

CPS Domestic Violence

Good Practice Guidance Summary

*"It means a more sophisticated
approach to prosecuting hate crimes
such as domestic violence."*

Attorney General, Foreword to CPS Business Strategy 2005-2008

November 2005



Crown Prosecution Service

"The Government has set out a clear programme to modernise the Criminal Justice System (CJS) to rebalance the system in favour of victims, the community and the law-abiding citizen....."

Close partnership working by all criminal justice agencies is essential to improving the way the CJS operates....."

It means a more sophisticated approach to prosecuting hate crimes such as domestic violence."

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Domestic Violence Good Practice Guidance

Introduction:

This summary of good practice is based on the findings from the two-year **CPS Domestic Violence (DV) Project**, which included the evaluation of the existing five UK specialist domestic violence courts and the two pilots, in Caerphilly, Gwent and Croydon, London providing evidence of good practice to deliver improved work on domestic violence cases. Most of the findings are transferable across the CPS, as part of a partnership approach, irrespective of whether local specialist DV courts exist or are planned in Areas.

- Caerphilly pilot was based in a more rural setting. It used an operational team of a dedicated prosecutor, police officer and independent DV Advisor within a multi agency partnership fast-track system, which led to reduced victim retractions, more guilty pleas and convictions.
- Croydon pilot, based in an urban setting, used a specialist DV court, with trained staff, including a panel of dedicated magistrates, which led to improved evidence used in prosecutions, successful outcomes in cases where victims had withdrawn and improved penalties with compliance hearings¹.

Further details of the findings from both sites are outlined in the full Good Practice Guidance.

This good practice is drawn from the findings of the project to help Areas in the meeting of their Hate Crime targets and in the development of their Business Plans 2006-2008. A National DV Implementation Team has been set up, consisting of the CPS DV project staff, DV Policy leads and a lead from the Business and Development Directorate. The Team will consult with external agencies through a Consultation Group; internally through a Project Assurance Group and report to a Board consisting of the Directors of Policy, Business Development and Equality & Diversity. The Team will support Areas in this work from November 2005 over the following three years in the incremental implementation of the plans. Contact details are at the back of this document.

The following table illustrates the potential business benefits, drawing on the experiences of the recent pilots that can accrue from adopting the good practices outlined in this guidance:

Improvements	% pilot improvements
Increased reporting and prosecution of cases	30 - 50%
Reduction in victim retractions	26% ²
Increase in cases continued following victim retractions, with successful outcomes	14 - 23%
Increase in guilty pleas	6% ³
Increase in convictions	11 - 19%
Reduction in discontinuances	7 - 16%
Reduction in cases where no evidence is offered	16 - 18%
Reduction in time taken for cases to be completed	12% ⁴

The pilots illustrated ways to help in the delivery of CPS PSA targets in relation to both bringing more perpetrators to justice and improving public confidence.

¹. A hearing after the defendant has been sentenced to a community rehabilitation order to check compliance with the order.

². Only Caerphilly illustrated good practice in relation to reduced victim retractions, however in Croydon good practice was illustrated in relation to building successful cases when victims withdrew.

³. Caerphilly model illustrated good practice in relation to increased guilty pleas.

⁴. Caerphilly model illustrated good practice in relation to speedier case management.

Financial implications:

More effective prosecutions will address reducing costs of domestic violence homicides and ensuring more effective use of CJS funds in dealing with DV cases.

- Two women each week are killed by a partner or former partner, a total of over 100 deaths each year. The cost of the domestic homicide of adult women is an estimated £112 million each year⁵.
- In 2001, £3 billion was spent on dealing with domestic violence by public services, including £1 billion by the Criminal Justice System, nearly a quarter of its budget for violent crime and over £300 million in civil legal services⁶.

Within CPS, DV cases account for over 80% of hate crimes. In the first quarter of 2005/6 the average % of unsuccessful domestic violence cases was 40%, down from 45% in the previous year. The target by 2006/7 for unsuccessful prosecutions in all Hate Crime cases is 36% - which would represent a total reduction for DV cases of 9%. Reducing ineffective DV trials by 9% could produce estimated savings of approximately £2 million across the CJS⁷.

Further savings could potentially be made in relation to reduction of repeat victimization – according to the British Crime Survey 2000, 57% of domestic violence cases are repeat victims. A reduction of only 10% of repeat victimizations could save just under another £4 million⁸ across CJS. However, these savings would need to be counterbalanced by any increase in number of cases. Both pilots indicated that improved policing and partnership working increased reporting of DV cases. In conclusion, there may be no actualization of savings but in the longer term there could be improved and more effective use of CJS spending.

Priorities 2006 –2008:

During 2005/6, Areas have already carried out an Area DV audit, developed training plans 2005-2008 and started more detailed performance management through the Hate Crime performance indicator. The lessons that have been learnt from the two successful DV pilots are transferable across other key priorities and have demonstrated their added value to the CPS in terms of time saving and value for money. Recognising that Areas are under pressure in relation to a range of key priorities and initiatives, our focus has been to add value to those initiatives through the dissemination and implementation of DV Policy & Guidance for 2006-8.

This includes:

- all prosecutors and caseworkers to be trained;
- performance of DV cases to be evaluated quarterly, from the Hate Crime Indicator;
- local participation in partnership working with CJS, local communities and specialist support services, including specialist DV court systems in identified Areas⁹.

If we are to achieve a sustained improvement in performance, it is important that Areas follow basic good practice. The following guidance summary has been designed to help Areas develop this work. More detailed guidance is available on request from the National DV Implementation Team and local Domestic Violence Co-ordinators.

1. Good Practice Partnership Working:

Good practice on partnership work will involve Areas in developing a range of partnership working - with the police, across CJS and with equal involvement of broader multi-agency partnerships:

⁵. http://www.womenandequalityunit.gov.uk/domestic_violence/interim_findings.htm

⁶. http://www.womenandequalityunit.gov.uk/research/cost_of_dv_Report_sept04.pdf

⁷. Based on 2005/6 projected DV data, using HMCS performance directorate data for costs of ineffective trials.

⁸. Based on same DV data, using average costs for criminal offences Home Office research study 217:economic and social cost of crime.

⁹. 25 Areas identified for specialist courts by April 2006.

- consider setting up local **Service Level Agreements** with the Police (www.cps.gov.uk/publications/national_protocols/DV);
- recognise the need for, and allocate time to establishing, and participating in, **operational** multi-agency DV partnerships with agreements across **CJS, statutory and voluntary agencies** and develop methods of identifying and tracking cases with ongoing communication;
- develop domestic violence local strategies and action plans with the **Local Criminal Justice Boards (LCJBs)** in line with the Office for Criminal Justice Reform (OCJR) domestic violence victim toolkit¹⁰ (http://www.cjsonline.gov.uk/secure/localboards/documents/VW_Delivery_Toolkit_7-Feb2005.pdf);
- link into the local **Crime and Disorder Reduction Partnerships (CDRPs)** DV strategies and action plans, coordinating with the LCJBs (guidance on www.cjsonline.org to be released autumn 2005);
- actively participate in local strategic **Domestic Violence Fora**, locally and regionally;
- actively develop **local protocols** for inter-agency working including outlining the roles and responsibilities of each agency (links to Caerphilly and Croydon protocols through www.cps.gov.uk/publications/national_protocols/DV; Coordinated Response and Advocacy Resource Group (CRARG) <http://www.crarg.org.uk/library/index.htm#protocols>);
- develop **information sharing agreements** (Caerphilly information sharing agreement at www.cps.gsi.gov.uk/publications/national_protocols/DV; CRARG <http://www.crarg.org.uk/library/index.htm#protocols> and in relation to child abuse www.cps.gov.uk/publications/protocol);
- ensure through local partnerships, links to **Independent Domestic Violence Advisors (IDVAs)**¹¹ and any other specialist DV services working with **diverse and/or minority communities**;
- encourage appropriate sharing of **domestic violence data** across partnerships.

2. Good Practice Community Engagement:

In relation to domestic violence Areas would:

- as part of the general community engagement strategy ensure the CPS DV Co-ordinators (DVCs) and Witness Care Units (WCUs)¹² have up-to-date **information** on local communities/demographics and specialist DV agencies, including those working with communities whose needs may not be met through standard service provision, through local DV Fora and Area Communications Managers;
- **consult** local specialist DV agencies in the development of local DV policies, practices and service delivery;
- set up **operational** links to specialist DV groups, especially those providing advocacy support and other services for victims;
- work in **partnership** with local community groups including those representing communities whose needs may not have been traditionally addressed, e.g. involve in local DV training;
- work with local agencies in developing public awareness **campaigns**, press coverage and **publicity**;

10. "Local Criminal Justice Board Victim & Witness Delivery Toolkit 7: The Needs of Victims of Domestic Violence are met and repeat victimisation is tackled". For a password/username, email ocjrenquiry@cjs.gsi.gov.uk

11. Previously known as advocates. Development of further IDVAs and their training is underway with the Home Office and the Coordinated Response and Advocacy Resource Group (CRARG)

12. WCUs to update Contact Directories; also refer to NWNJ Starter Pack community consultation guidance.

- ensure that Area Communications Managers are kept informed of local initiatives and high-profile cases at an early stage so that they can advise on publicity and media handling issues.

3. Good Practice specialist domestic violence courts :

From the evaluations of specialist DV courts and the best practice identified at each of the pilot sites, the Department of Constitutional Affairs/Her Majesty's Court Services (DCA/HMCS), Home Office (HO) and CPS have produced guidance and a model for the further development of such courts (www.crimereduction.gov.uk/domesticviolence55.htm). Plans are underway to extend the number of courts in England and Wales to 25 by April 2006 and help local identification of IDVAs.

In relation to the CPS, Area good practice would:

- explore, with regional Government Offices, local LCJBs, Justices' Issues group (JIG), CDRPs and DV Fora the possibility of **setting up** such a court locally, following the guidance from HO/DCA/CPS (www.crimereduction.gov.uk/domesticviolence55.htm) and protocol for dedicated court lists in magistrates' courts (sent out by HMCS to courts on 30 September 05);
- work with the same agencies to ensure the provision of local **IDVAs**, acknowledged as precursors necessary before courts are developed¹³, reflecting the profile of the local communities;
- consider, with the same agencies, the appointment of a **project manager** to ensure adequate overview and coordination of a court ([www.cps.gov.uk/publications/national_protocols/DV for job description of project manager](http://www.cps.gov.uk/publications/national_protocols/DV_for_job_description_of_project_manager));
- explore the setting up of **local partnerships**, including criminal justice, statutory and voluntary agencies, in preparation for such courts – local protocols and governance structures need at least six months to prepare, involve all agencies and identify key personnel;
- ensure all **protocols**, including safe information sharing protocols, are agreed at senior levels (see para 1);
- consider the development of **dedicated prosecutors** for specialist DV courts and to participate in operational teams¹⁴;
- ensure, as far as possible, that **agents** are not used in specialist DV courts; however if necessary, agents should have undertaken CPS DV training;
- ensure **extended training** for prosecutors working or planning to work in specialist DV courts¹⁵;
- develop **monitoring systems** and personnel to track DV cases across all agencies involved.

4. Good Practice role of CPS domestic violence coordinators:

Good practice for Areas would:

- ensure Area DVCs play a **strategic role** in the overall Area domestic violence work, supporting Area management in the development, delivery, monitoring, evaluation and performance management of DV actions as part of the overall Area Business and Training plans ([www.cps.gov.uk/publications/national_protocols/DV for tasks of DVCs](http://www.cps.gov.uk/publications/national_protocols/DV_for_tasks_of_DVCs));
- ensure that **adequate time** is allocated to DVCs to carry out these tasks;

13. IDVAs were identified as the most significant factor in effecting attrition rates, improving victim participation, safety and satisfaction.

14. In some Areas the DVC could be the lead dedicated prosecutor working with other specialist prosecutors.

15. Two day training sessions are recommended in CPS Training and Development Guidance for Areas.

- ensure that DVCs work in **multi-agency partnerships**, especially in Areas developing further specialist DV courts (**SDVCs**).

5. Good Practice Prosecutions:

The qualitative aspects of the revised DV Guidance, to improve the safety of victims, were identified for further improvements at both sites – e.g. use of special measures, consultation of victims, specific support for victims from minority communities and the consideration of children as witnesses.

In line with the DV Policy, Guidance (<http://www.cps.gov.uk/publications/prosecution/domestic/index.html>) and Training (all prosecutors provided with CD-Rom and Intranet provision of training), Area good practice would ensure:

- file **endorsements** and management monitoring indicate compliance with the DV Policy and Guidance;
- DV cases are identified, with methods to **track** cases across Police and CPS and **flagged** on COMPASS;
- duty prosecutors request the police gather **evidence** in accordance with the ACPO Guidance on Investigating Domestic Violence (<http://www.acpo.police.uk/asp/policies/policieslist.asp>) local SLAs and CPS policies, ensure appropriate **charging decisions** are made (in accordance with the Tests of the Code and using Annex A of DV Policy);
- **appropriate bail conditions** and applications for remands in custody are made which take into account the safety of victims and children without placing unreasonable or inappropriate restrictions on them;
- prosecutors actively consider **building a case**, especially in situations where the victim has withdrawn their support for the prosecution process, through the use of other evidence;
- prosecutors ensure **appropriate information exchange** with the police, and through the police with IDVAs, to inform case progression and management;
- **safety** issues are considered fully in deciding when an application for a witness summons would be appropriate, as outlined in the Guidance;
- prosecutors give consideration, in cases meeting the Code Tests, to **balancing** the desire to proceed using evidence other than that of the victim, wherever possible, against the need to reduce the number of cases where no evidence is offered on the day of trial;
- prosecutors make use of **Victim Personal Statements** in deciding how to proceed and also ensuring the victim's views are heard by the court. If no VPS is available, prosecutors should ask the police to offer the victim the opportunity to make one;
- consideration is given to the use of domestic violence **expert witnesses** in appropriate cases (<http://www.cps.gov.uk/publications> reports);
- in line with the Code for Crown Prosecutors, the Law Society and Bar Codes of Conduct and any internal guidance, prosecutors should assist the court in **sentencing**. They should draw the courts' attention to any case law, VPSs, challenge any derogatory, inaccurate or unfair mitigation, highlight DV as an aggravating feature and ask, where appropriate, for any compensation or restraining order¹⁶ (www.sentencingguidelines.gov.uk for sentencing guidelines on domestic violence due 2005).

16. Currently available under Protection from Harassment legislation and will also be available under DV Crime and Victims Act 2004 when implemented.

6. Good Practice Training:

To ensure improved prosecutions, in line with the revised DV Policy and Guidance, Areas were requested to plan training for all prosecutors, caseworkers and designated caseworkers from June 2005 to March 2008 using the CENTREX/CPS Training Modules (CD-Rom and on Intranet Training site). In the light of overall CPS revised training priorities (2005-6) providing case analysis workshops, the starting date of DV training in Areas has been amended. Domestic violence issues are being addressed within the case analysis training, especially in relation to clarification of the interpretation of the Code for Crown Prosecutors. Training of specialist prosecutors within specialist DV courts will still proceed in 2005/6.

Good practice DV training would ensure that Areas plan, deliver and monitor the following:

- **awareness training** for all relevant staff through individual e-learning using the CENTREX/CPS CD-Rom;
- prioritised workshop training on prosecutions for **specialist court prosecutors**;
- workshop training for all **prosecutors and caseworkers** by 2008 including local DV specialist trainers;
- training on identification and flagging of DV cases for staff who are responsible for **data entry**;
- training on children and DV for staff with **child protection** leads;
- training on DV for **Witness Care Unit staff**;
- **multi-agency DV training** within local DV Fora, CDRPs and LCJBs;
- inclusion of **diversity and equality** perspectives across all training.

7. Good Practice links with other CPS priority projects:

The Centre of Excellence is developing cross-project dependencies centrally, however Areas may also wish to address such dependencies at a local level.

In support of **No Witness, No Justice (NWNJ)**, the DV project has identified further improvements for cases involving some of the most intimidated and at-risk witnesses - ways to reduce retractions and ways to proceed in cases using other evidence.

In support of **Effective Trials Management Project (ETMP)** the pilot in Caerphilly has identified ways to ensure effective trials whilst reducing both the length of the trial and the number of hearings. Lessons can be used in other non-DV cases.

In **Charging**, training of Duty Prosecutors on DV Policy and Guidance will enhance the prosecutors' skill in relation to case analysis and case building, especially in relation to effective evidence gathering and the selection of appropriate charges, reviewed in accordance with the Code for Crown Prosecutors. This will lead to better prepared cases overall and more effective early interventions in DV cases.

The lessons and the interactions are two-way.

Good practice would ensure:

- DVCs support Area management in **identifying crossover issues**. Areas are requested to address domestic violence issues within other mainstreamed work as well as addressing other CPS prioritised issues within DV work.

Good practice would also:

- Address domestic violence prosecutions within an overarching **framework** of human rights and violence against women, with links into other areas of work such as rape and other sexual assaults, so-called 'honour crimes', child abuse, prostitution, trafficking, forced marriage and female genital mutilation.

8. Good Practice Support for Victims and children:

The *Victims' Code of Practice* outlined in the Domestic Violence, Crime and Victims Act 2004, is being developed and estimated date of publication is Spring 2006.

In line with DV Policy and Guidance, good practice would ensure that Areas:

- work in partnership with **IDVAs** and any specialist domestic violence service providers, including those working with minority communities;
- develop local **protocols** (see para 1) which clearly define roles and responsibilities of the Witness Care Unit, dedicated police DV Officers and IDVAs. Witness Care Units do not replace existing local arrangements for dedicated DV officers/Units, which will remain the primary point of contact for victims of DV. NWNJ Minimum Requirements define the standard of care, which must be provided. Witness Care Units should liaise with dedicated DV officers to agree arrangements to provide information and support for victims AND witnesses in each DV case;
- ensure that charging lawyers are pro-active in addressing the security and **safety** of the victim and any children;
- ensure that prosecutors are familiar with the provisions for vulnerable and intimidated witnesses, including children and give early consideration in all cases to the need for **special measures and reporting restrictions**¹⁷, as appropriate in court;
- in line with both the HMCPSI Reports on the Inspection of Safeguards for Children within the Crown Prosecution Service¹⁸ and the draft CPS Policy statement on children as victims and witnesses (for public consultation autumn 2005), ensure the prosecutor considers carefully the rights, safety and wishes of the **child victim or witness**¹⁹. Consider specialist support needed by child victims or witnesses including support services and special measures;
- ensure that prosecutors help victims and witnesses, including children, to feel more confident in giving evidence by providing **general advice and information on the services and facilities** that are available to them, including special measures. Information that relates specifically to their case may also be useful e.g. on remand, bail or requests for changes of bail of the defendant;
- develop systems with the court and police to ensure that the **results of court hearings**, including bail hearings, are communicated to victims and witnesses as soon as possible and, **wherever possible, before the defendant leaves court**;
- ensure that prosecutors **introduce themselves** to witnesses before trial, where possible, and **explain their role** to clarify common misconceptions of victims, for example to clarify that the prosecutor is not *their* lawyer and cannot act on their behalf in the same way that a defence lawyer acts on behalf of a client (http://www.cps.gov.uk/victims_witnesses/treatment.html);
- ensure prosecutors **support the pre-court familiarisation process/witness support**, conducted by the Witness Service - explaining details of what to expect from the court process and possible outcomes of cases may reassure victims and witnesses;
- **consult** with victims on bindovers²⁰ and bail conditions;
- request, where appropriate, **retraction and VPS statements** from the police and ensure file endorsements record the standard of them;

17. S 46 of the Youth Justice and Criminal Evidence Act 1999.

18. Available at www.hmcpsi.gov.uk "A review of the role and contribution of the Crown Prosecution Service to the safeguarding of children" Aug 2005 and "Safeguarding Children. The second joint Chief Inspectors report on Safeguarding Children" July 2005.

19. CPS may be invited to co-operate with other public bodies to safeguard children and young people (Section 13(5) of the Children Act 2004). Locally CPS may wish to be part of local Safeguarding Children Boards and be included in appropriate information sharing mechanisms.

20. Note that CPS DV Guidance recommends that bindovers are only a last resort.

- comply with the **Direct Communication with Victims** scheme, in line with recommended DV guidance, to send a letter from an experienced prosecutor to victims where decisions have been taken to drop or substantially alter a charge. Suggested paragraphs are on the Intranet (legal guidance/DCV para 4). Consideration should be given to DCV meetings in non-mandatory situations, at the discretion of the prosecutor, especially if victims have withdrawn often, in serious cases or if IDVAs recommend a meeting (<http://www.cps.gov.uk/publications/prosecution/witnesseng.html>);
- work in partnership with **local courts to ensure safety** of victims and witnesses in court through, where possible, separate entrances and waiting areas, alerting security staff to any potential conflicts and court provision of any special measures such as screens;
- consider the **evaluation** of victim support and safety through victim consultation via Witness Care Units.

9. Good Practice integration of equality and diversity issues:

Good practice would:

- ensure **recording, monitoring and evaluation** of data from DV cases in relation to the equalities profile of victims, witnesses and defendants, e.g. ethnicity, gender, age (within Witness Management System WMS²¹ and COMPASS);
- identify, and seek to address, the **barriers** faced by members of all communities and specialist support needed by victims;
- **integrate** equality and diversity issues within cross-cutting initiatives, e.g. charging, NWNJ, ETMP.

10. Good Practice performance management:

Good practice for Areas to improve their monitoring and evaluation of DV cases both quantitatively and qualitatively include:

- **Quantitative** evaluation is undertaken through two new performance indicators:
 - a) Hate Crime Indicator – aims to reduce unsuccessful hate crimes initially from an average of 43% (2004/5) to 36% across the CPS by March 2006;
 - b) DV Key Diagnostic Indicator – Government PI to measure the number of offenders brought to justice.
- **Qualitative** evaluation is undertaken in relation to the Hate Crimes Indicator:
 - In relation to DV, fuller evaluation addresses:
 - successful flagging of cases;
 - monitoring of staff training;
 - management of file endorsements;
 - individual staff performance through Casework Quality Assurance.
 - The National DV Implementation Team will work with local Areas in advising and supporting more detailed analysis of DV cases.
- **Annual detailed snapshot analysis** of DV cases will continue to be monitored once a year, until further notice.
- **NWNJ monitoring of victim data** needs to specifically address the profiles of and response to DV victims/witnesses, including diversity monitoring.

²¹. Disability to be added in near future.

CPS Domestic Violence Publications

*All accessible on <http://www.cps.gov.uk/publications/reports/index.html>
under "Reports" or "Equality and Diversity"*

- Evaluation of Specialist Domestic Violence Courts/Fast Track Systems
- The Use of Expert Witness Testimony in the Prosecution of Domestic Violence
- Evaluation of Domestic Violence Pilot Sites at Gwent and Croydon 2004/5
Interim independent report
- Evaluation of Domestic Violence Pilot Sites at Caerphilly (Gwent)
and Croydon 2004/5
Final independent report
- CENTREX/CPS DV Training - CPS Intranet Training section.

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