-assistance, plays a critical role in preventing victims from further cooperation with the judicial system, after the initial reporting to the police.

Victim's Fear of Abuser at the junction with Systemic Safety Gaps

The fear of further being physically or emotionally abused by the abuser is a crucial element in the mental/psychological dimension of victim thinking, decision making and acting and thus with attrition. This is also intrinsically linked with the systemic response to victims' safety. The fear experienced by victims as well as the actual likelihood of repeated abuse, has been thoroughly documented in various fields ranging from medical and psycho-cognitive to criminal and legal:¹¹⁷ "Attempting to leave the domestic situation increases the danger for the woman and is likely to precipitate an escalation in the violence against her."¹¹⁸ Often, repeated abuse makes it nearly impossible for the victims to follow a case through: the very severity of abuse, on its own, plays an important role in impacting victim's ability to finalize the case.¹¹⁹ Fear of the abuser is often a pragmatic calculation of a victim, based on actual experience of repeated and escalating violence. The research has clearly demonstrated that for many victims the disclosure of the abuse (even in the form of sharing with friends and family members) results in retribution by the perpetrator and increased "punishment".¹²⁰ Therefore, the risk of re-assault presents a serious factor that will most likely have a deciding value for a victim. Women are being threatened with harm by their abusers before they seek legal protection¹²¹, and continue to be threatened at the stages of further litigation. For example, in a US study on 663 restraining order cases, 48.8 % of the offenders had re-abused their victim within 2 years of the restraining order.¹²²

A UK study found that 20% of victims had been threatened or re-assaulted by offenders

¹¹⁶ Veis, Costas M. (2010)

¹¹⁷ a) Artz, L. and Jefthas, D., (2011); b) Gillis, J.R., Diamond, S.L., Jebely, P., Orekhovsky, V., Ostovich, E.M., MacIsaac, K., Sagrati, S. & Mandell, D.(2006); c) *Domestic Violence, Safety and Family Proceedings: Thematic review of the handling of domestic violence issues by the Children and Family Court Advisory and Support Service (CAFCASS) and the administration of family courts in Her Majesty's Courts Service (HMCS)*, October 2005; d) Wright, C.V. and Johnson, M.,

¹¹⁸ Domestic Violence, Council Report CR102

¹¹⁹ Bennett, L., Goodman, L., & Dutton, M.A. (1999)

¹²⁰ a) Marshall, L. (1992); b) Carlson, R.G. and Jones, K.D. (2010); c) *Daphne Booklets: Issues and experiences in combating violence against children, young people and women*, European Commission

¹²¹ Fischer, K. and Rose, M. (1995)

¹²² Klein, A. R., Re-Abuse in a Population of Court-Restrained Male Batterers: Why Restraining Orders Don't Work

within three months of their initial contact with the court¹²³. Rates of recidivism in domestic violence still score high even when an abuser has attended a batterers' programme. In follow-up reports on 662 batterers, conducted by Heckert and Gondolf¹²⁴, 32% of their female partners reported at least one re-assault during the fifteen months after treatment. Of the 210 re-assault cases, 61% resulted in bruises or injuries, and 12% of victims required medical attention. Additionally, 70% of the women were subjected to verbal abuse, 45% were subjected to controlling behaviours, and 43% experienced threats. In light of such high re-offending rates, it is understandable and expected that a victim may take any possible precautions to avoid further escalation of abuse. In the absence of serious systemic support, a victim may take the necessary steps towards protecting an already compromised well-being, rather than exposing it to further danger. Such self-protection measures may take the form of not reporting or of retraction at a certain stage of criminal investigation and proceedings. Battered victims are reasonably more concerned about preventing future violence than about satisfying interests of the justice system. When underestimated, this orientation of the victim, for the most part the battered woman, toward future safety may create a tension with the criminal justice system, which is focused primarily on criminal proceedings and if possible convictions.

Fear of the abuser and the issue of safety are one of the foremost factors in victims' decisions at nearly any given stage of the domestic violence time-line, from initial reporting to final prosecution. This fear is never limited to victims' perceptions only and, in many cases, is a direct outcome of the criminal justice system's response to victim's safety needs. As Hester¹²⁵ states, "For victimized women, attrition might be either positive or negative depending on the extent to which the criminal justice enabled positive management of their safety". It has been widely documented that survivors of domestic violence are willing to pursue their cases when they are confident of full and positive management of their safety.¹²⁶ In terms of system responsibility, there seem to be safety gaps, where victims may become exposed to physical and psychological danger regardless of their willingness to bring their case to the stage of final prosecution. As was discussed in the legislative review, the dis-connectedness between various legal frameworks addressing domestic violence presents an example of systemic safety gaps (e.g. civil protection order is obtained when the emergency protection order has already run out; child custody matters are settled

¹²³ Bennett, L., Goodman, L., & Dutton, M.A. (1999)

¹²⁴ Heckert, D.A. and Gondolf, E. W. (2004)

¹²⁵ Hester, M. (2005)

¹²⁶ Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence

regardless of the safety needs of the victim).¹²⁷ Safety gaps are also created by lengthy court procedures, multiple court and police visits, as well as cross-examination procedures. Indeed, there are practices that endanger victim safety that are reported to be directly initiated by the very providers of support services. According to a report conducted in the UK in 2005, women-victims of domestic violence were requested to have joint meetings with their abusive ex-partner against their wishes. On other occasions, according to the same report, the victims were ordered to be interviewed at the office despite their expressing fear to leave the house, as they suspected retribution of their abusive partners.¹²⁸

Overall, the pitfalls in safety considerations at different levels, from legislative to service provisions, again point to the need to revisit the question of victim reluctance in relation to attrition. Firstly, it shows the urgent need, at various levels of professional intervention, to recognize the seriousness of the fear and safety factor in domestic violence cases. It prompts for a more focused approach in policy measures, criminal investigations and court hearings, to be designed in such a way as to take full account of victims' claims with regards to their safety. As Coker argues and reiterates in her discussion on crime- as opposed to victim-centred responses to domestic violence, abused women are often the best judge of whether an arrest will increase their safety¹²⁹. Secondly, it indicates that specific measures need to be introduced to safeguard the short- and long-term protection of a victim. In this respect, the responsibility of police officers and service-providers cannot be underestimated. Once the case of domestic violence is reported to the police, it is necessary that the victim receives the full scope of protective measures available, starting from the immediate victim's security to paying close attention to such specific victims' needs as shelter accessibility, child care, legal support during court visits and any other needs that may arise in due course of police investigation and legal proceedings. As stated in the European Commission Report on Domestic Violence, there remains a need for "frameworks and regulations which establish prompt and effective intervention and multi-agency cooperation that places the safety of victim in its heart".¹³⁰

¹²⁷ Ibid

¹²⁸ *Domestic Violence, Safety and Family Proceedings: Thematic review of the handling of domestic violence issues by the Children and Family Court Advisory and Support Service (CAFCASS) and the administration of family courts in Her Majesty's Courts Service (HMCS)*, October 2005

¹²⁹ Coker, D. (2004)

¹³⁰ Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence

Material and Social Factors: Abuser-Dependence, Economic, Legal, Child-Responsibility Status

Given that domestic violence in many ways demonstrate the wider dynamics of gender inequalities, many factors directly impacting victim's decisions with regards to legal interventions or prosecution are also directly linked to the gender-specific vulnerabilities. These factors range from economic and legal dependency of women-victims on their partners, to issues related to housing, child-care, and income support. Strictly speaking, they cannot be placed at the interface between the victim and the criminal justice and can be defined as victim-related factors.

According to a study by the World Bank¹³¹, in 90% of poor communities domestic violence was reported to be endemic. Intimate partner violence occurs at disproportionate rates within impoverished groups of women¹³². In developed countries, domestic violence tends to be more frequent and more severe for women with low economic status in families where women are financially dependent on their spouses or live in poor households.¹³³ Unequal financial power and unequal decision-making often come in parallel with other means of control and violence. In relation to attrition, women with low economic status and limited access to resources, according to available research, are more prone to experiencing depression, low self-esteem, isolation and fear of disclosing abuse.¹³⁴ While poverty makes women more vulnerable to abuse, domestic violence has been established as a significant source of women's poverty. Through endangering victims' physical and emotional health, it severely impairs their productivity, career development, economic independence as well as decision-making and planning capacities¹³⁵. In terms of psychological resilience and ability to leave an abusive partner, access to financial resources and higher decision-making capacities, even outside the scope of domestic violence, are the elements that have been proven to be "buffering individuals from the negative effects of life"¹³⁶. The research finds that such protective factors are distributed differentially by social class, with impoverished individuals having fewer cognitive and social resources. In the context of domestic violence, where emotional abuse has on-going patterns, the absence of such factors results in increased vulnerability of victims and impairment of resilience and decision-making.

¹³¹ Voices of the Poor' Volume II. Powerlessness, Domestic Violence Mar Lives of Poor People, New Bank Study, The World Bank 2000.

¹³² Weaver, T. L., Sanders, C. K., Campbell, C. L. & Schnabel, M. (2009)

¹³³ Hotaling, G.T., and Sugarman, D.B. (1990)

¹³⁴ Williams, S. L. and Mickelson, K. D. (2004)

¹³⁵ Coker, D. (2004)

¹³⁶ Williams, S. L. and Mickelson, K. D. (2004)

According to research conducted by Williams and Mickelson¹³⁷ low economic status, high level of anxiety and low self-esteem are all positively correlated with domestic abuse. Put together, these factors may have negative effects on a victim's willingness and capacity to resist the abuse by appealing to legal remedies. It is defined by researchers and articulated in a number of international instruments such as the Convention for the Elimination of all Forms of Discrimination against Women (CEDAW)¹³⁸, that economic abuse (financial control, deprivation of financial means) itself is a part of domestic violence and is regarded as a form of psychological maltreatment.¹³⁹ According to the 2010 research by the Network of East-West Women, in the South Baltic Region, for example, psychological and economic violence against women happens significantly more often than physical or sexual violence.¹⁴⁰

Practically speaking, victims' material needs are critical in cases of separation from their abusive partners, and according to research, economically dependent women are less able to leave their abusive partners. Exemplary in this sense, even in the states where women are in a relatively good position to exercise their economic independence, domestic abuse disproportionately affects those with low economic and dependence status. In the 2002 research on violence within couples, conducted in Sweden by Piispa¹⁴¹, "The women concerned were often under-employed, had low pay, and were economically dependent on male partners or state benefits. Their lack of economic independence and fear of homelessness made it difficult to leave the violent relationship". Battered women are repeatedly reported to be afraid that the criminal proceedings will curtail the partners' income or child support payments.¹⁴²

Financial security upon separation is a crucial factor in terms of safety as well. It has been estimated that changes in women's access to material resources can increase their safety.¹⁴³ Financially secure victims may be less exposed to and have decreased probability of coming in contact with their abusive partners and are, by default, at lesser risk of physical and emotional re-abuse.¹⁴⁴

Research also shows that domestic abuse is positively related to the pregnancy status, which

¹³⁷ Ibid.

¹³⁸ Convention for the Elimination of all Forms of Discrimination against Women (CEDAW)

¹³⁹ a) Weaver, T. L., Sanders, C. K., Campbell, C. L. & Schnabel, M. (2009); b) Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence

¹⁴⁰ Domestic Violence in the South Baltic Region, Kaliningrad, Lithuania, Poland and Sweden, South Baltic - Violence Free Zone project report. September 2010

¹⁴¹ Piispa M. (2002)

¹⁴² Hare, S. (2006)

¹⁴³ Coker, D. (2004)

¹⁴⁴ Weaver, T. L., Sanders, C. K., Campbell, C. L. & Schnabel, M. (2009)

indicates that, at least for a limited period of time, when a woman becomes husband- or state-dependent (during maternity leave), she is automatically placed at a greater risk of violence.¹⁴⁵ According to a study carried out in Lithuania, for example, “Usually domestic economic violence occurs when a woman is on maternity leave and has low income, or in cases of divorce where custody is granted to mothers”.¹⁴⁶ In terms of attrition, it is inevitable that financial risks during pregnancy and child-rearing are among the deciding factors for a victim and will impact victim’s decisions with regards to legal interventions and prosecution of domestic abuse. Without the provision of child-care, material compensation by state and securing access to material resources in the long-term, even with full efficiency of the criminal justice system, victims of domestic violence are left at equal, and sometimes greater risk of economic, emotional and physical abuse as next to their abusive partners in cases of retraction. Research by Sullivan and Bybee¹⁴⁷ found that victims assisted by advocates with access to material resources and community services, experienced less re-abuse than did women who did not receive such assistance. In this sense, financial education, asset-building, budget planning and securing employment for victims of domestic violence is of critical importance and should be incorporated in and performed by social and family welfare intervention programs.

Victims with children, along with financially dependent and low economic status victims, constitute a specifically vulnerable group. Economically speaking, their decisions to seek legal interventions are measured to a great extent against financial losses they might have to face in case of separation from, or imprisonment of, their partners. It has been featured in many reports from across Europe as well as the US, Canada and Australia, that the potential financial impact of separation on the victim and her children is a major concern for victims, and analysis of police data indicates that women with children are more likely to refuse to give statements and cooperate with police at the stage of criminal investigation.¹⁴⁸ The observations of court proceedings also reveal that when it comes to victims with children reference to contact between children and alleged offenders is likely to lead to more lenient outcomes.¹⁴⁹ Overall, the financial issues resulting from separation from partners, issues of safety through child-visits, and child custody disputes increase the risk of attrition in domestic violence cases. According to Hester’s review of available research, “The effect on

¹⁴⁵ Stampfel, C. C., Chapman, D. A. & Alvarez, A. E. (2010)

¹⁴⁶ Domestic Violence in the South Baltic Region, Kaliningrad, Lithuania, Poland and Sweden, South Baltic - Violence Free Zone project report. September 2010

¹⁴⁷ Sullivan, C. M. and Bybee, D. I. (1999)

¹⁴⁸ a) Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Kosman, J. M. (2008); b) Artz, L. and Jefthas, D. (2011)

¹⁴⁹ Ibid.

attrition of having children with the offender was apparent across all aspects of the research data".¹⁵⁰ At the legislative level, this emphasizes the previously discussed 'disconnectedness' between family and criminal Law, where child-visits and child-custody matters are often settled at the expense of the safety needs of victims.¹⁵¹ Given the close link between domestic violence and child abuse, this presents an obvious contradiction in the face of available research. In the UK only, it is estimated that incidents where a perpetrator abuses both an adult partner and children range from 30% to 60% of recorded incidents. However, in 2002, for example, of 61,356 applications for contact orders under Children Act 1989, only 0.8% (518) was denied (Lord Chancellor's Department, 2003).¹⁵² As reported in one study on judiciary work, "Women with children repeatedly mentioned custody issues as a major problem that came up after the legal proceedings. Although they were all granted primary custody of their children, the abusive men "still [had]... visiting rights [and] access to them. Many were very concerned about their children keeping contact with an abusive father".¹⁵³

At the level of practical implementation, it brings attention back to the needs of victims as opposed to the needs of the criminal justice system. The practical questions of child-care arrangements and expenses involved in it, full-time employment possibilities, housing questions and long-term safety, should not be underestimated or discounted by criminal investigators and victim support providers. In cases where state child care subsidies are inadequate, or their provision delayed, victims with children are threatened with the risk of poverty, in which case retracting the case might serve as a better solution to satisfying the victim's need for normative punishment of the abuser. Additionally, the sense of responsibility for maintaining family cohesiveness plays an important role in the lives of many women. The responsibility for emotional family maintenance tends to be carried out by females, and therefore female victims with children will tend to 'double-check' any legal action resulting in family disruption against wider social and family norms.

Another dependency issue, not unlike financial and family status of victims, is the legal status of battered women. This concerns specifically migrant women, who, due to cultural, economic and linguistic impediments, can be considered another large group vulnerable to domestic violence.¹⁵⁴ Migrant women literally fall out of the system and at times are barred

¹⁵⁰ Hester, M. (2005)

¹⁵¹ Zorza, J. and Rosen, L. (2005)

¹⁵² *Violence at Home: A Joint Inspection of the Investigation and Prosecution of Cases Involving Domestic Violence*, HMIC, 2004

¹⁵³ Gillis, J.R., Diamond, S.L., Jebely, P., Orekhovsky, V., Ostovich, E.M., MacIsaac, K., Sagrati, S. & Mandell, D. (2006)

¹⁵⁴ Coker, D. (2004)

from seeking legal remedies altogether, particularly in the case of undocumented migrants. For many migrant women the choice is essentially limited to either ‘safety at home’ or ‘state intervention in their life’.¹⁵⁵ As noted in the European Commission report on violence against women, only some European states allow for independent residence status for victims of domestic violence, and even this is not an easy scenario. Women need to prove bodily harm and also have to provide for their own accommodation before they are entitled to apply for independent residence status.¹⁵⁶ This presents a specific challenge for policy makers in the sense that a victim of domestic violence, who is both legally and financially dependent on her spouse, may be facing additional obstacles in disclosing and reporting the abuse to the police and furthermore to follow up the case. In terms of attrition and non-reporting causes, this reveals a vast under-investigated gap, because large migrant populations across Europe will simply never reach the authorities for very practical reasons, with fear of deportation and financial insecurity coming first. Immigrant women and particularly undocumented women face the possibility of deportation with the attendant risks of economic deprivation, separation from children, and more and even greater violence in their home country and when cases do make it to the police, such factors as linguistic barriers, limited knowledge of local legal provisions, non-recognition of abuse in the context of family norms, and subordination to male partners and family honour, often prevent migrant women further cooperation.¹⁵⁷ Several studies carried out on migrant victims of domestic violence indicate that for immigrant women, police intervention can actually create or add to the dynamics that already exist in the abusive relationship, including social isolation, unequal power dynamics, and male dominance.¹⁵⁸ In a Canadian report that focuses on the reasons for victim reluctance in cases of domestic violence in migrant groups, women listed the following concerns: “Shame, high tolerance for abuse in their communities, a community belief that they should keep the family together, and lack of information about their legal rights”.¹⁵⁹ Racist attitudes among the police and judiciary are also often reported by migrant victims of domestic violence, which provides an additional explanation for the causes of attrition among migrant victims of domestic violence.¹⁶⁰

¹⁵⁵ Ibid.

¹⁵⁶ Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence

¹⁵⁷ Ibid

¹⁵⁸ a) Coker, D. (2004); b) Lipsky, S., Caetano, R., Field, C. A. & Larkin, G. L. (2006); c) Menjivar, C. and Salcido, O. (2001)

¹⁵⁹ Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Kosan, J. M. (2008)

¹⁶⁰ a) Raj, A. and Silverman, J. (2002); b) Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Kosan, J. M. (2008)

4.2 Systems-related factors

The previous discussion on victim related factors that are associated with attrition, lays the ground for approaching here the issue in relation to the systems in place (support, advocacy, criminal justice or other) to handle domestic violence. A major challenge for such systems is to work through and if possible overcome attitudes and declarations of victims that do not seem to serve their best interests, or the best interests of their dependents. With regards to victim support and empowerment services, despite the well documented difficulties in providing assistance when the person in need due to denial or other factors declines such offer, it remains ethical for the support professional to work through such denials and try to bypass them. The same, however, does not always necessarily hold for criminal justice professionals. The latter, act in a system, which serves the victim not only to maximize safety and welfare, but simultaneously in order to assess the possibility of bringing an alleged offender to justice and if so and if possible to reach a conviction.

In the sphere of criminal justice systems it is usually possible, and in light of the above quite useful, to look into the possibility a declaration of a victim that does not seem to be serving the interests of the victim and/or justice, is not genuine and whether it is the result of pressure, coercion, etc. Further than such enquiries, when a “challenged” declaration remains the same, it may not be professional, let alone legal, to ignore such statements or to assume that they weren’t made literally because of contextual or personal factors, especially when such assumptions may not be substantiated by evidence. The fact that decisions of criminal justice professionals are linked not only with the welfare and protection of victims and/or their dependents, but also with the fate and imposition of measures and penalties against the alleged offenders, should not be underestimated. The challenge then, seems to be twofold: on the one hand to maximize services, support and empowerment to victims so that they may be more informed and educated with regards to their interaction with the criminal justice system and on the other hand to dissociate to the extent possible criminal justice procedures from the will and declarations of vulnerable victims.

The evidence on systemic factors contributing to high rates of attrition in domestic violence cases has been investigated through research on several interfaces, where victims of domestic violence come in contact with the state systems designed to prevent and/or stop this violence. The research ranges from the analysis of police work, to medical personnel, social support service and judges. Police professionals, as the front-line recipients of domestic violence cases and the courts, as the independent authority which has the final say in such cases, have been given much attention in the research of recent years, while a

growing body of research is seen with regards to tensions and drawbacks in the system of professional support providers as well as medical care. Similarly to the victim-related factors listed above, it is evident that none of the systemic obstacles can assume full responsibility for high rates of attrition. However, while many victim-related factors (such as, for example, family norms or emotional dependence on abuser) cannot be easily tackled through specifically designed state interventions or policies, many of systemic challenges (such as, for example, integration of domestic violence crisis-support services or establishment of domestic violence units in the police at local level) can be addressed by a decisive legislative, policy or other measures and interventions, not necessarily implying wide-range, inter-related and long-term actions, as needed in handling non-systemic factors. There is, however, a limitation in the effectiveness of the latter measures, due to the fact that as explained earlier there is an overlap between the personal and systemic fields, which in fact tend to interact.

Negative Perceptions of Justice System

It has already been mentioned that lack of trust and confidence in the criminal justice system is not uncommon among victims of crime in general or among victims of specific crime fields, domestic violence included. Research across Europe and the U.S. suggests that many victims of domestic violence are sceptical of the police as well as the judiciary and often question whether police and court interventions will in fact prevent further violence.¹⁶¹ While attitudes towards the criminal justice system may be based on anecdotal evidence, on major publicized high profile cases, or on accounts and experiences of others, for many victims it is based on actual prior experience with the police in relation to domestic violence. It has been estimated that women who already had negative experiences with police/court in handling a violence case are much less likely to appeal to legal means again. Experiences with the police and the legal system were found to have an impact on the intentions of women victims of domestic violence, who tended to seek further engagement if they were employed and felt supported, if they were informed about police services, if they were treated well by the criminal legal system and if they had experienced case outcomes consistent with their desires. At the other end, women intended not to engage with the system again if they were tied to their perpetrators (financially or legally), if they had been re-victimized while the case was adjudicated, if court proceedings had been cancelled at least once, and if they had been pressured rather than supported by the

¹⁶¹ Epstein, D., Bell, M. E. & Goodman, L. A. (2003)

criminal legal system¹⁶². Similar concerns have also been raised from the point of view of service providers.¹⁶³ Migrant women, in particular, are faced with increased doubts as to the involvement of police and the legal process for two reasons. Firstly, as discussed earlier, migrant women's legal status is often dependent on their abusers, and secondly migrant women may view state systems as inherently racist and discriminatory towards their communities.¹⁶⁴ According to the 2004 General Social Survey in Canada, for example, relatively a high proportion of migrant victims choose not to involve the police (63% of female victims) claiming they did not trust the criminal justice system and did not believe its involvement would be helpful.¹⁶⁵

Access to Legal Advocacy and Informational Support

Another common problem is the rather complicated (especially to the lay person) nature of legal procedures and processes combined with limited information and legal support provided to victims. According victim testimonies, women feel that court officials and police officers should provide them with more information regarding their rights and the legal processes.¹⁶⁶ In a study¹⁶⁷ on attrition in South Africa, for example, only 31% of respondents (106 persons) were told by the police that they could lay a criminal charge against their abusers, whereas the majority (69%) of applicants were not informed that in addition to applying for a protection order they could lay a criminal charge. More than half (53%, 80 persons) of those who wanted to lay a criminal charge against their abusers were told by the police that they were not allowed to do so. Additionally, 96% (311 persons) of respondents did not receive a notice containing their rights as victims of domestic violence from the police. According to the 2010 report by the Criminal Justice Inspection of Northern Ireland, despite the increasing rates of victim satisfaction as to the informational assistance, "victims' views on the police and prosecution processes varied with feelings of apprehension common when updates were not received as to the progress of the case".¹⁶⁸ In a Canadian study investigating criminal justice responses to domestic violence, the same dissatisfaction was voiced by the respondents on issues of information provision, updating of victims on the legal process, etc.¹⁶⁹ Overall, the indicators on scarce informational support as well as victim

¹⁶² Fleury-Steiner, R. E., Bybee, D. I., Belknap, J., Sullivan, C. M., & Melton, H. C. (2006)

¹⁶³ Erez, E. and Belknap, J. (1998)

¹⁶⁴ a) Coker, D. (2004); b) Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Kosan, J. M. (2008)

¹⁶⁵ Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Kosan, J. M. (2008)

¹⁶⁶ Ibid.

¹⁶⁷ Artz, L. and Jefthas, D. (2011)

¹⁶⁸ *Domestic Violence and Abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland*, December 2010

¹⁶⁹ Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Kosan, J. M. (2008)

assistance are apparent across countries and across agencies, which suggests a common underlying issue of the criminal justice, support and overall response system which resurfaces the question over the interface between victim and system related factors contributing to attrition. It appears that criminal justice systems and their partners can further respond and cooperate with victims of domestic violence so that the latter are faced with increased investigative and legal transparency and they receive more informational, legal and other support.

Factors at the Interface with System Professionals

The Police

The factors related to police work vary from broader attitudinal and behavioural aspects of some police officers to very technical issues in police work, such as data collection, evidence gathering and provisions of safety. It is evident in the discussion on attrition that the police have an immediate and in many respects determinant impact on victims, as they are in numerous cases the very first in general point of contact and of disclosure for victims of domestic violence, and almost always the first point of contact with the criminal justice system. While a number of other factors such as support provision and court hearings play a crucial role at various stages of case processing, the initial stage of first contact with the police is of critical importance for the further development of a case in the criminal justice system and the continuation of victim involvement in the process to follow.

According to available research, many women report to have experienced negative attitudes, re-victimization, humiliation and overall unfriendliness on behalf of the police.¹⁷⁰ While this cannot be a generalizing statement, and there is evidence that many victims do find police intervention very helpful¹⁷¹, there is an abundant body of research suggesting that the police, as front-line receivers of cases, often exhibit biased attitudes to victims.¹⁷² While institutional change is visible within police agencies in many countries and jurisdictions and most police officers have come to consider domestic violence legitimate police work, there still seem to remain obstacles to the way some police officers understand domestic violence which in turn may influence their handling of victims. Although things

¹⁷⁰ Gillis, J.R., Diamond, S.L., Jebely, P., Orekhovsky, V., Ostovich, E.M., MacIsaac, K., Sagrati, S. & Mandell, D. (2006)

¹⁷¹ a) Apsler, R., Cummins, M. R. & Carl, S. (2003); b) *Domestic Violence and Abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland*, Criminal Justice Inspection, Northern Ireland, December 2010

¹⁷² Gillis, J.R., Diamond, S.L., Jebely, P., Orekhovsky, V., Ostovich, E.M., MacIsaac, K., Sagrati, S. & Mandell, D. (2006)

may have drastically changed from the age-old argument conceptualized by Wetendorf¹⁷³ that breaking up "marital disputes" is social and not police work to considering domestic violence within the range of legitimate police work, the same road does not seem to have been travelled concerning the frustration and complications arising from attrition, then typically termed "victims requesting the officers not to arrest their abuser or victims dropping charges".

Victims of domestic violence have reported negative experiences and general dissatisfaction with police responses ranging from trivialization of the crime, reluctance to full account of the claims of the victims, gender-based assumptions and negative stereotypes, as well as racist attitudes.¹⁷⁴ Other victims have expressed experiencing undue pressure on behalf of police officers to give statements and press charges, actions that may not necessarily reconcile with the initial wishes of the victims, who feel that punitive measures adopted by the justice system do not suffice to the resolution of violence at home.¹⁷⁵ The punitive approach of the criminal justice system seems to be a strong put-off factor for those victims who prefer a different approach involving rehabilitation and support. While there are a number of studies documenting victim satisfaction with police intervention, such satisfaction comes mainly from victims who want their partners prosecuted. Those victims who saw the solutions to violence at home in counselling and assistance, rated police intervention of little help.¹⁷⁶

These findings do not come as a surprise in the face of emerging body of research on domestic violence within police force itself. In 2003, the International Association of Chiefs of Police (IACP) recognized the rate of officer-involved domestic violence to be at least as common as that of the general population. A report by IACP¹⁷⁷ expressed "the strong agreement among IACP, OVW [Office on Violence Against Women], and COPS [Community Oriented Policing Services] that the problem of police officer perpetrated domestic violence is of paramount importance and requires a definitive policy response". It further stated, that "the law enforcement profession is not immune from having members commit domestic violence against their intimate partners" and that "limited research to date indicates the possibility of higher incidence of domestic violence among law enforcement professionals".

¹⁷³ Wetendorf, Diane, *The Impact of Police-Perpetrated Domestic Violence*, In: *Domestic Violence by Police Officers*, ed. D.C. Sheehan, 375-382. Washington DC: U.S. Department of Justice, 2000

¹⁷⁴ a) Bennett, L., Goodman, L., & Dutton, M.A. (1999); b) Coker D. (2004); c) Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Koshan, J. M. (2008)

¹⁷⁵ Ibid.

¹⁷⁶ Apsler, R., Cummins, M. R. & Carl, S. (2003)

¹⁷⁷ *Discussion Paper on IACP's Policy on Domestic Violence by Police Officers*, International Association of Chiefs of Police

Considering that although gradually changing, police internationally is still largely a male dominated professional sector, this poses a challenge of considerable dimensions. As long as domestic violence remains an alarming reality for professionals within police services, one may reasonably expect that the standard of professional services provided will be to an extent compromised at least by biases, as for example when a case of domestic violence is handled by an officer, who is in private life affected by or involved in domestic violence, either as abuser or as victim.

It is a basic principle that the cooperation of a victim of a crime with the competent investigating and prosecuting authorities is of paramount importance in the process and outcome of such inquiries. However, the general belief among criminal justice professionals that without victim cooperation there will be no prosecution has resulted in little attention being paid to other aspects of a domestic violence incident that might provide sufficient evidence to support prosecution without victim cooperation.¹⁷⁸

Another delicate gender related issue which has over the years been receiving attention with regards to police responses to domestic violence is the gender matching or mismatching between the victim and the responding police officer. Female victims have reported feeling intimidated by the over-representation of men both inside the police and within the courts.¹⁷⁹ Thus, the argument is raised that a female-victim, if already intimidated by a male-abuser, may feel more comfortable with a female rather than a male police officer, and more importantly, given the previously discussed gender imbalance among police officers, victim cooperation may be affected. While evidence on such assumption is scarce, it is reasonable to suggest, that on a personal level female victims might indeed feel more confident and more willing to cooperate when faced by a female professional. In line with this reasoning, legal systems such as in Cyprus¹⁸⁰ by law mandate that the statement of a domestic violence victim must be taken by a police officer of the same sex with the victim, unless the adult victim requests otherwise or an accompanying Family Counsellor requests so on behalf of a child/minor victim. Such approach is believed to be in line with Article 29 of the Recommendation (2002)5 of the Council of Europe on the Protection of Women Against Violence.¹⁸¹ In fact the Recommendation at the same Article defines a series of other competencies and qualifications of police response in general (e.g. confidential handling, no

¹⁷⁸ Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Kosha, J. M. (2008)

¹⁷⁹ Jordan, Carol E., (2004), p. 12

¹⁸⁰ The Violence in the Family (Prevention and Protection of Victims) Law 119(I)/2000, Article 9, available at <http://www.familyviolence.gov.cy/cgi-bin/hweb?-V=legislationgr&_FSECTION=10040&-dlegislationgr.html&-Sr&_VSECTION=0000&_VCATEGORY=0000>

¹⁸¹ Council of Europe, Recommendation Rec(2002)

delay) and of the responding officer (e.g. specially trained), and concludes with saying "...and ensure, as far as possible, that the victims of violence have the possibility to be heard by a female officer should they so wish". Apparently the specific legal provision addressed here and article 29 of Recommendation (2002)⁵ of CoE are not in full harmony, but the point to be made here is not legal. It is rather that in the scope of better serving domestic violence victims and in order to maximize the potential of police response, it is indeed instrumental to provide appropriate premises, competencies and skills on behalf of the responding officer, and if indeed the victim feels more comfortable with an officer of the same sex, such matching is purposeful.

A number of additional issues related to police work that can be defined as technical are also frequently cited in studies focusing on processing cases of domestic violence. Among them is evidence collection methodology and procedures, particularly in countries and jurisdictions where pro-prosecution policies are in place. Pro-prosecution and mandatory prosecution policies are discussed below. It has been proven that the use of tape-recorders, photo-cameras as well as video-recording at the time of the incident, can considerably improve evidence collection, and also ease further case processing by the court.¹⁸² Other technical issues include interviewing protocols and phone call reception techniques, victim reception facilities, the design of victims' questionnaires, the use of risk assessment tools and procedures in relation to safety-planning, incident-response protocols and post-incident follow-up, data-collection, monitoring and referral systems, among others. The absence of specialized domestic violence units within the police or domestic violence support services working closely to police staff may also adversely affect evidence gathering and the quality of service provision to victims. Moreover, there may also be technical-legal impediments, such as the absence of legal instruments or of protocols of conduct that police can follow in executing their duties in relation to protection of victims (e.g. eviction orders, protection and non-molestation orders). Based on these, it can be said that technical pitfalls, that can be addressed and avoided by more careful victim-needs oriented design, and appropriate policies can act as additional barriers that weaken the police-victim interface.

Victim Support Service Providers

The research on service provision demonstrates that victims who meet with victim support service workers are almost twice as likely to follow through with prosecution of domestic violence charges against their partner¹⁸³. However, crisis-centre professionals and support

¹⁸² Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Kosha, J. M. (2008)

¹⁸³ Epstein, D., Bell M. E. & Goodman, L. A. (2003)

providers have also been reported to dis-empower and dis-encourage the victims. According to the 2005 review by the Children and Family Court Advisory and Support Service (CAFCASS) in the UK, the service providers themselves sometimes work ‘against victims’ instead of cooperating with them.¹⁸⁴ This results, mostly, from the overall systemic orientation towards punishment, that was mentioned previously, in which many victims feel ‘bullied’ and deprived of choice of decision-making.¹⁸⁵ There have been observed the need for expanding knowledge of victims’ needs, for replacing ‘fit-for-all’ strategies to ‘case-to-case’ basis approach, as well as for increasing cooperation with other agencies such as hospitals, police and victim advocates.¹⁸⁶

To a previously reported finding that women survivors of domestic abuse have reported to have their safety endangered, we may add here that such safety compromises have been also attributed to inconsideration of service workers¹⁸⁷, while migrant women in particular report to be facing acute problems such as cultural insensitivity, linguistic barriers and scarcity of outreach programmes in minority communities, which can be considered as systemic obstacles in intervention and counselling programmes.¹⁸⁸ In the states where counselling and sheltering services are subsidized by the government, service providers lack funding and are forced to focus on various service tasks, rather than domestic violence needs specifically, which, in turn, negatively impact support of domestic violence victims, to whom no full attention can be given when needed.¹⁸⁹

At the same time the importance of cooperation between service/counselling providers and other agencies have been re-confirmed in the research. The 2010 UK study on the inter-agency cooperation between crisis-centres and police and hospitals, as well intervention initiatives in migrant communities, have shown that the presence of domestic violence crisis experts in the police unit as well as in the emergency units of hospitals, considerably increases not only reporting rates but also victims’ confidence and ability to follow up

¹⁸⁴ Domestic Violence, Safety and Family Proceedings: Thematic review of the handling of domestic violence issues by the Children and Family Court Advisory and Support Service (CAFCASS) and the administration of family courts in Her Majesty's Courts Service (HMCS), October 2005

¹⁸⁵ Ibid.

¹⁸⁶ Gillis, J.R., Diamond, S.L., Jebely, P., Orehovsky, V., Ostovich, E.M., MacIsaac, K., Sagrati, S. & Mandell, D. (2006)

¹⁸⁷ Artz, L. and Jefthas, D.(2011)

¹⁸⁸ a) Ibid; b) Coy, M. and Kelly, L. (2010)

¹⁸⁹ a) Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence; b) Domestic Violence in the South Baltic Region, Kaliningrad, Lithuania, Poland and Sweden, South Baltic - Violence Free Zone project report. September 2010

cases.¹⁹⁰ The report indicates that, apart from receiving specialized psychological support, the crisis centres' workers also acted as legal consultants, making the investigation procedures and litigation less confusing and less disempowering for victims. Such evidence testifies to the important drawback in the overall service-provision schemes. While women are provided with sheltering facilities and are given psychological support and counselling, there remains a need for serious and consistent legal advocacy and informational support. The scarcity of information on legal rights of women, as well as the duties of police as well as the judiciary, as was mentioned earlier, presents an impeding factor for victims, and while much attention has been given to victim's psychological support and counselling, at the later stages women do feel alone in dealing with the complicated and outcome-oriented judicial system. In this sense, victim support services should necessarily include legal advocacy as well as 'empowering through knowledge'¹⁹¹, a task that to date has not been addressed sufficiently by service providers in many European countries.¹⁹²

Further to the previously discussed need for victim support services to be timely, efficient and specialized, and to the relevant need for victim friendly procedures and if possible legal provisions, there still seems to be room for the authorities, the police included, to inform and enlighten the public at large and the victims of domestic violence specifically, on the legal and procedural structures in place. This should be done in a realistic approach and independently of the extent to which they comply with provisions and criteria previously addressed, so that interested parties are aware of the boundaries and they have realistic expectations from the professionals involved in providing services, instead of expecting ideal responses as suggested by research or political statements. Such example is the direct information provided to victims of domestic violence by Cyprus Police through brochures on spousal abuse and in the Citizens' Rights Charter¹⁹³, where for example, among others, it explains the difference between reporting to the police and filing a complaint with the police and it states that usually if the victim does not file a formal written and signed complaint, the police will not be able to proceed with investigating the offence and charging the offender. Such statement, which is linked to the National relevant legal structures and

¹⁹⁰ *Domestic Violence, Safety and Family Proceedings: Thematic review of the handling of domestic violence issues by the Children and Family Court Advisory and Support Service (CAFCASS) and the administration of family courts in Her Majesty's Courts Service (HMCS)*, October 2005

¹⁹¹ Ibid.

¹⁹² Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence

¹⁹³ Citizens' Rights Charter, Police Headquarters, Nicosia, 2007, see chapter "Domestic Violence", pp. 64-66, paragraph "Police Intervention". Available at <[http://www.police.gov.cy/police/police.nsf/All/E5E5EEB7434B2896C22578A900271827/\\$file/charter%202007%2021.1.pdf?OpenElement](http://www.police.gov.cy/police/police.nsf/All/E5E5EEB7434B2896C22578A900271827/$file/charter%202007%2021.1.pdf?OpenElement)>

criminal justice realities, serves among others to protect all parties involved, including victims and professionals, from unnecessary confrontations and frustration, as it sets the limits. All parties involved reserve and are entitled to the right to seek a better different system, but the time of service delivery, which in many cases is also a time of crisis, tends not to be the proper time and platform to debate such issues and pressure for a better response system.

The Court

Court procedures have been reported in both European and international research as one of the most daunting experiences for victims of domestic violence.¹⁹⁴ The complicated nature of legal procedures and laws, as well as the overly punitive and adversarial orientation of the justice system as a whole, without much reference to victims' actual needs, can be seen as a major barrier to victims' engagement with the legal system, particularly in the absence of legal advocacy and support. While the research suggests that a positive institutional change has been taking place inside the police force, which is reflected in the rates of recorded incidents and victims' feedback¹⁹⁵, attrition has continued to be particularly high in relation to criminal justice proceedings and outcomes.¹⁹⁶

According to the available research, the reasons for attrition of cases at the stage of litigation relate to contradictions and tensions between victim's needs and the systems success indicators, the lack of or inadequate victim information and support throughout the criminal justice process, procedural delays in prosecuting domestic violence cases and the demands on time and resources of victims, and the lack of victim-engaging strategies which contribute to increased victim stress and intimidation during the legal process.

The contradictions between the victims' and system's ambitions, and tension arising from this contradiction, seem to be a key attrition factor featured across Europe and internationally. There seems to exist a rather serious mismatch in the very approach adopted by many courts in cases of domestic violence. In commenting on the work of the courts handling domestic violence cases, retired Judge Fields¹⁹⁷ argued that the general framework of family conflict resolution informed by family theory is still largely favoured by the justice system. She further adds that such framework does not correspond and does not

¹⁹⁴ a) Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Koshan, J. M. (2008); b) *Violence at Home: A Joint Inspection of the Investigation and Prosecution of Cases Involving Domestic Violence*, HMIC, 2004; c) Douglas, H. (2008); d) Hester, M. and Westmarland, N., Tackling Domestic Violence: effective interventions and approaches; e) Jordan, Carol E., (2004) p. 12

¹⁹⁵ Hester, M. and Westmarland, N., Tackling Domestic Violence: effective interventions and approaches.

¹⁹⁶ a) Ibid.; b) Hester M., (2005).

¹⁹⁷ Fields, M. D. (2008)

suffice to the needs of the victims of domestic violence, as it prioritizes family over the individual person and the person's individual needs, such as, for example, safety. The inappropriateness of family conflict resolution approach, that in many respects ignores power dynamics, safety issues and various victim-abuser dependencies, already mentioned earlier, is promoted by health professionals and family counsellors, and according to Fields, results in an inappropriate court decisions that in the context of family system reciprocity tend to "blame victims for provoking violence and abuse".¹⁹⁸ More specifically, the research indicates, that in cases when women are willing to press charges, it happens that their willingness is not eagerly met in the courts. For example, according to the research conducted by Hare¹⁹⁹, out of 94 battered women whose cases were investigated, "Contrary to prosecutors' contentions and earlier research, a majority (70.2%) of battered women did want to file charges". This is particularly apparent when courts favor minimization of harm and low punishment measures, particularly in cases of breach of protection orders, again, contrary to victims' expectations.²⁰⁰ As argued by Douglas, "although criminal charges are laid, criminal responsibility is often minimized by police prosecution authorities in terms of the type of charge applied... in most cases penalties are relatively low, usually resulting in fines... [and] ...defendants charged with breach of a domestic violence order are less likely to plead guilty than defendants charged with non-domestic violence matters".²⁰¹

Another area of mismatch between victims' needs and courts' goals is the rather contradicting practice of initiating and applying punitive measures in cases of victims who are expressing needs for support, rehabilitation and counseling. Given the general increase in punitive measures adopted by criminal justice systems, such as pro-prosecution and no-drop policies, and given the findings on the police favoring convictional measures (described above) as well, it appears that there is a gap in identifying the cases that do require a different type of intervention and solution. As Hare²⁰² concluded in her research, "Perhaps prosecutors can communicate enough with the victims to recognize these cases without applying the one-size-fits-all mandatory prosecution policy on everyone".²⁰³ In the absence of alternative measures offered to victims, and bearing in mind numerous other obstacles, such as fear of retaliation and financial dependency, such mismatch between victims' needs and justice systems' ambitions, does bring in question the general role of the judiciary. It is

¹⁹⁸ Ibid.

¹⁹⁹ Hare, S. (2006)

²⁰⁰ Douglas, H. (2008)

²⁰¹ Ibid.

²⁰² Hare, S. (2006)

²⁰³ Ibid

the victims who are to be protected and their needs to be met. It is therefore proper for the justice system to adapt circumstances specific to the case, to show some flexibility, and to consider responses which tend to stand at the extremes of trivializing and adopting punitive measures, without compromising the principles of independency, objectivity and neutrality of the judiciary.

Overall, it has been argued by researchers working on the interaction between victims and the justice system that the criminal system response often fails to recognize and accommodate for the complex nature of domestic violence cases and the individual characteristics of the parties and relationship between them.²⁰⁴ For example, in terms of safety provision by court measures, because of the intimate and long-term nature of the relationship between abuser and victim, any legal solution offered to the victims will have long-term implications in their lives. The failure to recognize and address such long-term effects, while focusing on immediate solutions, however effective they might be (e.g. protection order or detention of perpetrator), might lead to potential escalation and aggravation of the problem. It has been documented that in cases of domestic violence, for many battered women the prosecution of an abuser leads to increase of long-term risk of harm.²⁰⁵ As the relationship between victim and perpetrator is usually of a long term nature and often continues in some form, even occasional contact, beyond the point of detention or incarceration (particularly in cases where a couple has a child or other familial ties), the risk of abuse recidivism is not eliminated by imprisonment. Additionally, the research also shows that having served the legal punishment, many perpetrators blame the victims for their incarceration and seek retribution, which also highlights the danger of repeated abuse.²⁰⁶ A justice system that takes no account of such implications, by default, is likely to deal with the consequences of its own short-term approach.

Provision of systematic victim information and support is also another essential factor in court proceedings. The confusing nature of legal systems together with lengthy court procedures and delays may leave victims with little hope that their cases will ever go through.²⁰⁷ Victims report experiencing frustration with how little information on court procedures and their potential outcomes they are provided with by system professionals. While there is also evidence on the improved information assistance within the court system, and some victims express their full satisfaction, as for example in Northern

²⁰⁴ Ibid

²⁰⁵ Epstein, D., Bell, M. E. & Goodman, L. A. (2003)

²⁰⁶ Erez, E. and Belknap, J. (1998)

²⁰⁷ Douglas, H. (2008)

Ireland²⁰⁸, there are also numerous references to the contrary experience of victims. The concept of empowering victims through knowledge, mentioned earlier in the discussion of service-provision, is also relevant within the courts, where victims should not be expected to rely on extra-judicial legal advocates assistance only, but should be fully assisted by the justice-system itself. The research shows that when a woman is assisted in court procedures with regards to her rights, implications of court decisions, particularly when victim-abuser dependence factors are in place (custodial matters, financial dependency) they are more likely to proceed with their cases.²⁰⁹

Domestic violence cases are known to take longer to be finalized compared to other crimes and the research suggests that timeliness is essential to victim cooperation.²¹⁰ The lengthy court procedures and delays in case processing are for many women related to the economic issues arising from multiple court visits and delays in finalizing criminal matters, particularly where specialized courts or specialized prosecutors are absent, which can have a negative impact on women's employment and child-care arrangements. Finally, experiences of intimidation, humiliation and stress have been cited by victims in research on court processing of domestic violence cases. Many victims perceive involvement with the court as potentially traumatizing.²¹¹ Some women have reported feeling re-victimized in courts according to Gillis' research (2006), "The actual court proceedings were described by participants as intimidating, impersonal, and demeaning".²¹² It has also been documented that for some victims, court procedures even resulted in increased symptoms of post-traumatic stress disorder.²¹³ According to other reports, women felt that crimes committed against them were trivialized by prosecutors and, as such, the charges against the abuser were reduced. Douglas²¹⁴ in an article on legal response to domestic violence argues that women's experiences of the criminal justice system are often 'violent' and sometimes devastating, and also adds that the feeling of frustration and disillusionment, override any hope or protection and safety gained through the criminal justice process. Some victims have also reported feeling "intimidated and assaulted by the courthouse," in part because of

²⁰⁸ *Domestic Violence, Safety and Family Proceedings: Thematic review of the handling of domestic violence issues by the Children and Family Court Advisory and Support Service (CAFCASS) and the administration of family courts in Her Majesty's Courts Service (HMCS)*, October 2005

²⁰⁹ Hester, M. and Westmarland, N., Tackling Domestic Violence: effective interventions and approaches.

²¹⁰ Ibid.

²¹¹ Brown, J. M., Hamilton, C. & O'Neill, D. (2007)

²¹² Gillis, J.R., Diamond, S.L., Jebely, P., Orekhovsky, V., Ostovich, E.M., MacIsaac, K., Sagrati, S. & Mandell, D. (2006)

²¹³ Parsons, J. and Bergin, T. (2010)

²¹⁴ Douglas, H. (2008)

the overrepresentation of men.²¹⁵ The pressure to testify imposed on victims, serves an additional stress factor, and sometimes even leads to contrary effects when a woman feels forced to “realign publicly with her batterer’s view of things”.²¹⁶ In those courts where victim acts as witness, and no instruments such as “victim impact statements” were introduced, victims might feel threatened about providing evidence against their partners.

Overall, according to the available research, judicial work has begun taking into account the complexity of domestic violence crimes and factors that impede victim cooperation in domestic violence cases. While in some countries such as the United Kingdom and Spain specialized domestic violence courts have been introduced, and it has positively impacted both attrition and conviction rates (discussed later in the section on criminal justice responses), in the majority of European states domestic violence crimes are still adjudicated by civil/family courts and criminal courts, which has proven to be inadequate in addressing the complexity of domestic violence and to responding to victims’ needs.

²¹⁵ Jordan, Carol E., (2004)

²¹⁶ Mills, L. G. (1999), p. 551.

5. STRATEGIES AND APPROACHES TO OVERCOME ATTRITION IN DOMESTIC VIOLENCE

In light of the reported existing and potential barriers to a victim's committed engagement with and participation in criminal justice processes, a variety of strategies, measures and interventions have been developed and implemented by criminal justice systems in order to overcome victim related obstacles, to reduce attrition rates overall, and enhance the effectiveness of criminal justice responses to domestic violence.

An evaluation of the costs of domestic violence suggested that "the scale and impact of domestic violence have been much underestimated".²¹⁷ The cost of domestic violence to the criminal justice system was estimated in the United Kingdom to be over one billion pounds (£1,017,197,000) in 2001, with about half of this cost to be for police services²¹⁸. The respective cost was estimated to 1261 million pounds for 2008.²¹⁹ Such estimated substantial cost constitutes a clear and strong incentive to try to ensure that the criminal justice response is as effective as it can be.

Overall, as will be discussed in more detail below, the literature indicates that withdrawal of victims may be lower where victims are supported in their engagement with the criminal justice system through advocacy and other support services, that attrition may be lower where specialist domestic violence courts and other specialist services are in operation, and where prosecutors and judges or magistrates have received domestic violence training. To this analysis, we have also included other measures that, as part of a coordinated multiagency approach, may also produce significant results in relation to reducing attrition independently of the victim, including mandatory arrest, pro-prosecution and no drop policies, and risk assessment procedures. We also underline the importance of data collection and monitoring systems in order to record and track cases, identify attrition points, and monitor the progress of strategies and policies to combat domestic violence.

5.1 Data Collection/Monitoring Systems

Although the issue of data collection was addressed above, it is worth reiterating in this section. According to a number of studies and reports, there are severe inadequacies in data collection and monitoring systems on domestic violence across Europe, particularly in

²¹⁷ Walby, S., *The Cost of Domestic Violence*, National Statistics & Women and Equality Unit, September 2004

²¹⁸ Ibid., p. 44

²¹⁹ Walby, S., *The Cost of Domestic Violence: Up-date 2009*, National Statistics & Women and Equality Unit, November 2009

recording and tracking of reported cases, meaning that outcomes cannot be assessed nor can attrition be monitored.²²⁰ Although data collection and monitoring systems may not be directly related to attrition in domestic violence, this can be seen a serious setback in attempting to formulate, implement and evaluate policies with a view to reducing the attrition rate.

According to the Council of Europe, only the United Kingdom has introduced statistical procedures for marking domestic violence cases consistently and tracing them through the criminal justice system.²²¹ In most European states it is possible to follow the case flow in one or part of the criminal procedure, for example from the end of the criminal investigation to the prosecution, but not throughout the whole procedure, i.e. from the report of an offence to the final court decision. This relates to the data systems and especially the classifications used by different authorities, which tend not to be compatible with each other.

The Spanish Observatory has also begun such tracking and updated statistics are available on the website of the Institute for Women, Ministry of Equality. Croatia has (in its current national policy document) set itself the task of developing its statistical data and data exchange between police, justice and health systems in order to monitor cases involving violence against women systematically and analytically. Denmark has been building a national database and supplementing crime statistics with victim statistics.²²²

As mentioned elsewhere in this report, in Cyprus there is also systematic data collection of police, prosecution and court data with regards to incidents of domestic violence reported to the police, which are monitored since 2005. These data are periodically published and their categorization indicates points of attrition through the whole process, but it may not be helpful in the understanding of the reasons behind the fluctuation of numbers.

Further to the obvious advantage of data collection by criminal justice professionals with regards to the rates per point of attrition for self monitoring purposes, such development is expected to further invite and facilitate research and research guided interventions in the field because it shall make progress and effectiveness more visible and measurable for feedback purposes.

²²⁰ Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence, p. 15

²²¹ Hagemann-White, Carol (2010),

²²² Ibid.

5.2 Specialization of Services Provided

According to the literature, countries and jurisdictions with specialized services including specialized prosecution programmes, specialist domestic violence courts, and specialist advocacy and support services, report higher rates of successful prosecution in domestic violence cases. These specialized response programs generally include fast track scheduling, reducing victim vulnerability pending trial, increased victim contact pending trial, and victim-friendly proceedings that remove, as much as possible, victim involvement to proceed with prosecution.²²³ While victims most commonly report fear of retaliation as a barrier to their participation in prosecution, a three state study conducted in the United States found that the fear was reduced in sites with specialized domestic violence courts that also contained specialized prosecution programs and increased victim advocacy.²²⁴ As will be seen in the section below on specialised domestic violence courts, overall victim satisfaction with the prosecution process was greatly enhanced through the specialized services offered. According to studies carried out in the U.S., specialized prosecution programs have significantly increased prosecution and conviction rates.

Specialized domestic violence units within the police, emphasizing repeated victim contact and evidence gathering, have been shown to significantly increase the likelihood of prosecution, conviction and sentencing.²²⁵ A specialized police response is more likely to see victims leave their abusers sooner and also results in higher victim reporting of re-abuse. Domestic violence units are also more likely to amass evidence to turn over to prosecutors.²²⁶

Specialised prosecution units are better trained and have specific expertise on domestic violence. In turn, such units enhance the relationship of the persecutors with the victims, by improved investigation and preparation of cases against perpetrators, and ensuring better access to support services, advocacy and protection measures. The evidence suggests that, if adequately funded, specialized domestic violence prosecution units, especially if associated with specialized domestic violence law enforcement units and courts, should increase domestic violence prosecutions and convictions, victim cooperation, satisfaction, and if

²²³ Klein, A.R., *Practical Implications of Current Domestic Violence Research: Part II Prosecution*, Report to the U.S. Department of Justice, April 2008

²²⁴ Ibid.

²²⁵ Jolin, A., Feyerherm, W., Fountain, R., and Friedman, S. Beyond Arrest: The Portland, Oregon Domestic Violence Experiment

²²⁶ Klein, A. R., *Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors, and Judges*

dispositions are geared to defendant risk, safety.²²⁷

Specialized Domestic Violence Courts

In the past two decades, specialized domestic violence courts have become widespread across North America and Canada, Australia and New Zealand, and more recently in the United Kingdom and Spain as a mechanism to more effectively address intimate partner violence within the criminal justice system and particularly with regards to the judiciary's responsiveness to domestic violence.

Specialist domestic violence courts developed from recognition of the unique characteristics of domestic violence. There have been provided various reasons for developing specialized domestic violence courts. First, domestic violence cases often involve overlapping concurrent charges relating to separate incidents with the same partner. In the absence of specialized courts, a number of prosecutors could be proceeding on different components of the case without necessarily knowing of the other related incidents or even so being able to address them together. Specialized courts enhance the possibility of consolidating all matters and proceeding on the full range of offences rather than fragmenting cases throughout the system. Second, specialization was designed to respond to the common criticism of the traditional legal process that it did not protect victims, and offenders were seldom arrested and prosecuted. Prior to specialization, sentences for assaulting intimate partners were typically lenient.²²⁸ A very serious concern was that within the traditional system, victims were often re-victimized during the justice process.²²⁹

Research suggests that there are four main benefits of domestic violence courts. Compared to the prosecution of domestic violence cases in other courts, a domestic violence court offers greater consistency in sentencing. Secondly, victim assistance and witness support has greater efficiency and benefits to its service users due to the confinement of cases into a specialist court. Thirdly, there is the potential for a domestic violence court to deal with the complexity of cases and be responsive to civil and criminal cases. Finally, domestic violence courts can offer fast track access to programmes for perpetrators intended to control their violent behaviour and with proven efficacy.²³⁰

Although the ultimate focus of specialist courts has been on reducing re-offending, there has been an increasing focus on process, particularly to the extent that it involves the victim.

²²⁷Klein, A. R., *Practical Implications of Current Domestic Violence Research: Part II Prosecution*

²²⁸Bennett, L., Goodman, L., & Dutton, M.A. (1999)

²²⁹Ibid.

²³⁰Clark, S., Burt, M.R., Schulte, M.M. and Maguire, K. (1996)

Thus, victim participation, victim support, victim advocacy and victim inclusion have been central to model specialist domestic violence courts, with victim safety being the overarching concern to ensure protection by the system and prevent re-victimisation.²³¹

There is no universal specialised domestic violence court model. Rather each domestic violence court model' describes a specialised process of the investigation, charging and prosecution stages of domestic violence cases in a criminal justice system.²³² In fact, there are many different models of specialization. Some specialized courts involve judicial review processes, other courts emphasize rigorous prosecution, and still other models of specialization emphasize programs to support and advocacy for victims in order to assist them through the court process. Studies have found that victims who utilize advocacy programs and protection orders are much more likely to testify or have the cases completed in court.²³³

There are a number of models ranging from 'dedicated domestic violence courts', 'specialist domestic violence courts', 'integrated courts' or 'cluster courts' and 'fast track systems'. The term 'specialized court' has become a short hand term for a broad range of related services that support or interact with the court. Most, although not all, specialized courts operate in partnership with victim support programs, government or community treatment agencies and often specialised police units, special prosecutors, etc, depending on the country and jurisdiction. Most specialist domestic violence courts have some key core components, such as access to advocacy services, coordination of partners, victim and child friendly court, specialist personnel, even handed treatment, integrated information systems, evaluation and accountability, protocols for risk assessment, ongoing training, compliance monitoring, and consistent sentencing.²³⁴

In England and Wales there are 141 special domestic violence courts and in Spain there are 92 exclusive courts to address gender-based violence and 366 shared courts.²³⁵ Both systems seem to succeed in bringing a significantly higher proportion of perpetrators to justice more rapidly than was possible in the past. However, the models differ, both with respect to the institutional setting and to their primary focus.

²³¹ Steward, J., Specialist Domestic Violence Courts: What we know now – How far have Australian Jurisdictions progressed?

²³² Eley, Susan (2005)

²³³ Dawson, M. & Dinovitzer, R. (2001)

²³⁴ Cook, D., Burton, M., Robinson, A. & Vallely, C., Evaluation of Specialist Domestic Violence Courts/ Fast Track Systems

²³⁵ Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence, p. 64

In the United Kingdom, the specialised courts are held by lay magistrates (or Justices of the Peace) who hear and dispose of summary offences, and pass the case on to higher courts when the offence calls for a higher penalty. The main objective of the new specialised system is to ensure that domestic violence is punished without delay. The police have been empowered to arrest for simple assault, and a poster campaign has spread the message to offenders or offenders to be that acts of violence in the home will be punished regardless of the wishes of the victim. The breach of a non-molestation order has also been made a criminal offence punishable by up to 5 years' imprisonment. At the same time, the "Specialist Domestic Violence Court" is more than a court practice. It aims at a coordinated community response, and appropriate co-operating services are a prerequisite for accreditation of the court. Each court has an appointed Independent Domestic Violence advocacy whose goal is the safety of the victim, and the model includes a "multi-agency risk assessment conference" (MARAC).

These and further flanking measures are aimed at ensuring that sanctions for perpetrators do not override the needs of victims or of the children who have witnessed the violence.²³⁶ Evaluations of the domestic violence courts in the United Kingdom have shown significant positive results.²³⁷

According to an evaluation of specialist courts conducted by the Home Office²³⁸, the police data indicated a high level of domestic violence crimes resulting in an arrest (an average of over 80% for the 11 domestic violence courts where the data was available). Four domestic violence courts had over 70% arrest rate and another four over 80%. Furthermore, the data showed that the average for domestic violence courts successful outcomes was 66% compared with their corresponding Crown Prosecution Service (CPS) area average of 64%. Although this increase may seem slight, the rate of successful prosecutions in some domestic violence courts is reported to be as high as 80%, which nearly reaches the national average of 84% for defendants prosecuted for all crimes. Also important is that there were slightly fewer cases discontinued (28% in domestic violence courts compared with 29% in CPS areas) including those where no evidence was offered (14% compared with 15%).

²³⁶ Hagemann-White, Carol (2010), p. 13

²³⁷ Cook, D., Burton, M., Robinson, A. & Vallely, C., Evaluation of Specialist Domestic Violence Courts/ Fast Track Systems

²³⁸ The Crown Prosecution Service, Home Office 2008, *Specialist Domestic Violence Court Programme: Resource Manual*, London

According to an evaluation conducted of the Pilot Domestic Abuse Court in Glasgow²³⁹ the criminal justice response was seen to have been effective, and had many benefits compared to traditional courts, including improved outcomes. There were a higher proportion of cases in which there was a guilty plea at some stage (81% compared to 73%), a higher conviction rate (86% compared to 77%) and a lower level of case attrition (10%, compared to 18%). Importantly, the speed of processing cases was much faster in the domestic abuse court than the comparison courts, with an intermediate diet held within 29 days in 76% of cases (compared to 20%), and nearly three quarters of cases calling reaching a trial diet in 6 weeks, compared to only 13% in the comparison courts.²⁴⁰

Thus, the evidence point toward a reduction in case attrition and increased convictions, including that the proportion of cases not called or deserted and not subsequently re-listed was lower in the domestic abuse court than in the comparison courts, a higher proportion overall resulted in a conviction, and a higher proportion of trials resulted in a finding of guilty. Importantly for the purposes of this study, it should be noted that all evaluations that have taken place in the UK on specialist domestic violence courts showed that they had a positive impact upon the experiences of victims and witnesses, with a high level of satisfaction. The key factors which contributed to effective practice in the response to victims and other witnesses appeared to be a victim-centred approach, with an emphasis upon safety, supported by appropriate processes such as risk assessment and safety planning, information and the provision of independent support to victims at all stages by an organisation with expertise in domestic abuse. This supports similar findings in US based studies of specialist domestic violence courts that have showed that positive perceptions by victims and a high level of satisfaction with the way cases were handled by the court, based not only on outcomes but on perceptions of fair treatment, and access to services and advocacy.²⁴¹

Another important aspect of specialised domestic violence courts in the UK, and a key element of their success, is the focus on multi-agency, partnership approach with memorandum of understanding between all partners.

“While the five different courts have illustrated different strengths, one generalization about “all specialist courts” which can be made is that such courts enable the development of best practice in multi-agency, integrated ways of

²³⁹ Evaluation of the Pilot Domestic Abuse Court, Scottish Executive Justice Department, 2007

²⁴⁰ Ibid.

²⁴¹ Moore, S. (2009)

working that place the victim at the heart of the process. Further development is needed to fine-tune court and support systems, and ultimately further reduce attrition rates and repeat victimisation in DV [domestic violence] cases.”²⁴²

In Spain, the main objective of the specialised court system is to bring all legal matters, both criminal and civil, connected to domestic violence into the integrated jurisdiction of a professional judge. Unlike the United Kingdom magistrates courts, the Spanish courts investigate and sanction all levels and types of gender violence, including all crimes in the Criminal Code relative to murder, injury, injury to the foetus, crimes against a person’s freedom, against a person’s moral integrity, against a person’s sexual freedom and inviolability, and any other crime involving violence or intimidation, when committed against a partner or against their children. At the same time, they also have sole jurisdiction over all issues of family law, such as separation, divorce, use of the home, custody or visiting rights, and such civil cases must be transferred to the specialist court as soon as evidence of gender violence emerges. These courts issue protection orders, including both criminal measures such as restraining orders or communication bans, and civil measures such as use of the shared residence. While the Organic Law on Integrated Protection Measures against Gender Violence also codifies victims’ rights, including the right to services and support, it should be noted here that there is no direct institutional link between services and court proceedings.

Unfortunately, evaluation studies on the impact of the gender violence courts in Spain on prosecution and conviction rates, or on the willingness of women to cooperate and stay through the process could not be identified. Some statistics are available which show that there was a 76.6% conviction rate among defendants in the gender violence courts as compared to 83% in the provincial courts and 50.2% in the criminal courts.²⁴³

Although in both countries there are regional gaps and difficulties in implementation, each specialised court model includes provisions that could be of interest in improving the legal frameworks and their application in other countries.

How do specialist courts affect victim retraction rates?

Although domestic violence courts aim to reduce levels of victim retraction, an evaluation of specialist domestic violence courts in the UK showed that half of domestic violence victims

²⁴² Cook, D., Burton, M., Robinson, A. & Vallely, C., Evaluation of Specialist Domestic Violence Courts/ Fast Track Systems, p.6.

²⁴³ Poder Jucicial Espana, www.poderjudicial.es

(50%) still chose to retract.²⁴⁴ Given that the rate of victim retraction was an indicator of success for the criminal justice system and seen as key to the successful resolution of domestic violence cases, the finding that the domestic violence courts did not have a significant impact on victim retraction can be seen to be discouraging. A follow-up to the evaluation focusing explicitly on victim retraction was conducted by Robinson and Cook (2006).²⁴⁵ This study is particularly relevant as it focuses on understanding victim retraction in cases that are processed through domestic violence courts, where one of the key objectives is to improve the support offered to victims and improve their participation in the criminal justice process. As mentioned above, according to the study, 50% of victims retracted at some stage of the proceedings. Of those retracting, almost half retracted before trial (44%), more than one third retracted before the defendant entered a plea, and 7% of victims retracted on the day of the trial. It is important to bear in mind that half of victims did not retract at any stage of the process and those that did stay with the process did so until about one month after the charging date.

It is also important to point out that, according to the study, most of the cases where victims retracted resulted in the case being dropped by the prosecutor or resulted in no evidence offered. This points to the fact that despite pro-prosecution policies in place (at least in the UK) the progression of domestic violence cases still relies heavily on victim participation and cooperation.

The analysis of the reasons that victim retracted pointed to victim related factors and were less related to the criminal justice response as such. In 27% of cases victims retracted because the couple had reconciled, 14% of victims felt that the process was overly punitive and did not focus enough on rehabilitation, others had concerns related to their children and childcare (8%), some blamed themselves for the situation (7%), and a few victims described “cultural pressure” or “fear of repercussions” from family (3%). As Robinson and Cook point out, “Acknowledging the varied and often understandable reasons why victims retract is important; it should remind criminal justice officials that their agency’s performance indicators reflect actually difficult decisions made by people confronted with traumatic experiences”.²⁴⁶ Other factors also increased the likelihood of retraction, including previous experience of domestic violence and severity of injury due to violence.

²⁴⁴ Cook, D., Burton, M., Robinson, A. & Vallely, C., Evaluation of Specialist Domestic Violence Courts / Fast Track Systems

²⁴⁵ Robinson, A. & Cook D., (2006)

²⁴⁶ Robinson, A. & Cook D. (2006), p. 203

It is also important to point out, as noted above, that domestic violence courts and its support arrangements were widely regarded with high reported levels of victim satisfaction, and that this, in and of itself, can be seen as a valuable indicator of success. What has been referred to by Robinson and Cook as “supported retractions” ensures that victims receive and benefit from the advocacy support, and opportunities in terms of housing, welfare, education etc, in order to move on following domestic violence. As the authors put it,

“...it was the case that victims and survivors valued firstly, the signals sent by the SDVC [Specialised Domestic Violence Court] (to the victim that she was being supported, valued, and taken seriously, and to the person responsible for the harm that domestic violence was a priority for the criminal justice system), and secondly, the support they received at or through the SDVC (from criminal justice, advocacy and voluntary and community sector support agencies). Both of these factors help victims to move on after their experiences of domestic violence.²⁴⁷

Thus, this again points to the need to perhaps re-evaluate the assumption that prosecution is always desirable outcome for all victims of domestic violence.²⁴⁸ Nevertheless, according to the literature available on specialist domestic violence courts, the most effective domestic violence courts address both justice and safety measures and data indicated improved prosecutions, engagement and support for victims both in and outside of the criminal justice system.

5.3 Pro-arrest, Victimless Prosecution and No-Drop Policies

Pro-Arrest/Mandatory Arrest Policies

Another strategy, which aimed at improving the police response to domestic violence, is the promotion of pro-arrest or mandatory arrest policies. The terms ‘mandatory arrest’ and ‘pro-arrest’ policies are used interchangeably in the literature but they may refer to similar and yet somehow different directions derived from police policies on domestic violence.

Mandatory arrest policies require police officers to arrest a suspect whenever the officer has probable cause to believe that an assault or battery has taken place, whether or not the officer has a warrant or has even witnessed any violence. Importantly for the purposes of this report, mandatory arrest policies require police to detain a perpetrator regardless of a victim's consent. Thus, the novelty of the mandatory arrest laws is that on the one hand they eliminate discretion on the part of police officers who might otherwise be reluctant to arrest

²⁴⁷ Ibid, p. 208

²⁴⁸ Hoyle, C. and Sanders, A. (2000)

suspects in domestic cases and on the other hand it transfers responsibility for the decision to arrest from the victim to the criminal justice system.²⁴⁹ Pro-arrest policies differ from mandatory arrest in that they highly encourage officers to make an arrest in cases of domestic violence. However, a pro-arrest policy would ultimately leave the officer with the discretion of whether an arrest should be made or not. Adopting a pro-arrest policy would allow police officers to take the wishes of the victim as well as extenuating circumstances into consideration when deciding whether or not to make an arrest. Ultimately however, the officer would have the prerogative to make an arrest when safety outweighs the concerns of the victim.

Mandatory arrest or pro-arrest policies have been adopted increasingly in the U.S., Canada, Australia, New Zealand, United Kingdom, and the Netherlands, among others. In the U.S., as of 2007 twenty one states had codified mandatory arrest policies.²⁵⁰ In the United Kingdom, it is Home Office policy that where an arrest is possible in a domestic violence incident, this should usually be pursued. The revised Home Office Circular 19/2000 emphasises this approach, with focus on positive policing and 'enhanced' evidence gathering:

"Where a power of arrest exists, the alleged offender should normally be arrested. An officer should be prepared to justify a decision not to arrest in the above circumstances... If the evidence is present, whether or not including evidence from the victim, then a charge or summons should be preferred, unless there are exceptional reasons. Such reasons should be recorded".²⁵¹

Reasons for the promotion of the pro-arrest policy included lessening of discriminatory responses by police by limiting their discretion, and encouraging the criminal justice system as a whole to treat domestic violence more seriously. These policies are reinforced by research that indicates arrest is an effective method of reducing domestic violence. They are also seen by many as necessary to combat a long-standing and globally prevalent police attitude that domestic violence is not a crime. Proponents²⁵² of mandatory arrest cite six goals to achieve through the implementation of such policies, namely safety of battered women and children (as the primary), to stop the violence, to hold perpetrators accountable for their

²⁴⁹ Erin, Han L. (2003)

²⁵⁰ American Bar Association Commission on Domestic Violence, Domestic Violence Arrest Policies by State

²⁵¹ Home Office, Home Office Circular 19/2000; Domestic Violence. London: Home Office. 2000

²⁵² Hart, Barbara J. (1997)

behaviour, divestiture by perpetrators, restoration of the battered woman, and to enhance agency in the lives of victims of domestic violence.

Furthermore, advocates believe that taking the power away from the woman to decide whether to press charges takes away the perpetrator's ability to influence and pressure her. In the UK, one of the main aims of the pro-arrest policy is to reduce the number of domestic violence cases discontinued by the Police and the Crown Prosecution Service.²⁵³

Pro-arrest policies have been criticised for disempowering victims by not taking into account their preferences in regard to arresting the offender.²⁵⁴ The main debate in this area is the capacity of victims to make a decision regarding the arrest (and prosecution) of the offender. Critics of the pro-arrest policy have argued that victims are essentially revictimised by a paternalistic criminal justice system that takes away their power to choose what is best for them.

Critics of pro-arrest policies have also argued that the facts of some cases make it initially unclear who the perpetrator and who the victim is and, as a result, a dual arrest may occur. However, data on police action in 2,819 jurisdictions in 19 states in the U.S. reveal that only 1.9% of incidents resulted in dual arrests for intimate partner violence. In other words, less than 4% of all intimate partner arrests were dual arrests.²⁵⁵

Proponents of the pro-arrest policy counter that "free choice" by victims is a myth if the abusers are exercising coercive control over their lives. State intervention in the form of the pro-arrest policy is therefore supposed to assist in counteracting the control of the perpetrator, assisting victims to a stage where they are more able to make decisions free from the coercion and control of the perpetrator.²⁵⁶

There has also been extensive debate as to the effectiveness of mandatory and pro-arrest policies in reducing re-offending rates as well as in increasing the rate of charges and convictions. Indeed there has been conflicting evidence as to whether pro-prosecution policies reduce violence.

A quite influential on pro-arrest policies field experiment was carried out as early as 1981-1982 in Minneapolis-USA by Sherman and Berk²⁵⁷with the cooperation of 42 patrol officers of the local police department. The study, which was commissioned by the United States

²⁵³ Hoyle, C. and Sanders, A. (2000)

²⁵⁴ Ibid.

²⁵⁵ Hirschel, D., Buzawa, E., Pattavina, A., Faggiana, D. & Ruelan, M. (2007)

²⁵⁶ Stark, Evan (1993)

²⁵⁷ Sherman, L.W. & Berk, R.A. (1984)

Police Foundation and the Minneapolis Police Department, falsified the argument favouring opposite effects of punishment as predicted by the specific deterrence doctrine and labelling theory, and found evidence of significantly lower subsequent (to arrest) violence by those who were arrested as opposed to those who were not for domestic violence offences. The study was widely cited as providing evidence that arrest in domestic violence was an effective deterrent which reduced repeat offending.

A series of six subsequent studies in the U.S. known as the Spouse Assault Replication Program (SARP), which were carried out between 1985 and 1990, produced conflicting and mixed results, with some suggesting that arrest may actually be linked to increased violence among certain subgroups of offenders. It has also been suggested that the impact of arrest may be different for different perpetrators²⁵⁸. It is more likely, for example, to act as a deterrent to future offending if the perpetrator is employed or has some status in the community than if the perpetrator has nothing to lose. However, one should be cautious in interpreting findings either from SARP or from the earlier Minnesota Experiment, not only in relation to criticism that has been raised over their methodological approaches, but also and more importantly over the fact that they both focus on the effects of arrest to offender behaviour. Such approach tends to leave out the effects on the victim and how the latter and the public at large perceive the role of the authorities through their decision to arrest or not. This issue will be touched upon below.

In relation to whether mandatory or pro-arrest policies lead to increased rates of arrest, research in the 1970s and 1980s in the United States (as cited by Eitle²⁵⁹) found that the probability of arrest in family violence cases ranged from 3% to 14%, while research in the 2000s has found that the probability has increased to 30–34%. Eitle states that, “Despite the presence of mandatory and pro-arrest policies nationally, police officers still fail to affect an arrest in a majority of such [domestic violence] cases”.

Unfortunately, it has not been made possible to look into studies comparing the rates of arrest in family violence cases between jurisdictions that have pro-arrest policies and those that do not. Furthermore, as indicated elsewhere in this report, it does not follow that increased arrest rates lead to an increase in convictions and here the issue of victim empowerment and victim choice is essential to understand the impact of pro-arrest policies in overcoming victim reluctance in domestic violence cases.

²⁵⁸ Garner, J., Maxwell, C. & Fagan, J. (1995)

²⁵⁹ Eitle, David (2005)

A number of studies have been carried out on victims' perceptions of pro-arrest policies and these are discussed in detail in Carswell's²⁶⁰ literature review on pro-arrest policies. What is apparent from the review of the literature is that there is no consensus among victims about what their preferred police response would be. The majority of victims in the studies cited wanted the violence to stop and the offender removed. Only about half wanted the offender arrested. However, one major reason victims did not want the offender arrested was fear of retaliation, which is what the pro-arrest response is designed to overcome in order to promote victim safety and offender accountability. Others did not want the offender criminalised and wanted responses such as removal, warning, and facilitation of rehabilitation and help for the offender.

So the question remains as to whether this practice serves to further dis-empower victims by taking away their ability to choose whether they want offenders arrested. According to the literature, arrest seemed more likely to reduce repeat offending in those jurisdictions which had adopted more integrated criminal justice approaches. That is, when arrests are part of a coordinated multi-agency holistic approach to domestic violence²⁶¹. Such an approach may include pro-prosecution policies, consistent advocacy and support for victims through the whole criminal justice process, and access to mandatory perpetrator treatment programmes.

Pro-Prosecution/No-drop policies

Since the 1980s pro-prosecution policies, otherwise known as mandatory prosecution or no-drop policies, have increasingly been developed and applied in Canada, the United States, and more recently in the UK and other European countries. Mandatory arrest and no-drop prosecution "were introduced as an attempt to make police response to domestic violence more effective".²⁶²

Article 39 of the Council of Europe Recommendation (2002)5 on the protection of women against violence, states that member states should "make provisions to ensure that criminal proceedings can be initiated by the public prosecutor". This provision deviates from mandatory ex officio prosecution, and rather states that such prosecution should be made possible. Article 40 of the same Convention states that public prosecutors should be encouraged to regard violence against women as an aggravating or decisive factor in deciding whether or not to prosecute. The two Articles together, provide the conceptual

²⁶⁰ Carswell, Sue (2006)

²⁶¹ Ibid.

²⁶² Hoyle, C. and Sanders, A. (2000)

framework for approaching prosecution in cases of domestic violence from a more focused, specialized and aggressive perspective. On the issue of public initiated prosecutions, Hagemann-White²⁶³ reports that 24 out of 31 CoE member states had made such provisions in cases of violence within the family, and cites as an example of prosecution specialization the Organic Act 1/2004 of Spain, which has created the position of the Public Prosecutor for cases of violence against women, with the status of Chief Prosecutor. One of the responsibilities of this Prosecutor is to prepare the “Evidentiary Report,” which will confirm that a woman is a victim of violence, which shall be issued when there are significant but unverified signs of violence, and will be sent to the court in charge of the case. In Denmark, according to the Danish Criminal Code, prosecution of criminal offences concerning physical violence (including sexual violence) is an issue of public prosecution and is thereby not conditioned by a complaint or a report submitted by the victim of the crime. In Austria, with the 2006 amendment to the Criminal Code, the consent of victims is no longer required in order to initiate criminal prosecution in cases of dangerous threats in family contexts.²⁶⁴ Despite these developments, in a number of European countries, the prosecutor may not proceed with prosecution of rape within marriage unless the victim requests it. This is the case in Latvia, Liechtenstein, Malta, Poland and Slovenia.²⁶⁵

The case for pro-prosecution policies originated from the position that responses to domestic violence should be consistent with responses to other offences and that domestic violence is not a private issue but an issue that affects all of society. Furthermore, supporters of such policies state that prosecutors must intervene to protect the victims and their children and to prevent perpetrators from manipulating both the victim and the justice system. Importantly, provisions to ensure that the public prosecutor can initiate criminal proceedings in cases of violence within the family are considered important mechanisms to ensure that prosecution is not left to the victim, who because of the abuse, is often defenceless, vulnerable, and intimidated and without economic means to pursue a criminal prosecution. Thus, pro-prosecution policies have been developed as a direct response to high rates of attrition, and particularly to the issue of victim engagement with the criminal justice system. The case is made succinctly by Wills²⁶⁶, who concludes with the following:

²⁶³ Hagemann-White, C. (2006). p. 30-31

²⁶⁴ Rosa Logar, (2005)

²⁶⁵ Hagemann-White, Carol (2010)

²⁶⁶ Wills Donna, (1997). p. 182.

"Aggressive prosecution to domestic violence offenders rejects the notion that victims should be given the choice of whether to press or drop charges. No humane society can allow any citizen, battered woman or otherwise, to be beaten and terrorized while being held emotionally hostage to love and fear or blackmailed by financial dependence and cultural mores. As guardians of public safety, prosecutors must proceed against domestic violence offenders *with or without victim cooperation* as long as there is legally sufficient evidence. This policy of aggressive prosecution adopts the wisdom that "there is no excuse for domestic violence." It tells batterers that violence against intimate partners is *criminal*, that offenders can and will go to jail, and that their victim's refusal to press charges is not a "get out of jail free" card."

No drop policies, as with domestic violence courts, take different forms depending on the country and jurisdiction. For example, in the United States, there are variations that include quite aggressive or coercive no-drop policies, which may go so far as coercing the victim to co-operate with the option of arresting, in case they do not do so. More flexible approaches exist in Canada and in European countries where prosecution can proceed without victim testimony given there is sufficient evidence.²⁶⁷

Despite this, no-drop and pro-prosecution policies have been the subject of heated debate among practitioners and academic alike. It has been argued that the criminal justice system is increasingly pursuing a policy without empirical support for its effectiveness and without a consensus as to whether it really does increase the safety and well-being of the victim.²⁶⁸ Furthermore, research has shown that victim cooperation is still one of the key factors related to the likelihood of prosecution. In one study carried out in Toronto, Canada, it was found that when victims cooperated, prosecutors were seven times more likely to pursue charges.²⁶⁹ In the UK, an evaluation carried out on domestic violence courts showed that when women retracted, prosecutors were more likely to drop the case or resulted in no evidence being offered.²⁷⁰ The findings point to the need for more vigorous evidence gathering other than victim testimony that would allow prosecutors to progress a case without having to rely on victim participation.

Critics of pro-prosecution policies have further argued that they are disempowering to women and that proceeding without taking into account the wishes of the victim is

²⁶⁷ Erin, Han L. (2003)

²⁶⁸ Ford, D. A. (2003)

²⁶⁹ Dawson, M. & Dinovitzer, R. (2001)

²⁷⁰ Robinson, Amanda and Cook, Dee, (2006)

counterproductive and improper. As stated by Dayton²⁷¹, “Mandatory arrest and no drop prosecution policies take the decision away from the woman. Such policies are premised on the patriarchal notion that the state knows what is best for each individual woman, more than the woman knows for herself.” Ford²⁷² contends that no-drop policies are established to benefit the criminal justice system and not the victim, and argues that there needs to be community dialogue within and outside the justice system in order to determine the best ways to proceed with prosecution in domestic violence cases.

Thus, as Hoyle and Sanders²⁷³ as well as Robinson and Cook²⁷⁴ point out, while we cannot fully discount pro-prosecution policies as these may have the desired effect, particularly in terms of empowering victims to take action, such action may have little or no effect if the policies and the actions derived from them are not coupled with other directly supportive actions and measures as well as rigorous risk assessment procedures that will ensure that proceeding with prosecution is in fact in the best interests of the victim. As with pro-arrest and mandatory arrest policies, the solution seems to lie not in implementing single policies in a vacuum but in developing coordinated and multi-agency responses within which pro-prosecution policies can operate.

5.4 Risk Assessment Procedures

Because safety is the central concern of domestic violence intervention, the criminal justice system as well as other primarily state service providers, are inevitably involved in attempting to assess and manage the risk involved in each individual case. Risk assessment in cases of domestic violence victims involves making professional educated predictions in identifying those victims who are most at risk of suffering violence in the future. Risk assessment in domestic violence cases aims at a number of objectives. Firstly, it serves to facilitate the gathering of detailed and relevant information about the victim, which will help design a better service tailored to the victim’s specific needs. Importantly, risk assessment also provides an “...enhanced ‘paper-trail’ of evidence should the victim chose not to go forward with the case, helping prosecutors make more informed decisions about whether to proceed with cases when victims retract, for example in the ‘public interest.’”²⁷⁵ Another reason that risk assessments are carried out is that when embedded within multi-agency frameworks, risk assessment helps more agencies become aware of the most dangerous

²⁷¹ Dayton, Jessica (2003)

²⁷² Ford, D. A. (2003)

²⁷³ Hoyle, C. and Sanders, A. (2000)

²⁷⁴ Robinson, Amanda and Cook, Dee, (2006)

²⁷⁵ Robinson, A. (2004)

offenders, helping to keep their workers safe, while at the same time it serves more uniformity in prioritizing agendas. The risks and safety concerns of victims involved in the criminal justice system have been documented elsewhere in this report. We have seen that women are at increased risk at the point of separation from a violent partner. A related concern has to do with child contact, which may provide an opportunity for further harm. Risk to victims is also shown to play a role in police decisions to make arrests at domestic violence incidents.

It is noted here that the recent Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No 210)²⁷⁶, known as CAHVIO, in Article 51 states that “Parties shall take the necessary legislative or other measures to ensure that an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities in order to manage the risk and if necessary to provide co-ordinated safety and support.” This is in absolute agreement with argumentation favouring both risk assessment and coordinated responses with regards to combating domestic violence.

5.5 Coordinated Community Responses (CCR)

The multi-agency principle serves as the foundation of a coordinated community response (CCR) model. However, this model goes further than building upon systemic interagency cooperation, and tries to reach the community as whole. In this model, all extra-judicial agencies, including informal support networks, Non Governmental Organizations, local community, family members and friends are taken as relevant actors.²⁷⁷ While CCR is only starting to emerge in the European context, and is largely an achievement of the U.S.A, there is an established positive correlation between CCR and number of arrests, successful prosecution, number of batterers ordered to counselling, the level of cooperation of victims, recidivism, and victim satisfaction.²⁷⁸ In CCR models, the interventions are done by the very community members as well as grassroots organizations in a way that prompts and increases further intervention and cooperation on behalf of and between different agencies, and the intervention staff are charged with primary responsibility for the interface between the components.

The CCR model was first pioneered in the 1980's in Duluth, Minnesota. At the core of the

²⁷⁶ Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No 210)

²⁷⁷ Hart, B., Coordinated Community Approaches to Domestic Violence

²⁷⁸ Coy, M. and Kelly, L. (2010)

model are principles of recognition of victim's perception of danger, domestic violence as a pattern of control rather than isolated incidents, gendered power relations and the importance of coordinating multi-agency responses to domestic violence. Components of a coordinated community response include pro-arrest or mandatory arrest policies, follow-up support and advocacy for victims, aggressive and prompt prosecution, active monitoring of offender compliance with probation conditions, court-mandated participation in batterer intervention programs, strengthening of civil remedies, and monitoring of the system-wide response to domestic violence cases.

Communities throughout the world have adopted and expanded this model, known as the Duluth Model, to fit their unique characteristics. In 2006, the Home Office in the UK adopted the model defining its parameters as increasing safety of victims and children, holding perpetrators accountable, enhancing responsibility of service providers and the wider community, and prevention. Following the American Model, local agencies including health services, education, children's services, support services and community networks (friends/family) were all regarded as essential to the model.²⁷⁹ Following adoption of the CCR as a general approach to handling domestic violence, various other interventions and support programmes were designed, reformed and evaluated against the standards introduced through the CCR. Though a lot of criticism has emerged as a result of evaluation (local legal – cultural impediments did not allow for full success of CCR measures),²⁸⁰ and the evaluation of CCR itself is an on-going process, a number of intervention schemes have received positive evaluations with regards to fitting the criteria of CCR. Among them are Multi Agency Risk Assessment Conferences (MARAC), Protection Orders, Specialized Courts as well as specific schemes of advocacy developed through cooperative models between advocacy groups and other agencies (police, hospitals, migrant outreach programmes). In addition research indicates that implementing CCRs gives best results in small communities / towns, where the number of agencies is limited. In bigger cities, such as London, CCR has proved to be more problematic.²⁸¹

²⁷⁹ Ibid.

²⁸⁰ Ibid.

²⁸¹ Ibid.

6. GOOD PRACTICES AND INTERVENTION PROGRAMMES IN OVERCOMING ATTRITION

6.1 Legal Frameworks

The Organic Law on Integral Protection Measures against Gender Violence, Spain

The Organic Law on Integral Protection Measures against Gender Violence²⁸² was approved in December 2004 and defines violence against women as violence that, as a manifestation of discrimination, inequality and power relations of men over women, is exerted on them by those who are or have been their spouses or those who are or have been linked to them by similar relationships of affection, even without cohabitation. Title III establishes, among others, that units specialised in gender violence are created within the security forces (police). Title IV prescribes that all the legal procedures on violence against women must be judged in the same jurisdiction. Thus, a specific and special jurisdiction, the Courts on Violence against Women, were created in 2005 with competences in criminal and civil matters at the national level.²⁸³

The Violence in the Family (Prevention and Protection of Victims) Laws of 2000 and 2004

The Cyprus law on domestic violence²⁸⁴ explicitly states that violence within the family is an aggravating factor leading to a more severe penalty than for identical offences covered and punishable under the common Criminal Code when committed between non family members. It further states that any domestic violence offence committed in the presence of a child of the family is additionally considered as a separate offence (against that child). Mandatory reporting is regulated by the Law in cases of child abuse and by a circular of the Attorney General in cases of domestic violence. These legal provisions, on aggravating violence, “double offence”, and mandatory reporting highlight the principle of a more aggressive prosecution and approach to domestic violence.

According to the Law spouses shall be competent witnesses against each other. This provision was quite important when it was introduced because according to the Evidence Law (Article 14) spouses were not competent witnesses against each other, thus the provision made the prosecution of spousal abuse possible. However, at present this

²⁸² Organic Law 1/2004

²⁸³ Crepaldi, C., Lodovici, M. S., and Corsi, M., *Violence against women and the role of gender equality, social inclusion and health strategies*

²⁸⁴ The Violence in the Family (Prevention and Protection of Victims) Law 119(I)/2000 (Initially passed as Law 47(I)/1994, which was later replaced by Law 119(I)/2004). available at <<http://www.familyviolence.gov.cy/cgi-bin/hweb?-V=legislationgr&FSECTION=10040&-dlegislationgr.html&-Sr&VSECTION=0000&VCATEGORY=0000>>

provision is unnecessary due to a relative amendment of the Evidence Law. Further to spousal witness competency, the Law on Domestic Violence introduces compellability if the victim of the offence is a member of the family, other than the spouses. These provisions underscore the intention of the State from the public rather than the private/family perspective. The Law takes an integrated approach to domestic violence, in combining both civil and criminal measures as powers of the criminal court, which can decide on protection orders or measures, and also in establishing the Advisory Committee for the Prevention and Combating of Violence in the Family, which is a multi-disciplinary body with members representing stakeholders both from the Governmental and Non-Governmental sector.

6.2 Data Collection and Monitoring

STUK – Structured information on Crime, Sweden

The judicial authorities of Sweden have taken the initiative to create a new structure for classifying crimes. This initiative, called STUK²⁸⁵, aims to have a uniform set of provisions for all judicial authorities on how to compile and structure the kind of information on crimes that authorities are dealing with within criminal procedures, including police information. One objective of the new system is to make it possible to follow the flow of cases through the criminal procedure, i.e. to follow several aspects of each crime from report of an offence to the final court decision. Structured information makes its change and reuse easier for authorities. STUK is not a new data system but a model for use in already existing data systems of the relevant authorities, scheduled for implementation in 2012.

One of the advantages and the uniqueness of the STUK project is that it allows case flow through the criminal justice system to be followed. It allows the collection of reliable information on recorded violence against women and includes all relevant indicators (victim and perpetrator, their sex and age as well as the relationship between them and the type of violence) that are needed for getting a detailed overall picture of cases of domestic violence against women recorded by the police and the criminal justice system.

Northumbria Police Monitoring System, UK

A computer-based monitoring system was introduced in Northumbria Police in April 2001, for recording and linking domestic violence incidents across all police districts²⁸⁶. The database helped the development of a longitudinal three-year initial picture of incidents, attrition and police practice across three police districts in relation to three time periods. By

²⁸⁵ Ruuskanen, E. and Aromaa, K. (2008)

²⁸⁶ Hester, M., Westmarland, N., Gangoli, G., Wilkinson, M., O'Kelly, C., Kent, A. & Diamond, A., *Domestic Violence Perpetrators: Identifying Needs to Inform Early Intervention*

tracking the 356 perpetrators involved in earlier incidents and a further sample of 336 domestic perpetrators until July 2005, the data-base allowed to establish profiles, changes in charging procedures and related it to attrition. A total of 692 perpetrator profiles were developed, and analysis was carried out for the 1,889 incidents related to these individuals. The added value such data-base lies primarily in facilitating profiling and grouping of perpetrators, the information of which can be further used for research as well as in referral procedures with other agencies.

6.3 Specialist Domestic Violence Courts

Combined or Integrated Civil/Criminal Courts

The Dade County Domestic Violence Court (DCDVC)²⁸⁷ exemplifies a comprehensive interdisciplinary system of handling domestic violence cases. The DCDVC has both a criminal and a civil component, combining traditionally separate systems into a single integrated approach. This contributes to the comprehensive provision of services by supplying a single forum within which both criminal and civil matters can be addressed.

The DCDVC, in an attempt to create a more effective response to domestic violence, was designed with three main areas of focus: judicial activism in the community, batterer treatment, and victim services. The DCDVC are administered by judges who are specifically trained in family violence. Family violence training is mandatory, not only for judges, but also for prosecutors and select public defenders. Both within and outside the courtroom, the judges' responsibilities extend to community education about domestic violence, requiring public appearances in both the community and the media. Such community presence is designed to promote public participation in the fight against domestic violence.

The DCDVC system emphasizes treatment of perpetrators rather than punishment and requires defendants to attend and complete programs ranging from batterer intervention programs and substance abuse programs, to general mental health counseling. Additional sanctions include court-monitoring of attendance in these programs, requiring additional court dates for defendant progress reports. Another mandated treatment program focuses on the children who live in violent households and witness domestic abuse.

The DCDVC's victim advocates address the needs of victims by assisting them in obtaining accessibility to services and resources. Their role includes encouraging and facilitating

²⁸⁷ Tsai, Betsy, (2000)

participation by the victim in the entire process, whether by pursuing prosecution of the batterer, or obtaining an order of protection.

Thus the DCDVC presents a unique example of an integrated community approach to domestic violence. In contrast to other domestic violence courts in the United States, it emphasizes ‘therapeutic jurisprudence’ combining batterer treatment and victim services. Another unique element of the DCDVC is its attention to the potential psychological trauma of children witnessing domestic violence by requiring that they attend counseling.

Special Fast-track Domestic Violence Court, Cardiff

The Cardiff model²⁸⁸ for dealing with domestic violence cases is distinct from other domestic violence courts in the United Kingdom in that it does not depend on specialisation and/or the ‘clustering’ of all domestic violence cases in a designated court, but instead offers a ‘Fast Track System’ (FTS) for the processing of domestic violence cases.

The Specialist Domestic Violence Court in Cardiff has been cited as a best practice example. The Cardiff FTS commenced in 2002 and its objectives include streamlining, fast tracking, and prioritizing domestic violence cases. Key to the system is the partnership between the Crown Prosecution Service and the Women’s Safety Unit (WSU) that began in 2001. The Women’s Safety Unit, an umbrella support organization that aims to increase the proportion of victims seeking help and of cases resulting in arrest, charges, and convictions, to provide more appropriate and adequate victim support services, and to reduce levels of repeat victimization. The work of the Women’s Safety Unit shows what can be achieved in the context of such a supportive wider policy framework. The genuine multi-agency environment in Cardiff that devised the Women’s Safety Unit and the FTS has continued to foster the expansion of support arrangements for victims of domestic violence, secondment of health care staff into the WSU, in-house civil legal services for WSU clients, and advocacy expanded to include male victims.

Rather than appointing one specialized prosecutor, all CPS prosecutors in the Cardiff FTS are trained in domestic violence FTS and all make contact with WSU in domestic violence cases. Similarly, all Magistrates at the Cardiff courts have undergone an accredited domestic violence training programme.

The FTS also links with multi-agency risk assessment conferences of sixteen agencies including police, probation, health housing refuge providers, national society for prevention

²⁸⁸ Cook, D., Burton, M., Robinson, A. & Vallely, C., Evaluation of Specialist Domestic Violence Courts/ Fast Track Systems

of cruelty to children (NSPCC) and WSU – to provide information sharing to minimise risks of serious harm to high risk women and children.

According to existing evaluations, victims in Cardiff continue with their cases for significantly longer time before retracting, perhaps reflecting the notion of ‘supported retractions’ whereby the process of retracting takes more time and communication between victims agencies. An evaluation of the Cardiff model recommends that it is disseminated more widely and the Multi-Agency Risk Assessment Conference (MARAC) model they use is similarly supported, in line with its adherence to the positive multi-agency ethos of domestic violence courts.

6.4 Protection Measures

The Austrian Protection from Violence Act (Austrian Law)

The Austrian Law²⁸⁹ enacted in 1997 gives the police powers to remove perpetrators of domestic violence from the household for ten days. The police are also required to refer both parties to an intervention project. Intervention centres use a proactive model contacting all those referred by police to invite them to various kinds of structured support. The removal of the perpetrator is a civil order and the police are required to check compliance with the order at least once during the ten day period. A breach is an offence but not criminal, which has been seen as a weakness and has initiated criticism. Such police response on the basis of the necessary powers can be seen as a direct response to what many victims of domestic violence expect when they call the police, that is for the perpetrator to leave the home and to send a message of deterrence.

6.5 Specialist Victim Support Services and Advocacy Initiatives

Advocacy initiatives, along with specialized domestic violence courts, can be considered among the most promising responses to Domestic Violence. Since the 1980's, following the increase of intervention by the justice system, there has been observed a demand for individual advocacy and supportive services of domestic violence programs. Such programmes institute civil and criminal advocacy components to assure that battered women are informed about participation in the justice system and able to safely and effectively participate therein²⁹⁰. Ever since its establishment, civic and legal advocacy for victims has proved to influence attrition rates, and according to some research “victims who meet with victim service workers are twice as likely to follow through with prosecution of

²⁸⁹ Logar, Rosa (2005)

²⁹⁰ Hart, B., Coordinated Community Approaches to Domestic Violence

domestic violence charges against their partner".²⁹¹ Social support agencies work ranges from assisting women in taking care of their economic and emotional needs during the prosecution process by offering resources such as transportation, child care, job training, and counseling referrals, to professional legal assistance and lobbying of victim's rights at the litigation stage, as in the cases of Independent Domestic Violence Advisers. In substance, advocacy work has its foundations in identifying rights under law and policy and working to ensure that individuals receive their entitlements.

Cardiff Women's Safety Unit (WSU), UK

The Cardiff WSU received attention as a good practice model in dealing with domestic abuse and initiated similar interventions in other settings in the UK. The WSU provides a central point of access for women and their children experiencing domestic violence or known-perpetrator rape in the Cardiff area²⁹². The overarching aim of the WSU is to help victims gain safety. The WSU offers a comprehensive range of services at one referral point, to women who have survived domestic violence and or known perpetrator rape, in the sense of an "one stop shop". The WSU team provides advice, advocacy, specialist counselling services, legal services, housing services, refuge provision, target hardening support and collection of evidence for police investigations.

The main aim of the unit is to facilitate inter-agency cooperation to provide victims with a seamless response to their cases. This involves fast-tracking, advocacy, information sharing, and specialist courts. The WSU is a core agency in the Cardiff Multi-Agency Risk Assessment Conference (MARAC), both in terms of referring cases for discussion and in carrying out the actions agreed for each individual. Joint working protocols have been developed between the key partners involved, namely WSU, South Wales Police (SWP) and the Crown Prosecution Service (CPS).

Help, Advice and the Law Team (HALT), UK

HALT²⁹³ is an independent charity set up in 1996 to help women who are victims of domestic violence to engage with the legal system. It believed that it is usually at this stage that women are the most let down in terms of protection and support. HALT works in partnership with other agencies to address violence against women and children. HALT was

²⁹¹ Gillis, J.R., Diamond, S.L., Jebely, P., Orehovsky, V., Ostovich, E.M., MacIsaac, K., Sagrati, S. & Mandell, D. (2006)

²⁹² Robinson, A., (2003)

²⁹³ *Feasibility Study on One Stop Shop for Domestic Violence, Northern Ireland Office, Research and Statistical Series: Report No. 16, CJSNI*, December 2006

one of the first organisations in the UK set up to specifically work within the civil and criminal justice systems, working with women who have experienced domestic violence. Some other areas in the UK set up projects based on the work of HALT.

HALT is a key agency in the first Domestic Violence Court in the UK. Each week Leeds Magistrates Court has a Court dedicated to Domestic Violence cases. The Court is unique due to the fact that HALT is represented each week and are able to offer immediate and independent advice and support to women who attend and also feed information into the CPS. The Police are also in attendance.

Referrals to HALT come from the police, the victims, statutory agencies and voluntary organizations. Each case worker deals with approximately 60 cases at any one time.

HALT delivers its services from one office based in an anonymous office block. The office is only used for case work and administration and not as a meeting place for clients. Case workers meet clients in a mutually agreed place (not usually the home) such as a coffee shop, library or community centre.

The key success factors identified by the service have been the knowledge and expertise of its workers, and effective partnership working and information sharing. The latter is possible through effective protocols between HALT and its partners, which allow information sharing between agencies if the safety of victims, especially children, relies on it.

Some of the constraints to the service are limited staffing resources, language barriers (there are 90 languages spoken in Leeds), funding uncertainty and difficulties in supporting the needs of women in rural areas in Leeds.

Independent Domestic Violence Advisors (IDVAs), UK

Independent Domestic Violence Advisors or IDVAs are specialist case workers who focus on working predominantly with high risk victims, those most at risk of homicide or serious harm. They work from the point of crisis and have a well defined role underpinned by an accredited training programme. They offer intensive short to medium term support. They also mobilise multiple resources on behalf of victims by coordinating the response of a wide range of agencies who might be involved with a case, including those working with perpetrators and children. Thus, they work in partnership with a range of statutory and voluntary agencies but are independent of any single agency. In common with other specialist domestic abuse services, their goal is safety.

An evaluation of the IDVA schemes²⁹⁴ highlighted several positive achievements. IDVAs work with complex, high-risk cases, in which the individual is at high risk of serious harm and homicide, with severe abuse including violent behaviour causing injuries, strangulation, rape and other sexual abuse, stalking and extreme controlling behaviour. The researchers suggested that the finding that almost a quarter of the sample were from ethnic minority communities, may be seen as an encouraging sign of easier access to the IDVA service. A range of interventions were mobilised by the IDVAs, with most clients having received help to access multiple services, four being the most common. Two-thirds of victims had more than five contacts with the IDVA.

More than half (57%) of the victims reported that the abuse stopped after the intervention of the IDVA, with a range from 44% for those receiving limited support to 67% for those receiving intensive support. Outcomes were impressive for those experiencing multiple or severe abuse. The most significant reductions were in respect of physical abuse. IDVAs reported reduced risk in 79% of cases, backed up by 76% of victims reporting that they felt safer. Direct risks to children were also reduced. In terms of more general well-being, an improvement in individuals' social networks was reported for 47% of cases and an improvement in coping abilities in 63% of cases. The data showed that the improved safety and well-being highlighted above were more likely to be achieved when the support was intensive and multi-faceted. Victims were much safer when multiple services were offered. The likelihood of positive outcomes increased according to the number of interventions received. For example, 88% of victims who had been helped to access six to 10 forms of support felt safer, compared with 37% with one or no form of support. The likelihood of positive outcomes for safety and well-being did not vary with demographic profile. Some factors, such as more severe abuse, previous referral to a service, and separated or separating from partner, appeared to be linked with less positive change. In terms of longer-term sustainability, IDVAs judged that, in 39% of cases where abuse had ceased, this was sustainable in the longer term.

6.6 Training of Professionals

CEPOL Common Curriculum on Domestic Violence

References to training of professionals and especially of police officers, as well as to the importance of such training in line with the provision of specialized services, are made elsewhere in this report. A comment in brief is deemed proper here on the Common

²⁹⁴ Howarth, E., Stimpson, L., Barran, D. & Robinson, A. (2009)

Curriculum on Domestic Violence, which has been developed, suggested and made available to EU law enforcement services by the European Police College (CEPOL). The Curriculum²⁹⁵ consists of a “package” of six documents: course Description, student Study Guide and Trainer’s Manual, with all three documents being available in two different forms (I & II), one for lower and the other for senior level police officer training.

Although, as mentioned earlier the package does not give reference to attrition, it is currently under revision, and it is possible that the procedure shall, among other things, result in a training update to also account for the issue of attrition. In any case, the contents of the existing “package” cover numerous training issues, which are related to attrition.

6.7 Coordinated Community Responses (CCRs)

Multi-Agency Risk Assessment Conference (as part of Public Protection Arrangements (MAPPA), North East UK)

The Multi-Agency Risk Assessment Conference (MARAC) process is part of the Multi-Agency Public Protection Arrangements (MAPPA) that was introduced by the Home Office for the management of violent and sex offenders. The Criminal Justice and Court Services Act (2000) established MAPPA and placed them on a statutory basis²⁹⁶.

The first MARAC in the UK was held in Cardiff on 1 April 2003 and was attended by members of 16 agencies, including police, probation, local authority, health, housing, refuge, the NSPCC and the Women’s Safety Unit. These meetings usually occur at least monthly and provide a forum for sharing information and taking actions that will reduce future harm to high risk victims and their children. A typical meeting would involve activities such as discussion of the circumstances of individual victims, creation of plans to help promote their safety, and contribution of information from various agencies.

This process often reveals discrepancies in the information held across agencies. For example, an organisation might have knowledge that a woman as a repeat, high-risk victim, but another organisation might not have any knowledge of her partner being a serious domestic abuser, or he might not be on their records at all. The multi-agency framework allows these loopholes to be identified and closed. MARACs are held for high-risk victims only. A standard risk assessment tool is used for each domestic violence case and an agreed process is defined for identifying the victims at high risk. As the MARAC process has evolved,

²⁹⁵ CEPOL-European Police College, Common Curricula – Domestic Violence, Available at <<https://www.cepol.europa.eu/index.php?id=domestic-violence>>

²⁹⁶ *Feasibility Study on One Stop Shop for Domestic Violence, Northern Ireland Office, Research and Statistical Series: Report No. 16, CJSNI , December 2006*

representatives from agencies know that they can add a victim (whom they have concerns about) that either did not come to police attention at all, or that did not score as very high-risk on the risk indicator form. In this way all agencies take responsibility for identifying risk, although the police play the leading role.

The MARAC does not incur a huge direct cost due to the nature of the conference which involves agencies meeting to discuss cases. The main cost is associated with administration and additional resources in the partner agencies to carry out the actions. MARACs are becoming very popular mechanisms for multi agency working and the sharing of information on victims of domestic violence.

Family Violence Intervention Project (FVIP), Canberra, Australia

The Family Violence Intervention Program (FVIP) is a coordinated criminal justice and community response to criminal family violence matters. The coordinated inter-agency response was recommended by the ACT Community Law Reform Committee in 1995, it was accepted by the Government in 1996, and it commenced in May 1998²⁹⁷. The FVIP is a fully integrated community and criminal justice program in Australia and has been recognised by the Australian Violence Prevention Awards (ACT) on 3 occasions.

The project includes ACT Policing, the Domestic Violence Crisis Service, the Office of the Director of Public Prosecutions, ACT Corrective Services with Relationships Australia (Canberra & Region), the Victims of Crime Coordinator, and Legal Aid Office (ACT).

The core components of the FVIP are Pro-arrest, pro-charge and presumption against bail in incidents reported to police, early provision of victim support, which extends throughout the criminal justice process, and in other court proceedings, pro-prosecution of criminal cases where there is sufficient evidence, and where prosecution is in the public interest, through a specialist team of prosecutors, coordination and case management of criminal cases through case tracking, and rehabilitation of offenders through the provision of a program for convicted offenders and one-to-one counselling.

Under the FVIP, the key criminal justice and related agencies formally commit themselves to working together co-operatively and effectively, to maximise safety and protection for victims, to provide opportunities for offender accountability and rehabilitation, and to seek continual improvement.

The FVIP enlists a phased, developmental and problem-solving approach to issues

²⁹⁷ ACT Family Violence Intervention Program,
<http://www.dvcs.org.au/Resources/FVIP%20info%20for%20WEBSITE.doc>

confronting the criminal justice response to family violence. It is an intelligence-led initiative in that it is driven by independent evaluation and other research findings. It is collaborative in that all relevant participating agencies participate in on-going policy, procedural and operational development of issues confronting them and their clients. It is also unique in the transparency of operations and the publication of monitoring data.

It has been reported that during the period 1998-2003, there was a 288% increase in family violence cases prosecuted and that they continued to generate a high conviction rate, something that tends to occur early in the process (called “an early plea of guilt”), which means that victims don’t have to give evidence in court.

Evaluation feedback from victims of family violence who have been in the FVIP has been positive.

Grants to Encourage Arrest Policies Program, U.S.A

Under the Violence Against Women Act of 1994 and its reauthorization in 2000, the VAWO provides grants for the purpose of establishing or enforcing policies favouring arrest and prosecution of persons committing domestic violence. The “Grants to Encourage Arrest Policies and Enforcement of Protection Orders Programme”, is funded by the National Institute of Justice and the Violence Against Women Office. Grants are allocated to law enforcement agencies, prosecutors’ offices, probation departments, state-wide agencies, and tribal organisations for establishing or enforcing policies favouring arrest and prosecution of persons committing domestic violence. The overriding purpose of this programme was to encourage local criminal justice systems to assign greater priority to domestic violence, by developing new ways of responding to domestic violence cases, and by improving offender accountability and victim safety.

The grantees were allowed flexibility in the way they enacted changes and they sought to effect change through increases in staffing/specialized units, new court structures, staff training, improved case handling procedures, increased capacity to provide victim services, and increased coordination among agencies.

A comprehensive evaluation²⁹⁸ of this programme by the Institute for Law and Justice used qualitative and quantitative methods to conduct process and impact evaluations. Key findings in regard to the use of arrest as part of a coordinated community response were:

²⁹⁸ a) National Evaluation of the Grants to *Encourage Arrest Policies Program*: Executive Summary of Final Report. U.S. Department of Justice, November 2002 ; b) The description of the Grand Program may be accessed at <<https://www.cfda.gov/?s=program&mode=form&tab=step1&id=aeeec60108b6f31bb07e81a05e54a60c>>.

- Interventions supported by the programme resulted in an initial increase in arrests with the arrests peaking during the grant period, and then levelling off. The increases were likely due to the new or urgent management emphasis on domestic violence.
- The proportion of warrant arrests of domestic violence suspects (e.g. individuals who fled the scene) increased from 4.1 per cent of all arrests prior to the Arrest Policies Programme grants, to 15.5 per cent during the grant period. It appeared that unless law enforcement agencies had specialised domestic violence resources (detectives or patrol officers), little effort was made to apprehend suspects who had fled the scene.
- A majority of victims/survivors in interviews and focus groups reported satisfaction with the victim assistance services they received and the law enforcement response.

7. Input received from Member States through the Law Enforcement Working Party

As earlier mentioned, a request through the Law Enforcement Working Party was made by Cyprus Police to EU Member States to inform as to any good practices in relation to the issue²⁹⁹. Given the specialization of the topic, it was decided not to construct and distribute a structured questionnaire, but to instead ask an open question on information on any good practices. Replies were received from twenty-two member states (BE, BG, CZ, DE, EE, IE, EL, ES, FR, IT, CY, LV, LT, LU, NL, AT, PL, PT, SK, FI, SE, & UK). A reply, which was received in a language other than English, could not be used, and a second reply did not have any actual content in reply to the request, leaving the “sample” to twenty states. A number of states provided more than one reply, primarily due to the structures and jurisdictions at their respective national level (e.g. federal and local police). One State replied on no such good practices. Three States provided information which was related to domestic violence in general (e.g. action plan, general procedure or legal provisions), but did not have any direct link to the issue being addressed. The remaining sixteen States provided input related to good practices in the field of policing and/or of the criminal justice system at various degrees.

On the basis of the replies received and the literature reviewed, it appears that specific mechanisms to address attrition in domestic violence are in place in Germany, Ireland, and the United Kingdom, and that mechanisms that relate to attrition are in place in Finland, Spain and Sweden. Overall, the most frequently reported practices are ex officio investigation and prosecution powers and procedures in relation to elements of victimless prosecution policies, ex officio issuance of restraining orders as police powers, specialization of police services, operation of joint multi-agency units and MARACS, and reliance on support agencies to empower victims as an “antidote” to attrition. There is also a widely reported link between policing, prosecution and victim support, which is presumed not to be coincidental. Without repeating practices and information already mentioned and discussed earlier, the following reported information stand out and deserve special reference:

1. Several States touched upon the delicate and central issue of the intentions, wishes or declarations of the victim in relation to the functioning of the criminal justice system. Of the responses on this issue, stands out the perspective of Greece, which listed “The respect of the victim’s right of self determination and options” as one of the three aims of “successful police intervention” “within the sphere of the Police’s social role”.

²⁹⁹ The Communication request is attached in Appendix A.

2. Sweden informed that “Swedish Police has identified four parameters determining the degree of success of investigations regarding criminal acts in close relationships [which] are:

- a. when a witness in some way corroborates the account of the woman [injured party]
- b. when the injured party participates in the investigation
- c. when an injury has been documented
- d. when the suspect admits to the crime, at least to some degree.

These four parameters also form the basis of specific measures taken to address the problem.” SE also informed that police trainees have to attend a mandatory course on criminal acts in close relationships, which lasts for ten weeks.

3. UK reported on the key elements in reducing incidents as well as in victim participation and cooperation with investigations, namely early intervention, thorough, effective and efficient investigations and victim support, and articulated a thorough police and prosecution procedure in handling withdrawal statements from victims. According to the procedure, a police report (to be forwarded to the CPS) is prepared, which includes the following:

- a. The officer’s views on the case (e.g. suspicions of witness intimidation or pressure);
- b. Details of any identified risks to the safety of the victim, children or any other person;
- c. Details of the support available to the victim (eg, access to an IDVA);
- d. How the victim might respond to being compelled to attend court;
- e. The likely impact on the victim and any children, of proceeding or not proceeding with the case.

In line with the above, it is reported that the Crown Prosecution Service “takes a robust approach when pursuing such [domestic violence] cases even when a victim retracts her evidence”.

4. Finland reported that police responses to emergency calls concerning domestic violence are tackling the acute situation from escalating further and that “In order to support victim and to solve problems in the family, the police response is not enough.” In light of this, “In Finland almost every police station has at least one social worker who can be also involved in the case already from the beginning.” FI also reported on a MARAC project, which was piloted in 2011 in three police districts and on plans to expand it to

eight more districts in 2012, and on police cooperation with NGOs working with immigrants in attempts to increase awareness and reports to police from members of the respective communities.

5. Germany reported on “victim protection rooms” set up in many police stations, that include play area for children and are used for questioning and hearing victimized witnesses, aiming “at giving victims the feeling that particular attention and respect is being paid to their special situation.” It is argued that this non-bureaucratic atmosphere, which “helps victims to build trust in the investigating authorities and to adopt a proper, personal way of dealing with the situation”, signals “to victims that the police is willing to pay special care and attention to them, and this can also help to overcome their reluctance to report an offence and/or to make a statement.” DE also reported on the functions of “a domestic violence coordinator and/or a victim protection officer” appointed generally at each police station. Separate victimized witness rooms, where witnesses may wait until called to testify, are available in criminal courts. “Judges and public prosecutors are taught social and so-called soft skills, such as gentle questioning techniques”, and they are offered “courses dealing with “the victims of domestic violence””. Furthermore, “In order to ensure that those affected are in fact aware of what help is available in the victim support organizations, a duty of information was introduced in the Code of Criminal Procedure so that victims of a criminal offence can receive support and help from victim support institutions, for instance in the form of counselling or psychosocial support during proceedings (section 406h of the Code of Criminal Proceedings).” With regards to the role and impact of victims in the criminal justice system, the German authorities take the position that “Improving the quality of the evidence makes it easier for victims to testify, because they are no longer the only available evidence, and it is therefore often no longer a case of “his word against hers”, and the information supplied by the affected woman is supported by the evidence. Professional psychosocial support underpins these effects.”
6. Ireland, among other things, informed on their National Strategy on Domestic, Sexual and Gender-based Violence 2010-2014³⁰⁰, which “includes a commitment to minimise attrition in domestic and sexual violence cases” (Action No. 12), to be tackled through the development of greater understanding of the extent and nature of attrition and through the development of proposals, by the Justice Committee. In response to this,

³⁰⁰ Available at <<http://www.cosc.ie/en/COSC/Pages/WP08000096>>

the Irish Justice Committee submitted in February 2011 a relevant report³⁰¹, ending with 13 recommendations, among them the following:

- a. Development of protocols between the Gardaí and the Probation Service in relation to perpetrators who are being risk assessed or supervised;
- b. increasing understanding and recognition of DV;
- c. Publication of informative booklets for victims with the aim of dispelling any myths and erroneous preconceptions surrounding the justice process which may be held by the general public, with the overall goal of reducing attrition;
- d. A review of victim contact to be considered by the Police. In line with this, it is reported that victim interview suites, as reported by Germany, have been secured at strategic locations throughout Ireland;
- e. Police increased importance and value of photographic evidence in DV cases;
- f. Emphasis on the importance of the provision of information to victims on legal and support services, and on more effective linkage between the two;
- g. Promotion of legal measures to permit the Police to issue emergency barring orders in high risk DV cases, in order to offer more protection to victims, and support and enhance risk assessment;
- h. Increase sensitivity to the complexities surrounding domestic violence by court personnel through the work of the Justice Sector Training Committee;
- i. Further consideration of specialized courts;
- j. Promotion of protocols prioritizing court accompaniment provided by NGOs, which is recognised as a critical support in DV cases;
- k. Decrease delays in trials by incorporating disclosure of prosecution material to the defence at the pre-trial stage.

It is argued here that the above listed suggestions of the Irish Justice Committee in order to tackle attrition in DV cases, although they naturally tend to focus on functions of the criminal justice system as they are targeting its actors and thus give due consideration to other stakeholders and to synergies between all parties involved, constitute a good practice example of a rather holistic to a great extent approach.

³⁰¹ Irish Justice Committee, February 2011

On the basis of all available sources utilized for the purposes of this report, an overall assessment or at least hypothesis is made, that the level of awareness in the law enforcement field and in the broader criminal justice system across the European Union on the issue of attrition in domestic violence cases, is relatively low as is consequently the level of interventions made to tackle it. There are exceptions, where the degree of awareness and interventions is high, and this observation seems to be applicable in only a few member states. This indicates that there is a lot of room for awareness and improvements over the issue, and signifies the importance over the choice of the theme for this report as well as for the other actions linked to it, which may contribute to increased visibility, understanding, and recognition of attrition.

8. CONCLUSIONS AND RECOMMENDATIONS

8.1. What Works? Elements of success in intervention programmes

The selection of intervention programmes to overcome attrition in domestic violence and the factors contributing to it is largely based on the analysis and discussion on the various approaches and strategies that have been adopted in various countries. From this discussion, it is clear that successful approaches should balance both victims' needs and criminal justice systems' goals that, as we have seen, are not always the same or in harmony. Despite this, criminal justice systems in the last decade have begun to reform their responses and take a broader approach to the issue of domestic violence and have adopted a number of successful policies that have resulted in increased victim satisfaction and well-being by stopping the cycle of violence and providing much needed support and assistance, primarily through multi-agency partnerships. At the same time, such practices have also shown to be successful in securing more long-term engagement of victims with the criminal justice system, as well as in holding perpetrators of domestic violence accountable.

No programme or intervention seems to have been designed specifically for addressing the phenomenon of high attrition rates in domestic violence cases. However, a number of practices, ranging from prevention programmes to interventions, advocacy and support, have been developed since 1980's, all aiming at reducing DV, especially repeat instances and thus their inherent safety risks. By implication, the programmes have been aiming at increasing victims' cooperation and at reducing rates of attrition. The programmes which aimed at reforming police response, court procedures and service-providers' interventions, were largely developed first in the US and Canada and further introduced in the UK as well as other European countries.

While the success rates of these practices vary considerably, and are significantly influenced by local legal-cultural contexts, there are several common features, or underlying principles, that can be identified among those interventions and programmes considered most successful according to the available literature. Attrition rates sometimes remain relatively high or not reduced as expected, even where a full package of comprehensive measures seems to be in place. This, however, should not be taken as a sign of persistent 'uncooperativeness of victims' or as an indicator of inappropriateness of the approach, or as hard core proof of failure. The persistent rates of attrition should rather be taken as a realistic indicator of practical limitations of systemic assistance and interventions, as well as the serious reminder of the fact that domestic violence is a problem stretching far beyond the criminal justice system and victim interface and remains rooted in much more

widespread structural issues related to gender and other social inequalities, which no single intervention measure can eradicate.

The most promising and successful interventions, whether integrated legal frameworks, coordinated community responses, training programmes, specialist services, etc., all seem to share the following characteristics:

Multi-Agency Cooperation

The available research indicates that the foremost success factor is the degree of cooperation among various stake-holders or agencies, in handling cases of DV. Commonly termed as “Multi-Agency” approach, this principle of involvement of multiple stakeholders and representatives of different agencies rightly reflects the very complexity and multifaceted nature of domestic violence, attention to which was already drawn in this report earlier. Based on the analysis above, there is little doubt that in search for the right solutions for a problem as complex as domestic violence, the principle of multi-agency cooperation should be considered as a foundation without which no policy/programme can be successful. This argument is even of more paramount importance, when the issue addressed is attrition in DV, which as elaborated earlier, stands quite at the heart of the interface between systemic and personal surrounding and contributing factors. Such view is substantiated by the rates of success of those interventions based on a wider multi-agency approach. It is important to note here that all the practices featured in this report present different responses to the problem offered by different agencies (e.g. judiciaries, crisis-centres, advocates, law enforcement), all united by one common feature: none of them is without high degree of cooperation with other agencies. The examples of positive legislative measures such as the Spanish Organic Law, of joint risk assessment measures (MARACs), of comprehensive and unified data collection and monitoring, of specialized courts, prosecutors and legal advocacy, as well as of support and empowerment programmes for victims, all have a common characteristic. They address victims’ needs along the fullest possible paradigm of domestic violence (legal, psychological, safety, justice, etc.) and bring together the greatest possible number of relevant agencies.

Victim Safety-Centred Approach

Another important success factor is the level of attention given to victims’ safety. Along with multi-agency cooperation, this common principle can also be traced across different successful responses to DV. Positioned in the more general frames of victim-centred, as opposed to system-centred, victim-ignoring or even -blaming approaches, the high attention given to the issues of safety to a certain extent guarantees an increased level of victims’

cooperation. Given that the fear of retaliation and systemic safety gaps, addressed earlier, appear to be major factors influencing victims' decisions with regard to legal interventions, putting victim safety at the core of interventions, can and should be expected to increase victims' willingness to cooperate with the criminal justice system. This view is confirmed through the increased level of satisfaction and positive views of those victims whose safety was guarded by the justice system.

Case-by-Case Individualized Approach

Along with victim safety and multi-agency coordination, a case-by-case individualized approach seems to play an important role in determining the level of success. It has been argued earlier in the report that the mismatch between victim's needs and system's goals and the tension arising from it, can negatively impact the level of victim cooperation. The objective recognition of victim's needs, and the detailed profiling of cases and the effective evidence-gathering by the police, are only the most evident aspects that need to be considered. With an adoption of a case-by-case approach, recognizing differential impacts on different victims comes as a necessary result as well. Intervention policies and practices that recognize that their impact may vary depending on the economic, cultural, ethnic, and other individual victim and perpetrator characteristics of the victim and offender, may be more successful in actually addressing victims' specific needs and in this way ensure their engagement with the criminal justice system. While a 'case-by-case' approach is costly, more time-consuming, it can prove difficult to implement (in the absence of sufficient resources and poor cooperation between agencies)³⁰², this success factor cannot be underestimated. A differentiated approach, together with multi-agency and safety focus, is an intrinsic element in all the good practices featured in this report.

Transparency of Procedures

The clarity and transparency of legal procedures such as timely information provided to the victims with regards to case processing, possible outcomes and implications, informing victims about their rights as well as on the duties of police and judiciaries, are all elements of information handling that have a direct and positive impact on victim cooperation in domestic violence cases. It is apparent from the analysis of the available practices, that those victims provided with informational support, have greater chances of following through their cases, compared to those victims receiving no such assistance. While information support is the outstanding feature of advocacy initiatives and specialized services (such as for example Special Advisor for Domestic Violence in the UK), it has also

³⁰² Martin, P. Y., Coordinated community services for victims of violence

been identified, as an intrinsic element in other practices, such as repeat attendance programmes, as well as specialized courts, police training and coordinated community response measures.³⁰³

7.2 Recommendations

1. Although, as earlier discussed, non reporting and thus non recording of domestic violence does not fall within the boundaries of attrition, given the common ground between victim lack of engagement with and disengagement from the criminal justice system, it is suggested that police agencies across the EU initiate, continue and intensify their **efforts towards increased reporting of domestic violence**. Such attempts shall inevitably directly contribute to increases in registered criminality and indirectly to increases in the level of attrition. Although ironic, such increases, given that they are the expected outcome of intentional interventions made, should be considered as indicators of success, and the point should be raised with stakeholders, monitoring bodies and the media, so that the law enforcement sector is not discouraged from campaigning on this issue.
2. **Informative materials** should be made available to members of vulnerable groups, to victims and to the public at large, to objectively relate the **realities of the criminal justice system**, the opportunities provided for as well as the limits in place, so that the public's perceptions and expectations of the justice process are based on reality and not on myths. Furthermore, protocols and/or brochures should be available so that victims are informed on and referred to any available support State or NGO services or advisory centres.
3. **Data collection and monitoring systems**, which enable identification and tracking of incidents and/or cases of domestic violence, and permit monitoring and assessment of interventions, repeat victimization and case outcomes should be promoted by law enforcement agencies and/or criminal justice systems at large. Such data systems should account for incidents reported to police, criminal investigations conducted, arrests conducted, cases filed in court, cases withdrawn/suspended/interrupted in court and convictions/acquittals and if possible on the sentences provided. These can be beneficial in initially identifying points of attrition and further in channelling more detailed and if possible qualitative research as per such point. Police agencies can benefit from research conducted in the area of attrition, by facilitating such

³⁰³ *Domestic Violence and Abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland*, December 2010

studies through providing access to relative data, by conducting and publishing their own studies, and by forming research partnerships with the academia and research centres.

4. Given that specialized services, such as domestic violence units, prosecution programmes, specialist domestic violence courts, and advocacy and support services, are linked to higher rates of successful prosecution in domestic violence cases and to higher victim satisfaction, such **specialised units and staff** are considered a good practice. The knowledge and skill base of staff, including the police, prosecutors, the judiciary, and support and advocacy and forms of provision, should be specialized and appropriately tailored to the specific needs of victims. In line with these, setting up victim interview or reception suits in police or court settings is expected to make criminal justice systems more appealing and responsive to the needs of victims of domestic violence.
5. The **multi-agency risk assessment conferences** (MARACs) are a good practice model as a basic measure to identify and protect high risk victims. Developing and improving the coordination of services and information-sharing through protocols, interdisciplinary training of practitioners and coordinating risk assessments, practices and operations among all criminal justice personnel and victim services are some core goals of the multi-agency work. The legal frameworks for sharing information vary from country to country and the model needs to be adapted accordingly.
6. **Harmonisation and integration of family/civil law and criminal law** has also been shown to be another key factor in addressing victim reluctance. It is apparent that without a closer relationship between family law, civil law, and criminal procedures, issues related to minor dependents as well as to fear and safety, continue to form a point of attrition in criminal justice approaches to domestic violence.
7. Economic dependence on the perpetrator is an important victim-based factor affecting victim engagement and attrition. The economic dependency of victims, exacerbating domestic violence and preventing victims from leaving abusive partners, has to be recognized through the adoption of policies and programmes on economic empowerment and education, material compensation schemes, independent housing schemes and cooperation with agencies/grass-root organizations working on the issues of economic and social empowerment of victims. Support provision should include measures to ensure the **economic**

independence and social inclusion of victims. This would facilitate victim cooperation and reduce retraction rates.

8. **Independent domestic violence advisors** or advocates have been shown to be a critical factor in supporting victims in their engagement with the criminal justice system. Advocates should have sufficient knowledge of other services (support and health services, welfare, housing, law enforcement etc) in order to be able to explain criminal and civil justice processes and act as a liaison between the victim and the criminal justice system. They should receive specialist training and the structures in place should in no way compromise their independence.
9. Domestic violence interventions should have a **multi-agency approach** at their foundation. The principle of ‘multi-agency cooperation’ should be considered a foundation without which no policy/programme can be successful enough. Thus comprehensive and holistic policies, should be sought in the form of protocols between the police and other stakeholders. As discussed elsewhere in this report, an individualized and case by case approach should be sought by MARACs or other structures, but any individualized intervention plan should not be delivered by any single competent agency independent of the others, but on a joint basis.
10. Where the law so permits and/of facilitates, “**Victimless” investigations and prosecutions** are recommended as they tend to maximize the possibilities of completed criminal procedures and thus to decrease attrition. To this end, an evidence based investigative approach is needed in order to dissociate the victim from the case to the extent possible, and to avoid instances of “he Vs she said” evidence. The importance of photographic evidence and of video/DVD recorded statements of victims, are examples of such evidence. With regards to withdrawals of complaints, it is suggested here that the competent authorities put in place policies and procedures for their thorough and detailed review (including risk assessment), to decide on the basis of informed and educated suggestions upon such reviews and to act on the principle of a robust prosecutorial approach, which is not dependent on victims’ explicitly expressed interests, but it does take them into consideration.
11. **Pro-arrest and pro-prosecution policies** are important policy approaches in criminal justice responses to domestic violence. Such policies should be accompanied by a coordinated multi-agency approach, including consistent advocacy and support for

victims through the whole criminal justice process, and with access to mandatory perpetrator treatment programmes.

12. **Pro-protection policies**, especially in the form of emergency barring orders, which are issued on the basis of police powers (where the legal systems allow so), tend to provide the ground for immediate protection for victims, on the basis of the principle that the offender and not the victim should have to leave the home.
13. The establishment of **specialist domestic violence courts** can be considered good practice and has been shown to have positive results in reducing victim retraction, holding perpetrators accountable, and for increasing overall victim satisfaction. Victim-witness waiting rooms are recommended in Courts, as well as schemes to orient and familiarize and accompany such witnesses for testimony purposes. Informational print or multi-media material may serve the first purpose, but personnel are needed for the second. Attempts should be made to keep the length of trials as well as of police investigation and prosecution review as short as possible. Judges as well as prosecutors and police officers should be offered specialized skills and/or awareness training over the complexities of DV.
14. **Balancing the wishes and needs of victims with the success indicators of criminal justice system** is a major challenge but can be achieved through a tailor made and case-by-case, rather than one-size-fits all approach. Prosecution and conviction rates are primary goals and success indicators for criminal justice system professionals, and such goals should be informed by victim needs. Victims' rights should be secured by the provision of the full scope of protective measures while also giving consideration to victim's exercise of choice with regards to legal interventions. A case-by-case approach should be encouraged within police and prosecution procedures through consistent information exchange with other agencies, rigorous risk assessments, and consultation with independent victim advocates, in order to ensure that criminal justice responses are relevant to each victim's specific case.
15. Between the "one size fits all" and the "case by case - individualized" approach, there is room and need for **approaching and addressing members of specific groups and communities** (ethnic, cultural, etc.), which tend to be particularly vulnerable due to specific for them circumstances. As discussed earlier, victims of domestic violence, although by majority females, are not and cannot be considered as a homogenous group with uniformed characteristics and common needs and responses to interventions. The specificities, for example, of ethnic and religious

background, of social marginalization and poverty, and of irregular and/or undocumented immigrant, tend to require specially tailored for their circumstances approaches.

16. **European Union Agencies**, which are related to policing, such as the European Police College (**CEPOL**) and the European Union Crime Prevention Network (**EUCPN**) may consider taking on the issue on their agendas or further expanding their involvement with the issue in order to increase its recognition and understanding as means to tackling it. For example, CEPOL could add the theme on its training calendar as the subject of seminars, or on its research and science related activities and conferences, or could consider updating its common curriculum on domestic violence, to also account for attrition related issues. EUCPN could consider taking on the issue on its agenda on best practices and possibly make it the theme of an annual conference on best practices. Both Agencies (CEPOL & EUCPN) as well as the LEWP and Europol could also act as facilitators in promoting partnerships between police agencies across the EU either at the level of bilateral understanding or preferably at the level of official partnerships in the context of EU and/or locally funded projects. The **European Union Agency for Fundamental Rights (FRA)** could also consider taking the issue on their agenda and if possible assess the possibility of conducting a comparative study on the engagement of DV victims with the criminal justice system and on the factors contributing to it, from the perspective of victims as well as the professionals involved. It is believed that the organization of an EU wide Conference on the subject, to be attended by professionals, experts and representatives of all stakeholders at the EU level, would elevate attempts in tackling attrition to a higher and “fast-track” level.
17. **Police agencies** across the EU stand to benefit by incorporating the issue in their **training schemes/curricula** and activities as well as in their **policies or strategic action plans** and if possible to also promote it in broader local or national action plans on domestic violence, or on violence against women, or on gender related violence.
18. **EU funding Agencies or programs** may take on the issue of attrition in domestic violence on their agendas and preferably prioritize it in their calls for tenders/proposals for research or intervention programs, given that they are designed and promoted from a multidisciplinary approach.

19. It is suggested that the **prevalent definition of attrition**, and especially its generalized implication that any acquittal or case drop out is automatically part of the problem is reconsidered, so that among others, is more in line with basic principles of the prevalent criminal justice systems and specifically with the long standing principle that those suspected of or accused for committing an offence are considered innocent until proven otherwise.
20. In light of the above and as a concluding recommendation, it is underscored that in most law enforcement fields across the EU, there seems to be room and need for **making the issue of attrition more visible in general**, through training, research, data collection, policies, interventions, practices and protocols of cooperation.

BIBLIOGRAPHY

- ACT Family Violence Intervention Program,
<<http://www.dvcs.org.au/Resources/FVIP%20info%20for%20WEBSITE.doc>>
- American Bar Association Commission on Domestic Violence, *Domestic Violence Arrest Policies by State*,
<http://www.americanbar.org/content/dam/aba/migrated/domviol/docs/Domestic_Violence_Arrest_Policies_by_State_11_07.authcheckdam.pdf>
- Apsler, R., Cummins, M. R. & Carl, S. (2003). Perceptions of the Police by Female Victims of Domestic Partner Violence, *Violence Against Women*, vol.9 (11), pp. 1318-1335Artz, L. and Jefthas, D. (2011). *Reluctance, Retaliation and Repudiation: The Attrition of Domestic Violence Cases in Eight Magisterial Districts*. GHJRU, University of Cape Town: South Africa.
- Bennett, L., Goodman, L., & Dutton, M.A. (1999). Systemic obstacles to the criminal prosecution of a battering partner: A victim perspective. *Journal of Interpersonal Violence*, 14(7), 761-772.
- Best Practices Conference on Domestic Violence. a)Entries to European Crime Prevention Award and b) Additional Projects Presented, European Union Crime Prevention Network,2007, viewed on Feb 27th 2012, <<http://www.eucpn.org/eucp-award/index.asp>>
- Bringing Security Home: Combating Violence Against Women in the OSCE Region - A Compilation of Good Practices*, OSCE Secretariat, Office of the Secretary General, Gender Section, June 2009, viewed on Feb 28th 2012, <<http://www.osce.org/what/gender>>
- Brown, J. M., Hamilton C. & O'Neill, D. (2007). Characteristics associated with rape attrition and the role played by scepticism or legal rationality by investigators and prosecutors, *Psychology, Crime & Law*, vol. 13(4), 355 -370.
- Carlson, R.G. and Jones, K.D. (2010). Continuum of Conflict and Control: A Conceptualization of Intimate Partner Violence Typologies, *The Family Journal*, vol. 18, no. 3, pp. 248-254.
- Carmichael, M., *Experiences of Domestic Violence: Findings from the 2005 Northern Ireland Crime Survey*, Research and Statistical Bulletin 5/2007, Northern Ireland Office, 2007
<http://www.nio.gov.uk/experience_of_domestic_violence_findings_from_the_2005_northern_irland_crime_survey.pdf>
- Carswell, Sue (2006). *Family violence and the pro-arrest policy: a literature review*, Ministry of Justice, New Zealand, <<http://www.justice.govt.nz/publications/global->>

[publications/f/family-violence-and-the-pro-arrest-policy-a-literature-review-december-2006>](http://publications/f/family-violence-and-the-pro-arrest-policy-a-literature-review-december-2006)

CEPOL-European Police College, Common Curricula – Domestic Violence, viewed on Feb 28th 2012, <<https://www.cepol.europa.eu/index.php?id=domestic-violence>>

Clark, S., Burt, M.R., Schulte, M.M. and Maguire, K. (1996). *Coordinated Community Responses to Domestic Violence in Six Communities. Beyond the Justice System* (Report to the Urban Institute for the Office of the Assistant Secretary of Planning and Evaluation)
[<http://aspe.hhs.gov/hsp/cyp/domvilnz.htm>](http://aspe.hhs.gov/hsp/cyp/domvilnz.htm)

Coker, D. (2004). Race, Poverty, and the Crime-Centered Response to Domestic Violence. A Comment on Linda Mills's Insult to Injury: Rethinking Our Responses to Intimate Abuse, *Violence against Women*, vol. 10 (11), pp. 1331-1353, viewed on 20 October 2011,
[<http://www.biscmi.org/aquila/Mills_Bk_reviewed-Coker.pdf>](http://www.biscmi.org/aquila/Mills_Bk_reviewed-Coker.pdf).

Convention for the Elimination of all Forms of Discrimination against Women (CEDAW), available at <<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>>

Cook, D., Burton, M., Robinson, A. & Vallely, C., Evaluation of Specialist Domestic Violence Courts/ Fast Track Systems, *UK Crime Prosecution Service*, March 2004. Viewed on 18 November 2011. <<http://www.cps.gov.uk/publications/docs/specialistdvcourts.pdf>>

Council of Europe, Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence adopted on 30 April 2002, viewed on 30 October 2011, <<https://wcd.coe.int/wcd/ViewDoc.jsp?id=280915>>.

Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (CETS No 210), 12 April 2011, available at
[<http://www.coe.int/t/dghl/standardsetting/violence/default_en.asp>](http://www.coe.int/t/dghl/standardsetting/violence/default_en.asp)

Coy, M. and Kelly, L. (2010). *Islands in the stream: An evaluation of four London independent domestic violence advocacy schemes*, Child and Woman Abuse Studies Unit, London Metropolitan University.

Crepaldi, C., Lodovici, M. S., and Corsi, M. (2010). *Violence against women and the role of gender equality, social inclusion and health strategies*, EGGSI Synthesis Report for the European Commission.

Daphne Booklets: Issues and experiences in combating violence against children, young people and women, European Commission, July 2008, viewed on 1 November 2011,
[<http://ec.europa.eu/justice_home/daphnetoolkit/files/others/booklets/05_daphne_booklets.pdf>](http://ec.europa.eu/justice_home/daphnetoolkit/files/others/booklets/05_daphne_booklets.pdf)

et_5_en.pdf>.

Dawson, M. & Dinovitzer, R. (2001). Victim Cooperation and the Prosecution of Domestic Violence in a Specialized Court, *Justice Quarterly*, Vol. 18 (3): 593-622

Dayton, Jessica (2003). The Silencing of a Woman's Choice: Mandatory Arrest and No Drop Prosecution Policies in Domestic Violence Cases, *Cardozo Women's Law Journal*, Vol. 9(2): pp. 281-298.

Discussion Paper on IACP's Policy on Domestic Violence by Police Officers, International Association of Chiefs of Police, viewed on March 2nd,
[<http://www.dwetendorf.com/IACP_PolicyDiscussion.pdf>](http://www.dwetendorf.com/IACP_PolicyDiscussion.pdf)

Dodd T., Nicholas S., Povey D., Walker A., Crime in England and Wales 2003/2004. UK Home Office Statistical Bulletin, 10/04, July 2004.

Domestic Violence against Women and Girls, UNICEF: Innocenti Digest 6, June 2000, viewed on Feb. 28th 2012, <<http://www.unicef-irc.org/publications/213>>

Domestic Violence and Abuse: A thematic inspection of the handling of domestic violence and abuse cases by the criminal justice system in Northern Ireland, December 2010, Criminal Justice Inspection, Northern Ireland, viewed on 28 October 2011,
[<http://www.cjini.org/CJNI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF>](http://www.cjini.org/CJNI/files/1b/1b651b43-657b-471b-b320-101fca7c6930.PDF)

Domestic Violence in the South Baltic Region, Kaliningrad, Lithuania, Poland and Sweden, South Baltic - Violence Free Zone project report. September 2010, Network of East-West Women, available at <<http://www.neww.eu/pliki/baltic/raport2.pdf>>

Domestic Violence Protection Notices (DVPNs) and Domestic Violence Protection Orders (DVPOs), Sections 24-33 Crime and Security Act 2010 Interim Guidance Document for Police Regional Pilot Schemes, June 2011 – June 2012, p. 1, viewed 10 November 2011,
[<http://www.homeoffice.gov.uk/publications/crime/DV-protection-orders?view=Binary>](http://www.homeoffice.gov.uk/publications/crime/DV-protection-orders?view=Binary).

Domestic Violence, August 2005 / F&A 5840, Ministerie van Justice, Directie Voorlichting.

Domestic Violence, Council Report CR102, London: Royal College of Psychiatrists, 2002, viewed on 6 November 2011, <<http://www.rcpsych.ac.uk/files/pdfversion/cr102.pdf>>.

Domestic Violence, Safety and Family Proceedings: Thematic review of the handling of domestic violence issues by the Children and Family Court Advisory and Support Service (CAFCASS) and the administration of family courts in Her Majesty's Courts Service (HMCS), October 2005, viewed 14 November 2011,
[<http://webarchive.nationalarchives.gov.uk/+/http://www.hmica.gov.uk/files/HMICA_Dom>](http://webarchive.nationalarchives.gov.uk/+/http://www.hmica.gov.uk/files/HMICA_Dom)

estic violence linked1.pdf>

- Douglas, H. (2008). The Criminal Law's Response to Domestic Violence: What's Going On?, *Sydney Law Review*, vol. 30, pp. 439 – 469.
- Eitle, David (2005). The Influence of Mandatory Arrest Policies, Police Organizational Characteristics, and Situational Variables on the Probability of Arrest in Domestic Violence Cases. *Crime Delinquency*, 51, pp. 573–597,
[<http://www.pineforge.com/isw6/articles/ch2eitle.pdf>](http://www.pineforge.com/isw6/articles/ch2eitle.pdf)
- Eley, Susan (2005). Changing Practices: The Specialised Domestic Violence Court Process, *The Howard Journal*, Vol. 44 (2). pp. 113–124
- Enander, V. (2010). "A Fool to Keep Staying": Battered women labelling themselves stupid as an expression of gendered shame, *Violence Against Women*, vol. 16, pp. 5-31.
- Epstein, D., Bell, M. E. & Goodman, L. A. (2003). Transforming Aggressive Prosecution Polices: Prioritizing Victims' Long Term Safety in the Prosecution of Domestic Violence Cases, *Journal of Gender, Social Policy and the Law*, vol. 11(2), viewed on 7 November,
[<http://www.wcl.american.edu/journal/genderlaw/11/epstein.pdf?rd=1>](http://www.wcl.american.edu/journal/genderlaw/11/epstein.pdf?rd=1)
- Erez, E. and Belknap, J. (1998). Battered women and the criminal justice system: The perspectives of service providers, *European Journal of Criminal Policy and Research*, vol. 6, pp. 37–87.
- Erin, Han, L. (2003). *Mandatory Arrest and No-Drop Policies: Victim Empowerment in Domestic Violence Cases*, Boston College Third World Law Journal, 23(1)/5
[<http://lawdigitalcommons.bc.edu/twlj/vol23/iss1/5>](http://lawdigitalcommons.bc.edu/twlj/vol23/iss1/5)
- Eurobarometer 51.0, *Europeans and Their Views on Domestic Violence against Women*, European Commission Directorate-General X , June 1999, available at
[<http://ec.europa.eu/public_opinion/archives/ebs/ebs_127_en.pdf>](http://ec.europa.eu/public_opinion/archives/ebs/ebs_127_en.pdf)
- European Women's Lobby, *Unveiling the hidden data on domestic violence in the EU*, European Women's Lobby, Brussels, 1999, viewed on Feb 20th 2012,
[<http://www.familyviolence.gov.cy/upload/20091217/1261037273-32239.pdf>](http://www.familyviolence.gov.cy/upload/20091217/1261037273-32239.pdf).
- Evaluation of the Pilot Domestic Abuse Court, Scottish Executive Justice Department, 2007,
[<http://www.scotland.gov.uk/Resource/Doc/173485/0048418.pdf>](http://www.scotland.gov.uk/Resource/Doc/173485/0048418.pdf)
- Feasibility Study on One Stop Shop for Domestic Violence, Northern Ireland Office, Research and Statistical Series: Report No. 16*, CJSNI , December 2006, viewed on 10 November 2011,

[<http://www.nio.gov.uk/report_no_16_feasibility_study_on_one_stop_shop_for_domestic_violence.pdf>](http://www.nio.gov.uk/report_no_16_feasibility_study_on_one_stop_shop_for_domestic_violence.pdf)

Feasibility study to assess the possibilities, opportunities and needs to standardise national legislation on violence against women, violence against children and sexual orientation violence, European Commission, Daphne Programme, 2010, available at [<http://ec.europa.eu/justice/criminal/programme/daphne-programme/index_en.htm>](http://ec.europa.eu/justice/criminal/programme/daphne-programme/index_en.htm).

Felson, R. B., Messner, S. F., Hoskin, A. W. and Deane, G. (2002). Reasons for Reporting and Not Reporting Domestic Violence to the Police, *Criminology*, Vol. 40(3), pp. 617-648

Fields, M. D. (2008). Getting Beyond "What Did She Do to Provoke Him?" Comments by a Retired Judge on the Special Issue on Child Custody and Domestic Violence', *Violence Against Women*, vol. 14, pp. 93-99,
[<http://www.brown.uk.com/domesticviolence/fields.pdf>](http://www.brown.uk.com/domesticviolence/fields.pdf)

Fischbach, R. and Herbert, B. (1997). Domestic violence and mental health: Correlates and conundrums within and across cultures, *Social Science and Medicine*, vol. 45(8), pp. 1161-1176

Fischer, K. and Rose, M. (1995). When "Enough is Enough": Battered Women's Decision Making Around Court Orders of Protection, *Crime & Delinquency*, vol. 41(4), pp. 414-429.

Fleury-Steiner, R. E., Bybee, D. I., Belknap, J., Sullivan, C. M., & Melton, H. C. (2006). Contextual factors impacting battered women's intentions to re-use the criminal legal system. *Journal of Community Psychology*, 34, 327-342.

Ford, D. A. (2003). Coercing victim participation in domestic violence prosecutions, *Journal of Interpersonal Violence*. 18 (6): 669-684

Garcia, M.C, Watts, C., Jansen, H., Ellsberg, M. and Heise, L. (2003). Responding to violence against women: WHO's Multi-country Study on Women's Health and Domestic Violence, *Health and Human Rights*, vol. 6(2), pp.112-127

Garner, J., Maxwell, C. & Fagan, J. (1995). Published findings from the spouse assault replication program: A critical review. *Journal of Quantitative Criminology*, 11(1), pp. 3-28.

General Secretariat of the Council of the European Union, CM 5492/11, Brussels 18/11/2011.
Request for contribution from Cyprus Delegation to Law Enforcement Working Party,
Subject: Best law enforcement practices on the issue of overcoming the "reluctance" of
victims of domestic violence

Gillis, J.R., Diamond, S.L., Jebely, P., Orehovsky, V., Ostovich, E. M., MacIsaac, K., Sagrati, S. & Mandell, D. (2006). Systemic Obstacles to Battered Women's Participation in the Judicial System? When will the Status Quo Change ?, *Violence Against Women*, vol. 12 (12), pp. 1150-1168

Gondolf, E.W., McWilliams, J., Hart, B., & Stuehling, J. (1994). Court response to petitions for civil protection orders. *Journal of Interpersonal Violence*, 9(4), pp. 503-517. As cited in Artz, L. and Jefthas, D. (2011).

Hagemann-White, Carol (2006). *Combating Violence against Women: Stocktaking study on the measures and actions taken in Council of Europe member states*, Council of Europe, Strasbourg.

Hagemann-White, Carol (2010). Protecting women against violence Analytical study on the effective implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe member states, Council of Europe, Directorate General of Human Rights and Legal Affairs.

Hare, S. (2006). What Do Battered Women Want? Victims' Opinions on Prosecution, *Violence and Victims*, vol. 21(5), pp. 611-28.

Hart, B., Coordinated Community Approaches to Domestic Violence, Presented at the Strategic Planning Workshop on Violence Against Women, National Institute of Justice, Washington, DC, March 31 1995, viewed on 19 November 2011,
<http://www.ncdsv.org/images/Coordinated%20Community%20Approaches%20to%20DV.pdf>.

Hart, Barbara J. (1997). Arrest: What's the Big Deal, 3 *William & Mary Journal of Women & the Law*. 3(1)9. pp. 207-221

Heckert, D.A. and Gondolf, E. W. (2004). *Predicting Levels of Abuse and Reassault Among Batterer Program Participants*, viewed on 1 November 2011,
<https://www.ncjrs.gov/pdffiles1/nij/199730.pdf>.

Help, Advice and the Law Team (HALT) <www.halt.org.uk/>

Hester, M. (2005). Making it through the Criminal Justice System: Attrition and Domestic Violence, *Social Policy & Society*, vol.5 (1), pp. 79–90.

Hester M. and Westmarland N., Tackling Domestic Violence: effective interventions and approaches. Home Office Research Study 290, February 2005,
<http://dro.dur.ac.uk/2556/1/2556.pdf>

Hester M., Westmarland N., Gangoli G., Wilkinson M., O'Kelly C., Kent A. & Diamond A., *Domestic Violence Perpetrators: Identifying Needs to Inform Early Intervention*, University of Bristol, April 2006, viewed on 18 November,
[<http://www.bristol.ac.uk/sps/research/projects/completed/2006/rj4157/rj4157researchreport.pdf>](http://www.bristol.ac.uk/sps/research/projects/completed/2006/rj4157/rj4157researchreport.pdf).

Hester, M., Hanmer, J., Coulson, S., Morahan, M. and Razak, A. (2003). Domestic Violence: Making it Through the Criminal Justice System. Sunderland: University of Sunderland and Northern Rock Foundation.

Hirschel, D., Buzawa, E., Pattavina, A., Faggiana, D. & Ruelan, M. (2007). Explaining the Prevalence, Context, and Consequences of Dual Arrest in Intimate Partner Cases. Washington D.C.: U.S. Department of Justice, 2001-WT-BX-0501, National Institute of Justice, NCJ 218355. As cited in Klein A.R., *Practical Implications of Current Domestic Violence Research: Part II Prosecution*, Report to the U.S. Department of Justice, April 2008
[<https://www.ncjrs.gov/pdffiles1/nij/grants/222320.pdf>](https://www.ncjrs.gov/pdffiles1/nij/grants/222320.pdf)

Holt, V.L., Kernic, M.A., Lumley, T., Wolf, M.E., & Rivara, F.P. (2002). Civil protection orders and risk of subsequent police-reported violence. Journal of the American Medical Association, 288(5), pp. 589-594. As cited in Artz L. and Jefthas D., (2011).

Home Office, Home Office Circular 19/2000; Domestic Violence. London: Home Office. 2000
Hotaling, G.T., and Sugarman, D.B. (1990). A risk marker analysis of assaulted wives. *Journal of Family Violence*. 5(1):1-13.

Howarth E., Stimpson L., Barran D. & Robinson A. (2009). *Safety in Numbers: A Multi-site Evaluation of Independent Domestic Violence Advisor Services*, viewed on 3 November 2011,
[<http://www.henrysmithcharity.org.uk/documents/SafetyinNumbersFullReportNov09.pdf>](http://www.henrysmithcharity.org.uk/documents/SafetyinNumbersFullReportNov09.pdf)

Hoyle, C. and Sanders, A. (2000). Police Response to Domestic Violence: From Victim Choice to Victim Empowerment?, British Journal of Criminology. 40(1): 14-36

Humphreys, J. (2003). Resilience in Sheltered Battered Women, *Mental Health Nursing*, vol. 24, pp. 137–152.

Irish Justice Committee, February 2011. Proposals from Justice Committee on Attrition (Action 12), viewed on March 1st 2012, <<http://www.cosc.ie/en/COSC/Pages/WP10000015>>

Italian National Institute of Statistics - ISTAT, (2006). National survey on Violence and abuses against women inside and outside family, viewed on March 2nd 2012,
<http://www.istat.it/en/archive/34562>

Jansson, K. (2007). *British Crime Survey – Measuring crime for 25 years*, viewed on 22 October 2011, <http://www.usak.org.tr/istanbul/files/bcs25.pdf>.

Jolin, A., Feyerherm, W., Fountain, R., and Friedman, S. Beyond Arrest: The Portland, Oregon Domestic Violence Experiment. Report to the U.S. Department of Justice, May 1998 <<https://www.ncjrs.gov/pdffiles1/nij/grants/179968.pdf>>

Jordan, Carol E. (2004). Intimate Partner Violence and the Justice System: An Examination of the Interface, *Journal Articles*. Paper 23, available at
http://uknowledge.uky.edu/crvaw_facpub/23/

Kaci, J.H. (1992). A study of protective orders issued under California's Domestic Violence Prevention Act. *Criminal Justice Review*, 17(1), pp. 61-76. As cited in Artz L. and Jefthas D., (2011).

Kelly, L. & Lovett, J. (2009). Different Systems, similar outcomes? Tracking attrition in reported rape cases across Europe, Child and Woman Abuse Studies Unit, London Metropolitan University.

Klein, A. R., Practical Implications of Current Domestic Violence Research: For Law Enforcement, Prosecutors, and Judges, National Institute of Justice, June 2009,
<http://www.ncjrs.gov/topics/crime/intimate-partner-violence/practical-implications-research/welcome.htm>

Klein A. R., *Practical Implications of Current Domestic Violence Research: Part II Prosecution*, Report to the U.S. Department of Justice, April 2008,
<https://www.ncjrs.gov/pdffiles1/nij/grants/222320.pdf>

Klein A. R., Re-Abuse in a Population of Court-Restrained Male Batterers: Why Restraining Orders Don't Work, in Eve S. and Buzawa C. G. (eds) (1996), *Do Arrests and Restraining Orders Work?*, 192-213.

Lazarus-Black, M. (2001). Law and the pragmatics of inclusion: Governing domestic violence in Trinidad and Tobago. *American Ethnologist* 28(2), pp. 388-416. As cited in Artz L. and Jefthas D. (2011).

Lipsky, S., Caetano, R., Field, C. A. & Larkin, G. L. (2006). The role of intimate partner violence, race, and ethnicity in help-seeking behaviors, *Ethnicity & Health*, vol. 11(1), pp. 81-100

Logar, Rosa (2005). Violence against women: Good practices in combating and eliminating violence against women: The Austrian Model of Intervention in Domestic Violence Cases, United Nations Division for the Advancement of Women,
<http://www.un.org/womenwatch/daw/egm/vaw-gp-2005/docs/experts/logar.dv.pdf>

Machado, Paulo and Penedo, Rita (European Union Crime Prevention Network, 2009)
Understanding and challenging the Domestic Violence phenomena within EU countries - Towards the development of an European consciousness, viewed on Feb 28th 2012,
<http://www.eucpn.org/library>

Marshall, L. (1992). Development of the severity of violence against women scales, *Journal of Family Violence*, vol. 7, pp. 103-121

Martin, P. Y., Coordinated community services for victims of violence, in O'Toole, L. L., Schiffman, J. R. & Kiter, Edwards M. L., (Eds). 2007. *Gender Violence: Interdisciplinary Perspectives*, 2/e. New York: New York University Press.>.

Menjivar, C. and Salcid,o O. (2001). Immigrant women and domestic violence: Common experiences in different countries, *Gender & Society*, vol. 16, pp. 898—920.

Mills. L. G. (1999).Killing her Softly: Intimate Abuse and the Violence of State Intervention, *Harvard Law Review*, vol. 113 (2).

Moore, S. (2009), Two Decades of Domestic Violence Courts: A review of the literature, New York, NY: *Centre for Court Innovation*.

National Evaluation of the Grants to *Encourage Arrest Policies Program*: Executive Summary of Final Report. U.S. Department of Justice, November 2002, viewed on 10 November 2011,
http://www.ilj.org/publications/docs/Evaluation_Grants_Arrest_Policies_Exec_Summ.pdf

Nicholas, S., Kershaw, C., Walker, A., Crime in England and Wales 2006-2007, UK Home Office Statistical Bulletin, 4th Ed., viewed on March 2nd 2012,
<http://webarchive.nationalarchives.gov.uk/20110218135832/http://rds.homeoffice.gov.uk/rds/pdfs07/hosb1107.pdf>

Parsons, J. and Bergin, T. (2010). The Impact of Criminal Justice System Involvement on Victims' Mental Health, *Journal of Traumatic Stress*, vol. 23(2), pp. 182–188.

Piispa, M. (2002). Complexity of Patterns of Violence Against Women in Heterosexual Partnerships, *Violence Against Women*, vol. 8 (7), pp. 873-900.

Raj, A. and Silverman, J. (2002). Violence Against Immigrant Women: The Roles of Culture, Context, and Legal Immigrant Status on Intimate Partner Violence, *Violence Against Women*, vol. 8, pp. 367-398

REACT to Domestic Violence: Building a Support System for Victims of Domestic Violence.

Mediterranean Institute of Gender Studies, Cyprus, 2011.

Rebovich, D. (1996). Prosecution response to domestic violence: Results of a survey of large jurisdictions. In Buzawa & Buzawa (Eds), *Do arrests and restraining orders work?* Thousand Oaks: Sage. As cited in Holde R. and Munstermann N., What do Women Want? Prosecuting Family Violence in the A.C.T., *University of Sydney*, Australia, 18 – 22 February 2002, p4, available at <http://www.austdvclearinghouse.unsw.edu.au/Conference%20papers/Exphoriz/Holder_Munstermann.pdf>

Robinson, A. & Cook, D. (2006). Understanding Victim Retraction in Cases of Domestic Violence: Specialist Courts, Government Policy, and Victim-Centred Justice, *Contemporary Justice Review* Vol. 9 (2), pp. 189-213.

Robinson, A. (2004). Domestic Violence MARACs (Multi-Agency Risk Assessment Conferences) for Very High-Risk Victims in Cardiff, Wales: A Process and Outcome Evaluation, Cardiff University <<http://www.caada.org.uk/research/WSU6.pdf>>

Robinson, A. (2003). The Cardiff Women's Safety Unit: A Multi-agency approach to domestic violence, (Cardiff: University of Cardiff).

Ruuskanen, E. and Aromaa, K. (2008). *Administrative data collection on domestic violence in Council of Europe member states*, Council of Europe, Strasbourg. Available at <[http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-DC\(2008\)Study_en.pdf](http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-DC(2008)Study_en.pdf)>

Sherman, L.W. & Berk, R.A. (1984). The Specific Deterrent Effects of Arrest for Domestic Assault, *American Sociological Review*, vol. 49 (2), pp. 261-272, <<http://faculty.uml.edu/ktusinski/44.390/Documents/Sherman.pdf>>

Special Eurobarometer 73.2 (344), Domestic Violence Against Women – Report. DG Justice, September 2010, p. 10, available at <http://ec.europa.eu/public_opinion/archives/ebs/ebs_344_en.pdf>

Stampfel, C. C., Chapman, D. A. & Alvarez, A. E. (2010). Intimate Partner Violence and Posttraumatic Stress Disorder Among High-Risk Women: Does Pregnancy Matter?, *Violence Against Women*, vol. 16(4), 426-443.

Stark, Evan (1993). Mandatory arrest of batterers: a reply to its critics. *American Behavioral Scientist* 36(5): 651-680.

Steward, J., Specialist Domestic Violence Courts: What we know now – How far have Australian Jurisdictions progressed?, Australian Domestic and Family Violence Clearinghouse, 2011
<http://www.austdvclearinghouse.unsw.edu.au/PDF%20files/Topic%20Paper%2020.pdf>

Sullivan, C. M. and Bybee, D. I. (1999). Reducing violence using community-based advocacy for women with abusive partners, *Journal of Consulting and Clinical Psychology*, vol. 67(1), pp. 43-53.

Swedish National Council for Crime Prevention (2011), Women abuse, viewed on March 2nd 2012, <<http://www.bra.se/bra/bra-in-english/home/crime-and-statistics/women-abuse.html>>

The Crown Prosecution Service, Home Office 2008, *Specialist Domestic Violence Court Programme: Resource Manual*, London

The New Lexicon: Webster's Dictionary of the English Language (1989). New York: Lexicon Publications, Inc.

The Stockholm Programme — An Open And Secure Europe Serving And Protecting Citizens, (2010/C 115/01), Official Journal of the European Union, IV 4/5/2010.

Tsai, Betsy (2000). *The Trend Toward Specialized Domestic Violence Courts: Improvements on an Effective Innovation*, Fordham Law Review, 68 (4), 1285-1327, viewed on 14 November 2011, <<http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=3628&context=flr>>.

Tutty, L. M., Wyllie, K., Abbott, P., Mackenzie, J., Ursel, E. J. & Kosan, J. M. (2008). The justice response to domestic violence: A literature review. RESOLVE Alberta, Calgary, AB.

United Nations (2010), Handbook for Legislation on Violence against Women, Department of Economic and Social Affairs, Division for the Advancement of Women, New York, p. 15, available at <<http://www.un.org/womenwatch/daw/vaw/v-handbook.htm>>

United Nations Declaration on the Elimination of Violence against Women, viewed on 3 November 2011, <<http://www.un.org/documents/ga/res/48/a48r104.htm>>.

United Nations Division for the Advancement of Women, Beijing Declaration and Platform for Action, available at <<http://www.un.org/womenwatch/daw/beijing/platform/>>.

United Nations Resolution 48/104 adopted on 20 December 1993. Declaration on the Elimination of Violence against Women, (Articles 1&2), available at
[<http://www.un.org/documents/ga/res/48/a48r104.htm>](http://www.un.org/documents/ga/res/48/a48r104.htm)

Urbis Keys Young (2001). *Research into Good Practice Models to Facilitate Access to the Civil and Criminal Justice System by People Experiencing Domestic and Family Violence*, Office of the Status of Women, Canberra.

Veis Costas M. (2010). *The criminal progression of domestic violence incidents: effects and issues raised. Analytical report*. Review of Cyprus and European Law, Issue 11, p. 102-126.
[Βέης Κώστας Μ. (2010). *Η ποινική εξέλιξη περιστατικών βίας στην οικογένεια: Προεκτάσεις και ζητήματα που εγείρονται. Αναλυτική έκθεση*. Επιθεώρηση Κυπριακού και Ευρωπαϊκού Δικαίου, Τεύχος 11, Σελ. 102-126]

Veis Costas M. (2012). Attrition in Domestic Violence Cases in Cyprus. Submitted for publication in Police Chronicles.

Violence against Women and Girls: Crime Report 2010-2011, Crown Prosecution Service, p13.

Viewed on March 1st 2012,

[<http://www.cps.gov.uk/publications/docs/CPS_VAW_report_2011.pdf>](http://www.cps.gov.uk/publications/docs/CPS_VAW_report_2011.pdf)

Violence at Home: A Joint Inspection of the Investigation and Prosecution of Cases Involving Domestic Violence, HMIC, 2004

'Voices of the Poor' Volume II. Powerlessness, Domestic Violence Mar Lives of Poor People, New Bank Study, The World Bank 2000.

Walby, S. and Allen, J., *Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey*, Home Office Research Study 276, London: Home Office, March 2004, viewed on 3 November 2011, <<http://www.broken-rainbow.org.uk/research/Dv%20crime%20survey.pdf>>

Walby, S., *The Cost of Domestic Violence*, National Statistics & Women and Equality Unit, September 2004, viewed on 17 Ocotober 2011,
[<http://www.devon.gov.uk/cost_of_dv_report_sept04.pdf>](http://www.devon.gov.uk/cost_of_dv_report_sept04.pdf).

Walby S., *The Cost of Domestic Violence: Up-date 2009*, National Statistics & Women and Equality Unit, November 2009, viewed on March 3nd 2012, available at
[<http://www.lancs.ac.uk>](http://www.lancs.ac.uk).

Waston, D. and Parsons, S., *Domestic Abuse of Women and Men in Ireland: Report on the National Study of Domestic Abuse*, National Crime Council, 2005
[<http://www.esri.ie/pdf/BKMNEXT056_Domestic%20Abuse.pdf>](http://www.esri.ie/pdf/BKMNEXT056_Domestic%20Abuse.pdf)

Weaver, T. L., Sanders, C. K., Campbell, C. L. & Schnabel, M. (2009). Development and Preliminary Psychometric Evaluation of the Domestic Violence-Related Financial Issues Scale(DV-FI), *Journal of Interpersonal Violence*, vol. 24, pp. 569-585.

Weiner, B, (1980). A cognitive (attribution)-emotion-action model of motivated behavior: An analysis of judgments of help-giving, *Journal of Personality and Social Psychology*, Vol. 39(2), pp. 186-200.

Wetendorf, Diane, *The Impact of Police-Perpetrated Domestic Violence*, In: *Domestic Violence by Police Officers*, ed. D.C. Sheehan, 375-382. Washington DC: U.S. Department of Justice, 2000, viewed on 28 October 2011,
[<http://www.dwetendorf.com/Wetendorf_ImpactPoliceDV_FBI.pdf>](http://www.dwetendorf.com/Wetendorf_ImpactPoliceDV_FBI.pdf).

Williams, S. L. and Mickelson, K. D. (2004). The Nexus of Domestic Violence and Poverty: Resilience in Women's Anxiety, *Violence against Women*, vol. 10(3), pp. 283-293, viewed on 25 October, [<http://www.haven-oakland.org/wp-content/themes/haven/media/pdf/DV-and-Poverty.pdf>](http://www.haven-oakland.org/wp-content/themes/haven/media/pdf/DV-and-Poverty.pdf).

Wills, Donna (1997). Domestic Violence: The Case For Aggressive Prosecution, *U.C.L.A. Women's Law Journal*, 7: 173-182, p. 182.

Working together to combat domestic violence: Cooperation, Intervention, Research: Findings from the evaluation research assessing intervention projects against domestic violence (WiBIG Project), English short version report. Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Germany 2004. viewed 21 March 2012,
[<http://www.wibig.uni-osnabrueck.de/>](http://www.wibig.uni-osnabrueck.de/).

World Health Organization Fact-sheet on Intimate Partner Violence, viewed on 2 November 2011,
[<http://www.who.int/violence_injury_prevention/violence/world_report/factsheets/en/ipv_facts.pdf>](http://www.who.int/violence_injury_prevention/violence/world_report/factsheets/en/ipv_facts.pdf).

Wright, C.V. and Johnson, M., Correlates for Legal Help-Seeking: Contextual Factors for Battered Women in Shelter, *Violence Vict*, vol. 24(6), viewed 6 November 2011,
[<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2819311/>](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2819311/).

- Zoellner, L., Feeny, N., Alverez, J., Watlington, C., O'Neill, M., Zager, R., & Foa, E. B. (2000). Factors associated with completion of the restraining order process in female victims of partner violence. *Journal of Interpersonal Violence*, 5(10), pp.1081-1099. As cited in Artz L. and Jefthas D. (2011).
- Zorza, J. and Rosen, L. (2005). Child custody and domestic violence, *Violence Against Women*, vol. 11 (8), pp. 983-1107.

APPENDIX A

Communication sent by Cyprus Police to EU Member States through the Law Enforcement Working Party in request for information on good police practices on
the issue



**COUNCIL OF
THE EUROPEAN UNION**

GENERAL SECRETARIAT

Brussels, 18 November 2011

CM 5492/11

LIMITE

**ENFOPOL
GENVAL**

COMMUNICATION

REQUEST FOR CONTRIBUTION

From: Cypriot delegation

To: Law Enforcement Working Party

Contact: lewp@consilium.europa.eu

Tel.: +32.2-281.9216

Subject: Best law enforcement practices on the issue of overcoming the "reluctance" of victims of domestic violence

The Cypriot delegation would like to present the following initiative on collecting best law enforcement practices on the issue of overcoming the "reluctance" of victims of domestic violence, which is going to be pursued in the framework of the LEWP under its incoming Presidency of the Council.

As already known, in April 2010 the European Union Handbook of best police practices on tackling violence against women was prepared (7488/2/10 REV 2 ENFOPOL 60). It was the end product of the initiative of the Spanish Presidency which was processed, deliberated and agreed by the LEWP.

Among other things, the Handbook highlights the role that women victims play in criminal proceedings. It specifically states that the authorities of the Member States should aim to, *inter alia*, "encourage victims and witnesses to report these crimes to the authorities and to contribute to their investigation and prosecution" (p. 8, bullet point 4) and that "special attention to the appearance of new circumstances around the victim, such as the complaint's withdrawal, her decision to live again with the aggressor or the refusal of the granted protective measures, should be taken into account since they may affect considerably the woman's level of risk" (p. 16, item 6.2, paragraph 3).

The incoming Cypriot Presidency wishes to further explore this issue by focusing on the dynamics of the "reluctance" of victims of domestic violence and on the ways that law enforcement authorities can contribute to overcoming it. The term "reluctance" is in this context considered as applicable at the following stages: not disclosing/reporting the crime, not filing charges, not contributing to investigations, withdrawing complaints, not contributing to prosecution, and refusing granted protective measures. The terms "withdrawal", "retraction" and "attrition" are here considered as synonyms.

Although this issue appears to be victim-centred, it also seems to be highly systemic. Thus, law enforcement authorities, being an important part of the overall system of responding to domestic violence, can themselves contribute to overcoming obstacles related to this issue through their proper functioning, best practices, various policies and programmes, or can do so more effectively in partnership with other involved agencies.

To this end, the incoming Cypriot Presidency aims to collect the best law enforcement practices on overcoming victims' reluctance in cases of domestic violence in order to include them into the existing EU Handbook of best police practices on tackling violence against women or, if necessary, produce a separate Handbook on this issue.

The overall focus is on the interests of vulnerable victims of domestic violence which are explicitly mentioned in the Stockholm Programme, while it is also anticipated that the realisation of this initiative will contribute to the exchange of knowledge and good practices among Member States, provide a reference framework for the law enforcement authorities in overcoming obstacles related to this issue, and contribute to settling victim-related issues which tend to have an impact upon policing practices and the criminal justice system. The additional value of the initiative will also be its indirect impact for the benefit of both victims and law enforcement authorities.

In order to reach this goal, among other activities the incoming Cypriot Presidency intends to organise the Experts' Conference in order to explore the issue of overcoming victims' reluctance and discuss the first draft of best law enforcement practices. The Conference is scheduled to take place on 30-31 July 2012 in Cyprus. It is foreseen that two experts per Member State and a number of guest-experts on the issue will be invited to attend this Conference. Further details will be submitted in due time.

In light of the above, delegations are kindly requested to provide the following contribution:

1. Information on best law enforcement practices at the national level on the issue of overcoming victims' reluctance, which would be considered for the drafting of the Chapter/Handbook either as reference material for its basic text or as information to be included in its original form in Appendix. References to websites or publications related to such practices are welcome. In order to facilitate the process and avoid translation costs delegations are kindly invited to submit their contributions in English.

2. Detailed information on available expertise and experts at the national level on this issue (name, function, references and contact details).

This initiative will be facilitated/managed by the Domestic Violence and Child Abuse Office of Cyprus Police. For further information and any questions/clarifications interested parties may contact:

Mr. Costas Veis (Superintendent B')

email: kveis@police.gov.cy

tel: +357 22808442

fax: +357 22808277

Delegations are kindly asked to provide their contributions **by 31 January 2012** to the following email address: kveis@police.gov.cy.
