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NEGOTIATING DOMESTIC VIOLENCE

*Police, Criminal Justice,
and Victims*

Carolyn Hoyle

Negotiating Domestic Violence:

Police, Criminal Justice and Victims

CAROLYN HOYLE

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Dedication

This book is dedicated to the memory of my grandmothers, Gertrude and Margaret, who, by their example, taught me compassion and tenacity.

General Editors' Introduction

The *Clarendon Studies in Criminology* series was inaugurated in 1994 under the auspices of centres of criminology at the Universities of Cambridge and Oxford and the London School of Economics. There was a view that criminology in Britain and elsewhere was flowing with interesting work and that there was scope for a new dedicated series of scholarly books. The intention, declared Roger Hood, its first general editor, was to 'provide a forum for outstanding work in all aspects of criminology, criminal justice, penology, and the wider field of deviant behaviour.' We trust that that intention has been fulfilled. Some twenty titles have already been published, covering policing; prisons and prison administration; gender and crime; victims and victims' movements; the media reporting of crime news, and much else, and other will follow.

Negotiating Domestic Violence describes the policing of violence against women in the Thames Valley area, and it marks the convergence of three important intellectual movements in contemporary criminology: the established and successful tradition of ethnographic field studies of the police; the desire to appreciate the impact of the criminal justice process on women; and the emerging analysis of victims and victimization. Carolyn Hoyle is meticulous in her deployment of a variety of research methods, sources and intellectual stances to construct a detailed portrait of a complex, nuanced and embedded process. Policing is depicted as a special kind of pragmatic activity that employs 'cop culture' to mediate the demands of law and organizational management, on the one hand, and the contradictory and shifting exigencies of everyday life, on the other. Hoyle makes it evident how very difficult it is to make universal statements about the motives and meanings of such a process. She shows repeatedly that big generalizations cannot withstand the scrutiny supplied by thick description.

Some of the facile dichotomies which litter criminology are consequently revealed to be quite misleading. Hoyle contends, for example, that the police are neither engaged wholly in law enforcement nor in social service work, but that law enforcement is often a

social service and social service law enforcement. Again, she shows that many standard feminist accounts do not appear fully to appreciate the victims' own understanding of their history, situation and demands. What emerges particularly clearly is that the majority of victims visited by the police principally seek an authoritative intervention rather than punishment or an end to their relationship. They want a police presence because, in Bittner's words, officers are uniquely defined by their capacity to act when people are beset by *'something-that-ought-not-to-happening-and-about-which-some-one-had-better-do-something-now!'*

David Downes and Paul Rock

Preface and Acknowledgements

This book reports the findings of empirical work, conducted for my doctoral thesis, on policing domestic violence. This study, conducted in the Thames Valley, sought to understand the factors which shape the police and Crown Prosecution Service responses to domestic violence in the light of policy changes which recommended arrest in such cases. It responded to a gap in the literature on domestic violence between studies of the police response on the one hand, and studies based on victims' experiences on the other. This book places the victim firmly within an understanding of the response of the criminal justice system, in that it examines, amongst other things, the impact of victims' needs, desires and expectations on decisions made by police and prosecutors.

Whilst it draws on feminist theoretical and empirical work, the approach of this book could not be described as feminist. Rather, it takes as its theoretical perspective social interactionism but, unlike many works of interpretive sociology, it does not exclude the influence of structure. In looking at the response of the criminal justice system, it questions the assumption that this system, as it presently operates, is capable of responding effectively to the needs of victims of domestic violence.

All research projects rely on numerous people for advice and support. This was no exception. First I would like to thank the Economic and Social Research Council which funded my D.Phil., having already funded my M.Sc. I am indebted to Chief Constable Charles Pollard for his permission to conduct the research in two busy areas of the Thames Valley Police and, more generally, for his support of the work of the Centre for Criminological Research. Chief Superintendents David Lindley, Ralph Perry, and Caroline Nichol were particularly generous with their time and access to their staff and other resources.

Many other people, including control room operators, administrative support staff, shift inspectors, and station duty officers assisted the fieldwork and ensured that the time I spent in the stations was both productive and enjoyable. A great debt is owed

to the 219 police officers interviewed, in particular WPC Dean and PC Hunter who, despite the science of random sampling, were each interviewed nine times and still managed to show enthusiasm! The co-operation and, more importantly, the honesty of all officers meant that this central part of the fieldwork was productive and enjoyable. Special thanks must go to the two 'shifts' who tolerated my observing them on patrol duty with good humour. My understanding of operational policing and 'cop culture' in particular would not have been complete without the many hours spent in patrol cars and the canteen. More recently, continued communication with WPC Chris Bovingdon-Cox and WPC Karen Lorenzo, officers of exceptional quality, and with the ever helpful and enthusiastic Chief Inspector John Carr, has kept me informed of developments in the policing of domestic violence.

Constables Purnell, Goodings, and Barefield, and Inspectors Pratt and Wooloff, facilitated what I originally anticipated would be the most problematic stage of the fieldwork: the interviews with victims of domestic violence. This part of the research was made all the more rewarding by the professionalism of these officers, and their sympathetic and tactful behaviour towards both the victims and their families.

Two branches of the Crown Prosecution Service, covering the Thames Valley Police areas, kindly agreed to my examining case files and interviewing prosecutors. I would like to thank all prosecutors, in particular Tessa Lister, who shared information, interesting stories and biscuits with me. Staff at Women's Aid and Victim Support also co-operated with the research. Joanna Fenstermacher, Irene Manasseh, Deborah Schofield, and Dot Garratt were especially valuable sources of information. I owe a particular debt of gratitude to the residents and workers of the refuges who welcomed me into their homes and trusted me with their experiences.

Of course, this book would not have been possible without the victims of domestic violence who talked openly about their most private and traumatic experiences. Their courage and honesty was not only a source of inspiration, but was fundamental to my understanding of the role of police and prosecutors.

During the last six years I have been fortunate in being able to draw on the experience and support of my colleagues and friends at the Centre for Criminological Research. Statistical and secretarial support has been provided by Graca Cordovil, Anja Spindler, Silvia

Littlejohns, Sarah Frost, Margit Kail, and Hannah Bichard. Ros Burnett has been a constant source of advice and support since I first arrived at the Centre. Her friendship and encouragement have given me confidence. Other friends and colleagues whose support helped me to keep things in perspective are Kimmett Edgar, Ian O'Donnell, Sophia Bird, Leanne Weber, David Faulkner, Kate Joyce, Heather Hamill, and Stephanie Chester. Over the last year or so, when I have been trying to finish this manuscript whilst working on two other projects, three friends in particular have kept me sane and happy: Jane Creaton, David Rose, and Hannah McConkey. Special thanks must go to my friend and colleague, Richard Young, who provided thoughtful and helpful comments on the manuscript and who can always cheer me up when I need it. I look forward to spending the next three years working with him.

I would like to thank Professor Robert Reiner and Dr Anthony Heath, my D.Phil. examiners, for their enthusiasm and recommendations for publication. Dr. Heath also provided invaluable advice on statistical techniques. Thanks also to the anonymous readers who commented on the first draft of the manuscript.

Whilst conducting fieldwork can be, and certainly was for me, a stimulating experience, writing a book can be an intellectually lonely endeavour. That I managed to enjoy this stage is a tribute to the unfailing support of my supervisor, Professor Roger Hood. The fieldwork might not have been possible without his influence and the good reputation of the Centre to recommend me. The analysis would have been less rigorous without his meticulous attention to detail. And the quality of the writing would certainly have been poorer if not for his patience in reading and commenting on the tortuous early drafts. Operating an 'open-door policy', he was available for consultation and advice at all times and I am extremely grateful to him for his attention. His faith in my abilities throughout the process of this book, both as his student and then his colleague, gave me strength when the task seemed daunting. I look forward to the next few years as his colleague and friend.

My greatest debt of gratitude goes to my colleague and very good friend, Andrew Sanders. He has commented on numerous drafts of both the thesis and the book and our endless conversations about the subject matter have helped me to refine my ideas and improve my writing. His contribution to this endeavour has been beyond what anyone would expect—even from the best of friends. His

academic work, his contributions to our joint research projects and, most of all, his companionship have been a constant source of support and inspiration.

Finally, I would like to thank my family, in particular my mother, for their support and encouragement. I must apologize to Stevan Hoyle for the many Friday and Saturday nights I spent in the back of a police car whilst he sat at home worrying about my safety. I am also grateful for his good-humoured tolerance of my unsociability during the numerous weekends and evenings I have sat at my computer, not to mention his large salary when my only income was a meagre student grant!

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Legal Rules, Policies, and Police Practices

Prior to the early 1970s, violence against women in the home was generally thought of as a private matter. Couples were left alone to solve their conflicts except in cases of very serious injury. The law was considered to be the last resort in the management of domestic violence, and arrest was only used occasionally as a temporary means of maintaining order. Today it is recognized that the divide between public and private violence is less distinct, and violence between intimates has become a more salient public policy issue than ever before. Increased public intervention within the private sphere has been legitimated by new legislation, new police powers, and changing attitudes towards state intervention. Domestic violence is now, in theory, recognized as 'real' crime, and the fact that it typically occurs in the home does not deflect from its status as a criminal offence.

This book will examine the way in which incidents of domestic violence are responded to in the 1990s by the criminal justice system. It is based on research which aimed to understand the factors which shaped the decisions made by the police and the Crown Prosecution Service in the light of policies which recommended increased intervention in such cases. It examines the extent to which the choices made by police and prosecutors can be understood in terms of evidential criteria and offence seriousness, and the extent to which they are shaped by the informal 'rules' of the organizational culture. The roles of police officers, prosecutors, victims, and suspects in respect of these considerations are explored.

This chapter will provide the context within which this research was carried out. That context comprises changing government policies on domestic violence; a large body of prior research on the policing of domestic violence; and the political and

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theoretical background against which that research, and my own, were done.

Changing government policies on domestic violence

The first developments in public policy concerning domestic violence began in 1975 with the Parliamentary Select Committee hearings on *Violence in Marriage*. Prior to this, police officers had been advised against arresting men who were violent to their partners. Giving evidence to the 1975 Committee, the Association of Chief Police Officers denied the need for any change in their service: 'Whilst such problems take up considerable police time... in the majority of cases the role of the police is a negative one. We are, after all, dealing with persons *bound in marriage*, and it is important, for a host of reasons, to maintain the unity of the spouses' (original emphasis) (Parliamentary Select Committee 1975: 366).

Despite sympathy for police reluctance to intervene because of victims withdrawing charges and traditional ideas about domestic privacy (para. 43), the Report recommended that the police keep statistics and that Chief Constables should review their policies for dealing with domestic violence. It argued that the police should treat assaults in the home as seriously as they do assaults in other places and should be ready to arrest the assailant on the spot where there is evidence of an injury (para. 44). However, whilst there were resultant changes in the civil law, the police response stayed the same, reinforcing the idea that domestic violence was predominantly a matter for the civil courts. Nevertheless, it was a major achievement for the women's movement that the government had reacted to pressure and made the decision to establish a Committee to take evidence and make recommendations for action.¹ It was the first time that the police had been questioned about their role, and hence it established the foundation for future enquiry and criticism.

Following the Report, Parliament passed legislation aimed at helping women who are abused by partners and helping the police to improve their service to these victims. This legislation comprised:

¹ For a thorough discussion of the role of the women's movement in the changing government response to physical and sexual violence against women see Dobash and Dobash (1992); Hall, James, and Kertesz (1981) and Haste (1992).

The Domestic Violence and Matrimonial Court Act 1976; the Housing (Homeless Persons) Act 1977; the Domestic Violence and Magistrates Act 1978; and the Matrimonial Homes Act 1983. It provided for the eviction of violent men, their arrest for a breach of an injunction and the rehousing of victims of domestic violence.

During the 1970s and 1980s, in both the United Kingdom and the United States, the feminist movement had put the issue of men's violence against women in the home on the public agenda (Stanko 1995). In doing so, it created the environment for government change and for empirical studies of the character, prevalence, and incidence of domestic violence as well as assessments of the response of the criminal justice system. Hence, a plethora of studies on domestic violence emerged.² Indeed, the growth of literature in this area has been such that a decade ago Kelly alleged that there had been a 'knowledge explosion' (1988: 43). Early research was directed towards assessing the effectiveness of the spate of legislation enacted during the 1970s and early 1980s, with researchers attempting to establish why statutory agencies were failing to give an adequate service to victims.

A vast literature emerged on all aspects of domestic violence, but the police and other criminal justice agencies attracted disproportionate attention. Feminist writers in particular discovered, through empirical work, that the police were reluctant to intervene in most cases of domestic violence. They examined the role of the dispatcher or radio controller (Faragher 1985); the influence of operational police officers who first attend the scene and who must decide whether or not to arrest a suspect (Dobash and Dobash 1980); and the role of the custody officer who must decide whether or not to charge the suspect (Edwards 1989). Some studies have analysed police records and/or carried out observations of police behaviour (Faragher 1985; Oppenlander 1982; Edwards 1986), whilst others have gathered data from interviews with, and questionnaires completed by, female victims of domestic violence (Binney, Harkell, and Nixon 1981; Bowker 1983; Brown 1984; Pahl 1982, 1985).

This body of research showed that few perpetrators of domestic violence were prosecuted, or even arrested, for an offence of violence against the person (Pagelow 1981; Bowker 1982; and Binney,

² With these studies came the development of a specifically feminist research methodology (Stanley and Wise 1983).

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Harkell, and Nixon 1981). For example, more than half of the 350 victims of domestic violence Pagelow interviewed who had asked the police to arrest their partners reported that the police had failed to make an arrest. It seemed that even when all the conditions were met for the police to make an arrest, including the co-operation of the victim, this was rarely done (Edwards 1986; Dobash and Dobash 1980). Most of these studies suggested that victims were dissatisfied with the police (Binney, Harkell, and Nixon 1981).

Research also indicated that when suspects were charged it was often with a crime of lesser seriousness than would appear to be justified by the facts. For example, offences of 'assault occasioning actual bodily harm',³ a crime which typically requires police action and public prosecution, were regularly downgraded to 'common assault',⁴ which was, until recently, usually dealt with through a private summons (Edwards 1986). Similarly, Chatterton (1981) observed that station incident book entries which stated that a domestic dispute had arisen and the parties had been advised to seek a civil remedy often hid quite serious assaults on wives.

The anger expressed by these writers, at the apparent refusal of criminal justice practitioners to take seriously violence against wives, was channelled into campaigns to 'educate' policy-makers. These campaigns were fairly successful, with the past decade witnessing some radical changes in the societal approach to all forms of violence against women as well as to the role of the state as a regulator of behaviour within the family. The feminist-inspired research (most notably the work of Susan Edwards, Elizabeth Stanko, and Rebecca and Russell Dobash) along with the pressure from women's advocates in general, and organisations such as the Women's Aid Federation in particular, encouraged the government towards a reconsideration of its stance on all forms of violence against women in the home.

In the mid-1980s the Women's National Commission was instrumental in encouraging the government to consider the response of the various criminal justice agencies to crimes of sexual violence against women (Smith 1989). Deliberations over this issue culminated in the Home Office Circular of 1986 (No. 69) which,

³ Assault occasioning actual bodily harm is an offence against s.47 of the Offences Against the Person Act 1861 and is defined as interfering with the health or comfort of the victim (Smith and Hogan 1992: 423).

⁴ An offence contrary to s. 42 of the Offences Against the Person Act 1861.

whilst primarily concerned with the police handling of rape, recommended that procedures used to help victims of sexual assault should also apply to domestic violence victims. It reminded officers of the new powers provided by the Police and Criminal Evidence Act 1984 (PACE) and recommended that they advise victims on how to contact support organizations and local authority agencies.⁵ It was suggested that such advice should be offered in private and might helpfully be contained in a leaflet which could be given to the victim (Home Office 1986: 3). However, this Circular did not direct Chief Constables to develop new policies. It was, as Freeman (1987) has argued, a somewhat tame response. Some police services, however, did respond positively. A number of forces issued orders concerning domestic violence. For example, the Metropolitan Police issued a force order in 1987 encouraging the use of arrest, and recommending, amongst other things, that officers involve other agencies in seeking solutions and initiatives to this form of violence.

The later Home Office Circular of 1990 9 (No. 60) (hereafter referred to as the 1990/60 circular) showed a strong commitment to an effective response to all aspects of physical, sexual, and emotional abuse in the home. It stated that complaints of domestic violence should be recorded and investigated in the same way as crimes committed by strangers; advised forces to keep accurate statistical records of all reports of domestic violence to enable officers quickly to retrieve relevant information; and recommended that there should be some sort of positive action to investigate all such calls (Home Office 1990a, paras. 12 and 13). Research, again in particular that carried out in London by Edwards, had exposed the problems of 'no-criming', misguided attempts at conciliation which exposed the victim to further danger, and interviewing victims in front of their assailants (para. 14).⁶ The Circular warned officers against such practices, recommending that they should take a more

⁵ These new powers relate to officers' powers of entry to premises for the purpose of arrest (s. 17 (1) (b)); for the purpose of saving life or limb or preventing serious damage to property (s. 17 (1) (e)); to officers' powers of arrest regarding persons suspected of committing, or being about to commit, an arrestable offence (s. 24), and to prevent physical injury to another or to protect a child or other vulnerable person (s. 25).

⁶ Even a brief perusal of the 1990/60 Circular indicates that the Home Office was influenced by Edwards' research. Also, smaller localized empirical studies have had an impact on specific police areas (see, for example, Hanmer, and Saunders 1984, 1987, 1991; Hanmer 1990). Indeed, research appears to be a necessary antecedent to changes in policy with many different police forces now undertaking their own monitoring as well.