

Partial Defences to Murder

Law Commission Consultation Paper No.173, October 2003

Submission by Dewar Research

January 2004

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The Law Commission has indicated that responses to this Consultation Paper were sought from the 'widest possible audience'.

This submission is a response to that invitation. Dewar Research is a private initiative formed in 1996 to collate information available in the public domain in order to encourage more informed debate of social issues. As such, it calls on professional and academic expertise as required. For the purpose of this submission, Dewar Research has collaborated with Dr Malcolm George, a neurophysiologist, who has published widely in academic journals on the issue of domestic violence and related aspects, including the historical context of male victimisation. We attach a copy of his latest paper *Invisible Touch* published in 2003 in the journal *Aggression and Violent Behavior*.

In 2001, again in collaboration with Dr George, Dewar Research carried out a detailed survey of one hundred male victims of domestic violence. The results are still being considered for publication but Preliminary Findings are available. These generally confirm the results of the one only other comparable-size survey specifically of male victims previously undertaken in this country.

The submission focuses largely on those aspects in the Consultation Paper relating to domestic violence and homicide, including the extent of male victimisation, rather than the broader and more legally complex context of partial defences to murder, although it offers some comment on this relating to domestic homicide.

In our submission, we refer to a 1997 paper by David Faigman [Professor of Law, University of California] and Amy Wright relating to the 'battered woman syndrome'. Since this paper has especial relevance to informed consideration of this issue, and no mention is made of it in the Consultation Paper, we attach a photocopy for ease of reference.

We also enclose a copy of the main text of the submission on disk (Microsoft Word).

We hope that the submission will contribute usefully to an informed consideration of the main issues involved. Dewar Research would be pleased to clarify any of the points made and provide supportive information, if required.

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1 Pre-amble

1.1 Law Commission Consultation Paper Number 173 raises in Part X, within a review of its discussion of the partial defences to a charge of murder, one specific scenario - the case of the woman who kills her abusive or violent male partner. It addresses whether the law adequately accommodates an abused woman who kills her abusive partner against criticisms made by advocates for battered women that the defences available in present law to such a woman are unsympathetic to her situation. The Consultation Paper has extensively reviewed the arguments that have been advanced as to the changes to the law that should be envisaged.

1.2 This submission addresses itself only to the consideration of this aspect of the Consultation Paper out of great concern that the whole issue of domestic violence has been persistently polarised by sexual politics during the past three decades. It is suggested that as a result, the public and the official perception of domestic violence has become stereotypical, with women viewed as victims and men as assailants. Within this discourse, women are a favoured 'in-group', while men are a denigrated 'out-group', and, in consequence, discussions concerning serious matters such as the application of the law are at risk of being distorted.

1.3 For example, the so called 'battered woman (wife) syndrome' (BWS) is central to the arguments advanced and considerations made in Part X of the Consultation Paper, yet over ten years ago one writer reviewing legal case evidence suggested that BWS was "an icon of sexual politics which was more about ideology, than justice (Pendry (1992)⁽¹⁾). The distortion of the reality of domestic violence is shown by a large body of academic research now existing which shows domestic violence to be a feature of all intimate relationships and to be perpetrated by both women and men.

1.4 This submission seeks to place before the Law Commission evidence of the distortions and biases that have become evident in the discussion of the field of domestic violence over recent years. It attempts to provide criticisms where appropriate and a body of evidence which we believe needs to be considered by the Law Commission in making a balanced, unbiased and scholarly appraisal of how the law might operate in these difficult domestic cases, and still be in line with other legislation such as the Human Rights Act 1998 and sex equality legislation.

Note: In this submission, we use the term 'sex' rather than 'gender'. 'Gender' is a psychological construct not dependent on physiological characteristics such as chromosomes or genitalia. The term thus does not necessarily identify with either women or men as such. The term 'sex' is more applicable, and legally is more rigorous, because it reflects a distinct difference between women and men, even though some women and men might 'gender' themselves differently, eg. transsexuals. See also *Sex and Gender* by Archer and Lloyd (2002)⁽²⁾.

2 DOMESTIC VIOLENCE

(a) Research and the Clinical Sample Fallacy

2.1 Research conducted into domestic violence over the last thirty years can be said to fall into two different methodological approaches (Straus (1993)⁽³⁾). The first approach has focused exclusively on violence and abuse perpetrated upon women by male partners. To a considerable extent this has relied on research using generally small convenience samples of women victims obtained through battered women's refuges. An alternative research paradigm has investigated conflict between male-female dyads by undertaking surveys which attempted to elucidate what assaults, etc. men and women have either made upon their partners or suffered from their partners. Whilst some of this research has been conducted upon convenience samples of university students about their dating relationships, much has also been conducted upon larger scale regionally or nationally representative samples. This research has shown that both women and men admit making assaults on their intimate partners as well as suffering assaults from their partners (see below). Significantly in these studies, women identify that they have assaulted male partners who they identify had not assaulted them.

2.2 Advocacy for women victims of domestic violence has relied heavily upon the former type of research. It has been pointed out, however, that samples of women from refuges represent a clinical sample whose experience of violence and abuse tends to be at the extreme end of the spectrum of assaultive and abusive behaviour measured in population studies. As a result, a 'clinical sample fallacy' has been created which has distorted in the public mind the reality of the great variation in contexts of assaults between intimate partners (Straus (1993)⁽³⁾). When coupled with stereotypical views of men and women which emphasise men as 'bad' and women as 'vulnerable', an entirely stereotypical view has become pervasive within discussion of domestic violence whereby violence by male against female partners receives attention whilst violence by females against male partners is denied and trivialised (George (2003)⁽⁴⁾).

(b) Historical Perspectives

(1) *The Rule of Thumb Myth*

2.3 A powerful argument that has been advanced over the last thirty years to engage public and official empathy for women victims has been the claimed existence of a so-called 'rule of thumb' law to emphasise the historical victimisation of wives. Supposedly, it was posited that a law had existed whereby it was legitimate for a man to beat his wife with a stick no thicker than his thumb. The implication is that the law and legal process have historically ignored the plight of battered women and so have helped to reinforce male dominance.

2.4 The reality is that, historically, wife-battering has been officially despised and harsh punishments imposed, although not consistently. When Hoff-Sommers (1995)⁽⁵⁾, an American professor of moral philosophy, researched the issue she found that there was no mention of the rule of thumb in Sir William Blackstone's classic *Commentaries on the Laws of England* as applying in the late 1700s (see Dean, W.E., New York (1836), vol.1, 36) although he did refer to the possibility of an ancient law that permitted such physical chastisement, but contrasted it with the more enlightened attitudes of his own day. In America, Pleck (1979)⁽⁶⁾ found there have been laws against wife beating since before the Revolution, and by 1870, it was illegal in almost every state. In fact, wife-beating had been outlawed even in the initial Plymouth Bay Colony (see George (2003)⁽⁴⁾).

2.5 In an exhaustive and detailed investigation of the 'rule of thumb' in historical documents dating back to Medieval times and even before, Kelly (1994)⁽⁷⁾ found that there had been a number of commentators who had thought there was such a law in some less civilised era long before their time. Repeatedly this supposition was made on the basis of quoting someone writing at a time before who also quoted someone else writing even further back in time who had made the same unsubstantiated supposition. The reality was that no evidence could be found of the actual existence of such a law in either Civil or Canon law. By contrast, Kelly could find references such as that of William Heale (1609) who wrote:

In the whole body of law Canon or Civil, I have not yet found set down ... or otherwise passed ... that it is lawful for a husband to beat his wife.

2.6 Additionally, Kelly was able to cite legal cases dating back hundreds of years whereby wives were able to obtain 'Prayers for Peace' against violent husbands. For example, in 1674 the wife of Lord Leigh sought a prayer for peace against her husband as she was in fear of him. It was granted and she was given alimony of £200 per annum.

2.7 The 'rule of thumb' that suggests men could lawfully beat their wives is a myth, but it is a myth that is repeatedly used as propaganda to reinforce a view of men as generally violent towards wives and female partners. Regrettably, it is often quoted by even senior public officials who seem to have been misled by the propaganda.

(2) *'Skimmington' and Male Victims*

2.8 Historical research provides plenty of evidence for the occurrence of domestic violence between husband and wives. However, a good body of this historical evidence shows considerable concern for violence by wives against husbands (see George (2002)⁽⁸⁾, (2003)⁽⁴⁾). This historical evidence suggests a persistent sex bias in the treatment of male victims of domestic violence as opposed to female victims. Up until the early Twentieth Century, male victims had been consistently subject to ridicule and social punishment in the enactment of the 'Skimmington'. This was the public exposure, ridicule and punishment of a battered husband, which could include the man being made publicly to ride a donkey backwards (George (2002)⁽⁸⁾).

2.9 Hence, men who were victims of violence by a female partner have, historically, been denied and refused access to the formal legal mechanisms of redress or protection. The informal 'Skimmington' punishments were designed to force men who were victimised to hide their plight from public view and so to help to perpetrate the myth that violence by females against male partners is rare. In reality, the suppression of the knowledge of the existence of the 'battered husband' is at the heart of the Patriarchal imperative, whereby formal mechanisms of Law have utilised informal mechanisms of 'mob rule' to enforce general obedience to the stereotypes of male and female.

(c) The Evidence of Sex Neutral Studies

(1) *Conflict Studies*

2.10 The results of well over one hundred reputable sex-neutral studies of aggression or abuse in couple relationships, including dating, cohabiting and married couples, have now been published within the academic literature worldwide⁽⁹⁾. These studies have found both women and men to suffer or be culpable for aggression or abuse in couple relationships.

2.11 Review and analysis of the results of such studies has produced insights which go beyond the simplistic and stereotypical. Using the technique of Meta-analysis to explore sex differences in physical aggression in all these studies, Archer (2000)⁽¹⁰⁾ found that women were more likely than men to "use one or more acts of physical aggression and to use such acts more frequently" even though 62% of those injured in domestic assaults were women. Other analyses of this body of study shows, for instance, that in approximately 25% of relationships, assaults are solely female-to-male; in another 25%, assaults are solely male-to-female; whilst in the remaining 50% of relationships assaults are committed by both partners. Thus, reviewing data derived from nationally representative American surveys, Stets and Straus (1989⁽¹¹⁾, (1990)⁽¹²⁾ provided data for the percentages of couples where only the female was violent, finding that that this was significantly more common than the reverse. They found **female-only** violence in 39.4% of dating couples, 26.9% of cohabiting couples, and 28.6% of married couples compared with figures for male-only violence of 10.5%, 20.7% and 23.2% respectively.

2.12 These results in heterosexual populations have been supplemented by research carried out on samples of men or women from the homosexual community. This has found a similar pattern of aggression in Gay or Lesbian couples, with only one partner being victimised in some couples and both partners engaging in assaults in others, and with a similar overall prevalence of aggression to that found in heterosexual relationships (see Lie and Gentlewarrior (1991)⁽¹³⁾, and Dutton (1994)⁽¹⁴⁾).

2.13 This substantial body of evidence shows that any discussion of any aspect of domestic violence cannot be made on the basis of only men committing acts of aggression and only women being victims, unless a biased and entirely partial view is taken.

(2) *Home Office Study 191*

2.14 The most comprehensive study of domestic violence in couple relationships in England and Wales was carried out in 1995 as a supplement to the 1996 British Crime Survey. This was based on detailed interviews with some 10,000 men and women between the ages of 16 and 59 using a self-completion questionnaire. The results were published under Home Office Research Study 191 in January 1999⁽¹⁵⁾ and confirmed a similar pattern of almost equal numerical culpability between partners in couple relationships, as the other sex-neutral studies have consistently all revealed. Curiously, the Consultation Paper makes no reference to this important study.

2.15 Study 191 revealed that in the 12 months preceding the interviews, equal proportions of men and women (4.2%) reported having suffered physical assault from a partner. In the longer term (over a lifetime), 23% of women and 15% of men reported suffering physical assault by a partner, a long-term proportion of male victims of 40%. One third of those injured and one quarter of chronic victims were male.

(3) *Self-Defence*

2.16 Various studies have shown women admitting making assaults on male partners and **not** claiming that it was in self-defence. In America, Mann (1990)⁽¹⁶⁾ investigated a sample of women imprisoned for murder of their male partner and found that not one claimed to have been battered. She also found that 70% killed their victims when they were drunk, helpless (bound), or asleep, and that nearly 60% pre-planned the killing. In the UK, Carrado et al (1996)⁽¹⁷⁾, reporting on a nationally representative sample of adults asked about assaults between partners, found that 20% or less of those women admitting an assault on a male partner said that they had acted out of any perceived or actual self-defence motive. Other studies support the view that 80% or more of assaults committed by women on male partners are not made in self-defence (Bland and Orn (1986)⁽¹⁸⁾; Sommer, Barnes and Murray (1992)⁽¹⁹⁾).

2.17 Exploring the reason women might give for assaulting a male partner, Fiebert and Gonzalez (1997)⁽²⁰⁾ surveyed a sample of 968 women, drawn primarily from college courses in the Southern California area, regarding their initiation of physical assaults on their male

partners. 29% of the women revealed that they had initiated assaults on a male partner during the previous five years. In terms of reasons, women appeared to aggress because they did not believe that their male victims would retaliate or suffer injury. Women also claimed that they assaulted their male partners because they wished to engage their attention, particularly emotionally. Few gave self-defence as a reason for making their assault on a male partner, as clearly these young women had some considerable confidence that hitting a woman is taboo for many men.

2.18 Even in those relationships in which both partners commit acts of assault, there is room for doubting that women are only acting in self-defence. For instance, DeMaris (1992)⁽²¹⁾ looked at who initiates assaults in relationships where reciprocal assaults occur. He found that "when one partner could be said to be the usual initiator of violence, that partner was most often the woman." Also, when Stets and Straus (1990)⁽¹²⁾ compared couples in which both partners had used a violent act, it was found that a pattern of use of violence which was female-severe/male-minor was three to six times more common than the pattern of use of violence which was male-severe/female-minor. This suggests that whilst the pattern male-severe/female-minor violence can clearly be interpreted as women acting in self-defence, the pattern of violence which is female-severe/male-minor may well indicate at least some men acting in self-defence in response to violence and abuse by female partners.

2.19 In a most recent study specifically designed to explore the issue of the use of assaults supposedly in self-defence, Sarantakos (2003)⁽²²⁾ investigated couples in which wives had claimed to have acted in self-defence against their male partners who themselves had claimed that they were in fact victims of assaults by their wives. By interviewing family members, such as children and the wife's mother, it was found that the claims of 90% of the women to have been acting in self-defence were entirely bogus. When faced with the evidence of these other family members, **the majority of women admitted that they had not acted in self-defence** and had previously lied in order to gain an advantage in family legal proceedings and with the police.

2.20 The results of these studies, and the analyses made of them, clearly indicate women making assaults on male partners and not acting in self-defence on the basis of their own admissions. They also indicate that some women, at least, use claims of having acted in self-defence to cover up their violence and abuse of male partners.

(4) *Size and Strength*

2.21 A supposition that is often made from a view point that domestic violence is largely or exclusively committed by males against females, is that the generally smaller size and strength of females as opposed to males precludes females choosing to assault a male partner. Of course, in any particular dyad, the male need not necessarily be the bigger and stronger. However, female aggressiveness is not necessarily inhibited by physical strength limitation. George (1999)⁽²³⁾ reported the results of a national survey of assaults committed by women across all types of relationships (intimate to stranger) which found that women preferentially made assaults upon men, who were supposedly bigger or stronger, rather than on other women, who would supposedly be of the same size. The differential was 2 to 1 for all assaults, but 4 to 1 for severe assaults. The results suggest that size and strength alone cannot be an all important and dominating factor and that women will make assaults on men even where they are at a physical disadvantage. More likely, the predisposition of the individual to use violence is more crucial. Arguments based solely on a size and strength differential of men and women should thus be viewed with some caution.

2.22 Aggressive or violent women in couple relationships tend to compensate for their lesser physical strength by using weapons or the element of surprise (see George (2003)⁽⁴⁾). A *Dispatches* programme broadcast (Channel 4) on the 7 January 1999, reporting on the experiences of 100 male victims of domestic violence by a female partner, found that about one third had been attacked whilst asleep, about one quarter had been kicked in the genitals, and a significant number of women had attacked using various implements and objects as weapons. In nearly every case, the woman was reported to be smaller than her partner and in some cases she was very much smaller. Contemporary case evidence such as this (for review, see George (2003)⁽⁴⁾) as well as legal case evidence stretching back in history (see Bates (1981)⁽²⁴⁾), shows that a reality of assaults by women on their male partners can often be made using weapons whereby women seek to overcome any size or strength limitation. Also, making an attack upon a sleeping (or otherwise vulnerable) partner is a favoured tactic currently used by a significant proportion of violent female partners in normally non-lethal domestic incidents in order to increase the efficacy and trauma of their assault.

2.23 The *Dispatches* survey also found that only 7% of the female assailants had been arrested and none was subsequently charged, even after inflicting serious injury on the man. Nearly 90% of male victims felt that the police did not take their complaints seriously. The 2001 Dewar Research survey, also of 100 male victims, found similar experiences.

(d) Male Victims

(1) Battered Husbands

2.24 Battering relationships in which there is a systematic campaign of violence or abuse by one partner against the other is not just a male-on-female phenomenon. Bates (1981)⁽²⁴⁾ surveyed legal cases for examples of battered husbands and found that such cases were not difficult to find from even a superficial search of case law. He noted that the cases surveyed showed men suffering a similar campaign of violence and abuse as experienced by women victims. He also noted that personality disorders identified prevalently in male batterers were also prevalent amongst female batterers. Such a finding is consistent with that of Bland and Orn (1986)⁽¹⁸⁾, who also found a high prevalence of such disorders to be associated with violence against intimate partners. Home Office Research Study 191⁽¹⁵⁾ found that one quarter of chronic victims (subject to repeated or systematic assaults) were male. Highly victimised spouses, regardless of sex, are similarly negatively affected by marital violence (Grandin et al (1997)⁽²⁵⁾).

(2) Under-reporting by Male Victims

2.25 Men assaulted by other men are notorious for under-reporting even assaults resulting in serious injuries committed on them (Shepherd (1990)⁽²⁶⁾ ; Stanko and Hobdell (1993)⁽²⁷⁾). It is not surprising, therefore, that men under-report assaults on them by women even more, out of fear of being seen as unmanly or weak. Former times when men were punished using Skimmington processions for being the victims of a woman's violence still cast a shadow today which deter men from reporting their plight to any authority.

2.26 A taboo against men being seen as victims results in 'macho' feelings of shame or humiliation for men to admit that they have been assaulted by a woman, and many do not report abuse against them in consequence even when it has been severely violent or repeated (Henman (1996)⁽²⁸⁾). The taboo also conspires against professionals recognising men as

victims. Thus, many male victims perceive that if they do report they will not be believed or will be ridiculed, or that the police or social agencies might well be antagonistic, and so do not report and take this risk.

2.27 The reluctance of men to report domestic victimisation can be seen from official sources. Police force statistics for recorded incidents of domestic violence show proportions of male victims varying generally between 10 and 20%, although some forces show higher proportions (Yarwood (1997)⁽²⁹⁾). Comparison of these relatively modest proportions with the prevalence of male victims of domestic assaults revealed by academic studies and in Home Office Research Study 191⁽¹⁵⁾ results, showing a proportion of 40% male victims in the long-term, strongly suggests, therefore, a substantial under-reporting by men of domestic violence against them by female partners, far more than by female victims.

2.28 Even if men attempt to report their victimisation, they are likely to find they are discriminated against. In an American study of police officer responses to victims of domestic violence (Buzawa and Austin (1993)⁽³⁰⁾), male victims were unanimously critical of police officer reactions despite the fact that the male victims were reported to have sustained more severe injuries than the female victims in the study. A similar criticism of police responses by male victims was reported in Study 191⁽¹⁵⁾, and the study of male victims reported by the *Dispatches* programme (see above) also found male victims highly critical of the police. Significantly, it found that police officers were more likely to arrest a man or remove him from his home when he was the victim of domestic violence by his female partner than if he had been the perpetrator of the violence. Thus, whilst police forces are now sensitised to the issue of domestic violence, they are unlikely to treat the male victim sympathetically and record or act upon his victimisation. This prejudice on behalf of police officers and police forces acts as a further deterrent to reporting by male victims. Hence, the accurate recording of the extent of male victimisation is compromised and potential injustice to male victims occurs.

(3) Bias against Battered Men

2.29 The evidence illustrates a prejudicial bias in the way police officers and police forces treat male victims of domestic violence. Academic study of bias towards victims of domestic violence has shown that women victims are seen as being more worthy than male victims and hence receive more sympathetic responses from a wide range of professionals in the domestic violence field. (Feather (1996)⁽³¹⁾; see also George (2003)⁽⁴⁾ .

2.30 Cook and Harris (1994)⁽³²⁾ reported on evidence of studies showing sex bias which favoured battered women to the disadvantage of battered men. Their own study produced an apt demonstration of the power of prejudicial attitudes. This used a vignette technique to compare subject's responses to scenarios of battered wife, battered husband, and battered male homosexual. They reported that in nine out of eleven ratings, the heterosexual battered male was rated more negatively than the battered homosexual male. Both males were rated less favourably or sympathetically than the battered female, but the stark point was the difference between the heterosexual and the homosexual males.

2.31 Prejudice and discrimination against homosexual men has been pervasive and deeply ingrained historically, and yet that against the heterosexual male in the context of domestic violence, uncovered in this study, was even more entrenched and severe. Nothing could ever say more for the plight of the man suffering violence from his female partner. This prejudice alone explains his relative absence from 'official' figures and crime surveys and the persistent denial of his existence in reviews of domestic violence. The victimisation of males by females in domestic relationships is 'The Great Taboo' (George 1994)⁽³³⁾.

(e) Female Violence

2.32 Some researchers have suggested (for instance, see Ben-David (1993)⁽³⁴⁾) that the fact that women are less involved in violence outside the home largely results from obedience to female stereotypes which mitigates against females being (or being seen to be) aggressive. In contrast, in the home, women may feel more able to be aggressive as there is less chance of general observation and criticism. Contemporary academic surveys of couple conflict and crime surveys such as Home Office Research Study 191⁽¹⁵⁾ provide evidence for female aggression in domestic settings. However, such results are still generally decried and denigrated, and largely ignored in official and public policy, because they challenge the stereotypes of femininity that are comfortable to both men and women that posit that women are not aggressive or violent.

3 SEX BIAS

(a) In the Criminal Justice System

3.1 Periodic Home Office studies of sex bias in the criminal justice system, as required by Section 95 of the Criminal Justice Act 1991, have consistently found that overall, with some exceptions (eg. drug offences), females are generally treated more leniently than males by the criminal justice system in England and Wales⁽³⁵⁾⁽³⁶⁾⁽³⁷⁾. For instance, more females than males are cautioned for similar offences and not prosecuted, and more males than females are imprisoned and for longer periods across a whole range of offences, including violent offences.

3.2 Hence it is expected, although not possible to determine from the statistics available, that similar discrepancies and biases are expected to exist (to the detriment of men) in the treatment of men and women who have committed the same level of severity and nature of violent assault on an intimate partner. The bias against men in the criminal justice system also extends to prison regulations: for example, in prison dress, cell space, body searches, and cash grants to purchase clothes, and is evident over history since Elizabethan times (see George (2003)⁽⁴⁾).

3.3 A similar pattern of apparent harsher treatment of male defendants also applies in the USA. Bickle and Petersen (1991)⁽³⁸⁾ found that generally men receive harsher sentences than women in American courts. In addition, marital status also was shown to have an effect whereby married men were more harshly dealt with than single men, and single women more harshly sentenced than married women.

3.4 It has been found by a number of researchers that those of either sex suffering certain personality disorders (eg. antisocial personality disorder) are more likely to commit acts of domestic assaults (eg. see Bland and Orn (1986)⁽¹⁸⁾; Dutton (1994)⁽¹⁴⁾). Ford and Widiger (1989)⁽³⁹⁾ reported on sex bias in psychiatric diagnoses. They found that in the diagnosis of personality disorders, men were more likely to be diagnosed as having an antisocial personality disorder, especially where there was low educational attainment, whilst women were more likely to be diagnosed as having a histrionic, rather than antisocial, personality disorder even where there was more evidence of antisocial behaviour than histrionic behaviour. Such diagnoses were in accord with stereotypical notions of male and female which post 'men as bad, women as mad'.

(b) In Domestic Homicide Proceedings

3.5 Government statistics indicate that the general bias against males in the criminal justice system also extends to domestic homicide outcomes. Table 4A in *Criminal Statistics, England and Wales, 1997*⁽⁴⁰⁾, (summarising how suspects were dealt with for domestic homicide, by sex and outcome), for the six years 1992-1997, showed a significant difference in the way that males and females were dealt with. Males were more likely to be convicted than females (91% against 74%), and the conviction was more likely to be for murder than for manslaughter (46% for males against 21% for females). Furthermore, males were more likely than females to be sentenced to immediate custody for manslaughter (77% against 62%), and to be sentenced to a longer term (61 months against 45 months).

3.6 Indeed, the statistics given in Tables 4 and 5 in the Consultation Paper, relating to domestic homicide verdicts during the earlier period 1982-1989, confirm this pattern also for those years. A much higher proportion of male defendants were convicted of murder than female (35.4% against only 15.3%), and a higher proportion also of male defendants were convicted of section 2 manslaughter than female (30.4% against only 20.3%). The Consultation Paper draws no conclusions from this as to the type of partial defence used to reduce charges from murder to manslaughter between the sexes. However, it seems clear from these statistics that a greater proportion of female defendants than male succeeded in gaining a partial defence against a murder charge.

3.7 Confirmation of the pattern of apparent bias against men in the longer term prior to 1992 was provided by Christopher Nuttall, the then Director of the Home Office Research and Statistics Department, in a letter published in *The Sunday Times* of 9 May 1993. He reported that he had analysed the cases of 1,071 domestic homicides which took place between 1983 and 1991. It may be of interest and relevance to quote from his letter.

“A strong belief exists at the moment that women accused of domestic homicide are treated more harshly than men accused of the same crime. The answers I got [from my analysis] do not support this belief.

More than 90% of those accused of domestic homicide, whether male or female, were indicted for murder. At the trial, 22% of the women but only 5% of the men were acquitted of all charges. The data on the reason for acquittal is incomplete, but it appears that the most successful defence was one of self-defence.

At the trial, of those found guilty of unlawful domestic killing, 81% of the women were found guilty of the lesser charge of manslaughter, whereas only 62% of the men were. Of the men found guilty of manslaughter, and for whom [information is available], 47% used the defence of diminished responsibility, 32% provocation and 21% no intent to kill. Of similar women found guilty of manslaughter, 33% used the defence of diminished responsibility, 34% provocation and 33% no intent to kill.

There are thus no grounds to claim that women predominantly have to use the defence of diminished responsibility whereas men can rely on provocation.

As for differences in sentencing those [found] guilty of domestic homicide between 1983 and 1991, 73% of men convicted of manslaughter received a prison sentence compared with only 29% of women. The average sentence length for men found guilty of manslaughter was 56 months, for women it was 47 months. And 59% of women were sentenced to either probation or a suspended sentence compared with 12% of men.”

3.8 On the basis of the figures for domestic homicides between 1983 and 1991, as supplied by Mr Nuttall from Home Office records, it would appear that female defendants were far more successful than male defendants at having a plea of justified killing by reason of self-defence accepted at trial. Such cases of a successful defence by female defendants would have been made under the strictures of the law on proving justified self-defence as it presently stands. Further, it is notable that female defendants were also as successful as male defendants over this period of arguing provocation and more successful at arguing ‘no intent to kill’.

3.9 A similar bias against men can be seen in North American data. The US Department of Justice report *Murder in Families*, July 1994⁽⁴¹⁾, revealed that women were acquitted of spousal murder charges 12.9% of the time compared to men only 1.4% of the time; women received probation for murdering their spouse 16% of the time, men only 1.6% of the time; and women received an average 6-year sentence for murdering their spouse, men an average of 17 years.

3.10 The often more lenient treatment of abused women in UK courts who have killed their partner is also periodically reported by the press. For instance, in at least twelve cases reported in the past six years, the abused woman who had killed her partner was either granted early release from custody on appeal against sentence, given a suspended sentence or put on probation / community service. In contrast, in the same period, in three reported cases of 'battered' men, each of whom the court accepted had been 'broken' by the female partners they had been driven to kill, sentences of six, six and 3.5 years imprisonment were imposed by the court.

(c) Proportions of Male Domestic Homicide Victims

3.11 Table 6 in para 2.7 of the Consultation Paper gives total male domestic homicide victims as proportions of total male homicide victims for each year. It thereby gives a misleading picture of the actual prevalence of male domestic homicide victims. Since total male homicide victims are about twice total female victims (582 against 250 in 2001/2002), the ratio used in Table 6 must always give proportions for male domestic homicide victims significantly less than the comparable proportions for female domestic homicide victims, even if the actual numbers of male and female domestic homicide victims were to be equal.

3.12 A more informative indication of the prevalence of male domestic homicide victims is given by relating them instead to total domestic homicide victims (male and female). On this basis, for the period 1990-2000, and referring to Table 4.4 in Criminal Statistics, England and Wales, 2000⁽⁴²⁾, (summarising offences recorded as homicide where the principle suspect was a current or former spouse or partner, cohabitant or lover, of the victim), the proportions of male domestic homicide victims varied from 16.2% (1993) to 29% (1995), with an average for the period of 22.4%. Thus, between one in four and one in five domestic homicide victims are male, an actual prevalence much higher than the figures suggested by Table 6.

3.12 A similar proportion of male homicide victims is found in Canadian statistics⁽⁴³⁾. For instance, during the period 1974-2000, a total of 2,594 domestic homicide victims was recorded, of whom 594 were male, ie. a long-term proportion of 22.8%. Interestingly, intimate partner homicides in Canada have declined steadily over this period for both sexes.

3.13 Higher proportions appear to apply or have been noted in the USA. The US Justice Department studied the domestic spousal homicide rates for years 1979 to 1988, and found an average proportion of 40% male victims. The figures for 1988 surveyed more than 8,000 homicides in 75 large urban counties. The results of this survey, not released until 1994⁽⁴¹⁾, showed proportions of 38% husband victims in white family murders and of 47% husband victims in black family murders. The Virginia State Police 1998 Uniform Crime Report is reported as giving equal numbers of male and female domestic homicide victims for that year (29 and 29).

3.14 There is thus a significant prevalence of male victims of domestic homicide, in this country and elsewhere. It is most dismaying, therefore, that the Consultation Paper, which purports to seriously consider fundamental changes to homicide law which will affect both sexes, appears not to recognise this fact.

4 BATTERED WOMAN SYNDROME

4.1 It was out of the initial refuge based studies of battered women that Leonore Walker promoted the idea of the 'Battered Woman Syndrome'. The relatively uncritical manner in which the 'syndrome' is accepted as having scientific validity and rigour in the Consultation Paper is a matter of major concern. Although there is a section of comment which purports to be critical and which identifies that many criticisms of the Battered Woman Syndrome as proposed by Walker have been made, there is little to suggest such critiques are being examined seriously, rather than just being referred to in passing.

4.2 For instance, within the academic legal literature on the topic that should be known to the authors of the Consultation Paper, is a paper by Faigman and Wright titled *The Battered Woman Syndrome in the Age of Science* (Faigman and Wright (1997)⁽⁴⁴⁾). This paper exposes the paucity of the scientific and academic merit of Walker's work within the framework of the use of the Battered Woman Syndrome and its application to North American legal cases. The opening sentence of this review paper is the starkest illustration as to why the authors of the Consultation Paper should not only have read and quoted this paper, but exercise great caution in their deliberations.

"The battered woman syndrome illustrates all that is wrong with the law's use of science".
(Introduction, page 68).

4.3 Faigman and Wright, in their review of the use of the Battered Woman Syndrome within the American court system, go on to make a further series of telling quotes which reinforce the fact that there is a considerable body of critical literature which is largely unsourced or unquoted by the Consultation Paper. For instance, they note, in discussing the use of the Battered Woman Syndrome in American courts, that:

" The battered woman syndrome ultimately fails because it was never a matter of science to begin with, and yet it was treated as a "scientific fact" by courts."

4.4 It now appears that a similar mistake is being made in *Partial Defences to Murder* because there is an absence of a balanced, scholarly and critical appraisal of the criticisms advanced by these authors. To redress this, we consider that the Law Commission authors must read, digest and reflect upon this review paper and consult (at least some of) the more than 300 citations to other references it uses in support of its thesis that the Battered Woman Syndrome as proposed by Walker is "so little grounded in reality." (See Faigman and Wright (1997), VI. Conclusion, page 114).

4.5 We draw attention to the fact that Faigman and Wright identify serious methodological flaws and also to the fact that the data Walker supposedly obtained and used to support her advocacy of the syndrome actually did NOT support her suppositions. (See pages 76-79 and also notes 56, 58, & 65).

4.6 Further concern about the methodology used in many studies based on select samples from women's refuges, including those by Walker referred to in the Consultation Paper, has also prompted an eminent American professor of philosophy, Christina Hoff-Sommers, to write in her book *Who Stole Feminism* (1995)⁽⁵⁾, in the chapter on domestic violence entitled 'Noble Lies', the following:

"In examining research on battery, one sees that respected medical periodicals uncritically indulge the feminists in their inflationary tendencies. It is hard to avoid the impression that the medical journals have dropped their usual standards when reporting the findings of the battery studies. It is pretty clear that studies of this poor caliber on some other subject of medical interest and importance would either not be reported or be reported with many caveats. To my mind, giving research on 'women's topics' abnormal latitude is patronizingly sexist." (See pp 202-203).

4.7 We advance that a balanced and scholarly investigation by the Law Commission, upon which crucial recommendations might be made, cannot ignore such criticism nor the work of others who have made contributions to understanding the situation of battered women or battered men.

5 PARTIAL DEFENCES TO MURDER

Concerns, Criticisms and Suggestions

5.1 The Consultation Paper has reviewed extensively arguments advanced within legal discourse concerning the present Law in relation to partial defences to a charge of murder. As part of the review, it has dealt with two particular scenarios in which there is assumed to be public concern. One, the Battered Woman Syndrome is discussed in detail in Part X of the Consultation Paper, whilst the other, involving the issue of self-defence by householders, is discussed elsewhere.

5.2 The basis for the concern for women who kill their male partner is that expressed in paragraph 10.85 whereby anomaly can (or is perceived to) exist between the legal circumstance in which an abused woman kills her male partner in fear of further violence and the situation of the male partner who kills in a sudden jealous rage. Significantly in this paragraph, the Consultation Paper states that “We consider that the law does not always deal satisfactorily with abused women who kill,” so indicating that it is accepted that the case is made, and there remains merely the problem of how to correct the anomaly. We do not believe that a persuasive case has been made.

5.3 It is acknowledged that there are possibly some cases whereby the law appears not to deal satisfactorily with abused women who kill, and there can be an anomaly between the circumstances of an abused woman who kills as opposed to an abusive partner killer. However, in view of the evidence available, including that provided in this submission, in particular on the real extent of male victimisation by domestic violence and on the actual sex bias officially reported in the criminal justice system, we have grave concern that the discussion of such anomaly in the Consultation Paper has not drawn on the fullest balanced objective appraisal of the background to domestic violence.

5.4 We have three major concerns;

- (1) In an attempt to provide a sympathetic legal response to genuinely abused women who kill (by creating a further partial defence of ‘self-preservation, or ‘battered woman’ defence), women who abuse their male partners would be given

encouragement to intensify their violence in the knowledge that, should they actually kill their male victim, they could then claim to have been 'battered wives'. Having killed the one witness that could testify otherwise, a 'battered woman' defence could thus be open to abuse by violent and abusive women in order to obtain judicial sanction for extreme acts of violence against entirely non-violent and decent men who have already been subjected to a campaign of violence and abuse by the woman.

(2) The focus on battered women who kill male partners neglects the fact that abuse and violence are features which occur both male-to-female and female-to-male in heterosexual relationships, as well as by one partner against the other in homosexual relationships. Of course, it neglects the fact that such abuse and the tragic consequences could also occur between individuals living in the same household, but not involved in a sexual relationship. Hence, the focus upon battered women, rather than battered **people**, in making decisions about changes to the law on murder, which must apply to everyone equally if it is to retain credibility, seems shortsighted and misguided.

(3) The Battered Woman Syndrome as proposed by Leonore Walker is accepted by the Consultation Paper as the basis upon which the further suggestions and judgments are made. This is despite the fact that it acknowledges that there are many criticisms of Walker's 'theory' (see paras 10.9-10.18). However, the Consultation Paper does little more than discuss some of the more anodyne and less fulsome criticisms, seemingly embarrassed to give due consideration to the kinds of stark and pointed critiques made by authors such as Faigman and Wright⁽⁴⁴⁾ quoted in this submission, which show Walker's theory to be extremely dubious and lacking.

The Consultation Paper mentions the existence of other researchers, such as Dutton⁽¹⁴⁾, who have worked on the situation of abused women, and yet makes no attempt to discuss this work and its findings. By taking such a partial and selective stance, and ignoring large bodies of other research, the Consultation Paper lays itself open to criticism that it is driven by ideology, rather than objective science and the pursuit of justice.

5.5 There is also a major concern that the supposition of a sex bias against female defendants in the application of criminal law to cases of domestic homicide is seemingly accepted without serious question by the Consultation Paper.

5.6 Evidence given in Section 3 above, including reference to official Government reports and statistics concerning the criminal justice system, shows that generally, for most crimes including violent crime and at any given level of severity, and except for drug offences, male perpetrators are dealt with more harshly than female perpetrators. Men are more likely to be prosecuted and less likely to be cautioned. Men are also more likely to be convicted and to receive harsher sentences. The evidence shows no sex bias against female defendants.

5.7 Even when inspecting statistics concerning domestic homicide, a sex bias against female defendants cannot be substantiated. Those provided by the Director of the Home Office Research and Statistics Directorate (in his letter published in *The Sunday Times* of 9 May 1993 already referred to) illustrate that, if anything, female domestic homicide defendants are extremely successful at arguing self-defence, being up to four times more successful than a male defendant who has killed his female partner. Also, Mr Nuttall's figures show female defendants being as successful as male defendants at arguing provocation successfully.

5.8 Such figures thus DO NOT appear to provide a basis for substantiating a sex bias against female defendants in domestic homicide cases. If anything, they indicate a similar sex bias against males as exists in the rest of the criminal justice system. Figures provided by the Consultation Paper itself (see Part II) also do not obviously show a sex bias against female defendants, and give further credence to our assertion in this submission that no systematic sex bias against females can be found in official statistics. Further, the figures seem to indicate that, in comparison to the numbers of female defendants who are successful at arguing some form of defence, the numbers of women convicted of domestic murder of a partner are low as compared with the numbers of males convicted, in relation to those arguing some partial defence successfully.

5.9 If anything, therefore, it appears that a sex bias exists against men who kill their female partner, even those who are acknowledged as having been battered by that partner. As previously mentioned, the often more lenient treatment of abused women in UK courts who have killed their partner is also periodically reported by the press.

5.10 Given the relative success female defendants in domestic homicide cases already apparently achieve, and the very low numbers who are actually convicted of murder of a male partner, it has to be asked if the supposed need for a change in the Law in respect of partial defences to murder is more about ideology than the numbers of cases in which true difficulty and anomaly arises.

5.11 By focusing only upon 'battered women' who kill male partners and male partners who kill in anger or jealousy, the Consultation Paper confines its discussion to those studies that have given rise to the 'clinical sample fallacy' whereby violence in relationships supposedly only occurs male-to-female in heterosexual relationships. The large body of evidence that shows violence in heterosexual relationships occurs both unilaterally male-to-female and unilaterally female-to-male as well as bi-directionally between males and females, and also in homosexual relationships either unilaterally or bi-directional, is completely overlooked.

5.12 More particularly and worryingly, a stereotypical viewpoint is adopted which again can be shown to be perpetuating bias against males - in this case male victims of female perpetrated domestic violence. Such a bias is historical and yet there are plenty of cases of men being battered by females known within legal case history.

5.13 Out of such dishonest portrayal of domestic violence, which posits heterosexual women as the only victims, arise some arguments that are then used in the Consultation Paper to provide backing to arguments about the plight of women who kill male partners. Within this stereotypical view, certain matters can take on a significance and credibility which might not happen to the same extent within a more balanced viewpoint.

5.14 For instance, much has been made about the use of weapons by women who kill male partners and about attacks made when men are asleep or otherwise incapacitated. On the one hand, it has been argued that this results from the perilous position of women who are terrified of the violence of their violent male partner. What is not discussed, however, is that research has shown that women who are violent and abuse their male partners often use weapons in their attacks and not infrequently make attacks when their male partner is asleep or otherwise incapacitated. So the use of weapons and surprise attacks upon males incapable of defending themselves is not only about women who are terrified, it is also a significant feature of the violence perpetrated by violent women.

5.15 Similarly, arguments are developed that relate to the physical imbalance between men and women and used in relation to the plight of women who kill. Clearly, on average men are bigger and stronger than women, although in any one particular dyad it is perfectly possible for the female partner to be bigger and stronger than her male partner. However, whilst sympathy must go to the woman beaten by her bigger and stronger male partner, it does not necessarily follow that she is helpless in this situation, or that a woman could not be beaten and abused by a smaller and weaker male. Situations can also arise in which a man can be beaten and abused by a weaker and smaller female partner and a man or woman in a same-sex relationship can be beaten and abused by a physically smaller and weaker partner. It is an individual's propensity to use violence as an inter-relational strategy that is surely key, not just size and strength or factors such as sex or sexual orientation.

5.16 The problem is that arguments developed only within the stereotypical remit of sole male-to-female violence may create absurdities which defy logic as soon as the broader picture of domestic violence as an equal opportunity destroyer is considered. By virtue of apparently accepting the stereotypical position of women being the only victims of domestic violence, the Consultation Paper is obliged to confine its discussion in Part X within a narrow focus that increasing numbers of members of the public are aware is erroneous and illogical.

5.17 Research has shown, as discussed above, the diversity of assaults and abuse within relationships whereby, even when considering just the situation of women in heterosexual relationships, there is a complexity that has bearing upon the deliberations concerning partial defences to domestic murder.

5.18 The research gives ample evidence, including that provided by the answers of women themselves, for scenarios other than just sole male-on-female assaults. Thus, sole female-on-male victimisation; female initiation of assaults in bi-directional assaultive couples; females using severe assaults upon males who have assaulted their female partner using only minor levels of assault; denial of self-defence as the reason for female assaults upon male partners in approximately 80% or more of cases; and admitted falsification of claims of self-defence in a proportion of women initially claiming to have acted in self-defence; all indicate a complexity of dynamic within abusive relations which defy simplistic 'all-embracing' assumptions.

5.19 The development of legal mechanisms to address perceived shortcomings in the manner in which abused women can defend themselves when charged with murder would be counter-productive if other injustice or anomaly is thereby created. There is already ample evidence that male victims of domestic violence receive less favourable treatment than female victims. The development of any of the options with a view to providing some enhanced mechanism of partial defence to abused women who kill male partners, could be open to exploitation such that they could be used in every case of a woman accused of unlawful killing of a male partner or associate.

5.20 There is already evidence within both family law and criminal law that some women, falsely claiming self-defence as a motive for their violence, are able to manipulate the legal process trading upon the prejudice that exists against male victims.

“I saw Austin once and he was cut down the side of his face from his ear downwards ... She broke his nose once and he was so ashamed he told everyone at work he’d been mugged ... She was bragging about it and thought it was great a girl could do that to a man.”

Sister of Austin White, who was stabbed through the heart and left to die on the floor by his girlfriend. (as reported by Su Pennington, *Independent on Sunday*, 29th November 1996).

5.20 Thus, from the perspective of this submission, it is not deemed necessary to comment on any of the particular legal options relating to domestic homicide considered by the Consultation Paper. The options derive ultimately from the perspective of the assumptions about domestic violence that underpin them and it is these assumptions that are challenged in this submission. The key assumption challenged is that it is only heterosexual women who are victimised or who are so overwhelmingly victimised that others do not need consideration. If any options for change are seriously considered, therefore, it is suggested that, for the benefit of the Law itself, these should be viewed in terms of their use independent of the sex or sexual orientation of those accused and those killed.

REFERENCES

- (1) Pendry, Richard. (1992). An icon of sexual politics. *Spectator*, 1 August 1992. (Pendry argues that the campaign to release Sara Thornton has more to do with feminism than justice).
- (2) Archer, John and Lloyd, Barbara. *Sex and Gender* (second edition). Cambridge Univ. Press, 2002.
- (3) Straus, M.A. (1993). Husband abuse and the woman offender are common problems. In: R.J.Gelles & D. Loseke (Eds) '*Current controversies on family violence*'. (67-87). Newbury Park: Sage.
- (4) George, M.J. (2003). Invisible Touch. *Aggression and Violent Behavior* 8, 23-60.
- (5) Hoff-Sommers, Christina. (1995). Who Stole Feminism? How Women Have betrayed Women. Simon & Schuster, Chapter 9, Noble Lies, 188-208.
- (6) Pleck, E. (1979). Wife Beating in Nineteenth Century America Victimology. *An International Journal* 4, 60-74.
- (7) Kelly, H.A. (1994). Rule of Thumb and the Folklaw of the Husband's Stick. *Journal of Legal Education* 44, 341-365.
- (8) George, Malcolm J. (2002). Skimmington Revisited. *Journal of Men's Studies* 10, No.2, 111-127.
- (9) See for instance: Fiebert, Martin. (1999). References examining assaults by women on their spouses or male partners: an annotated bibliography. Department of Psychology, California State University, Long Beach
- (10) Archer, J. (2000). Sex differences in aggression between heterosexual partners: A meta-analytic review. *Psychological Bulletin* 126, 651-680. See also: Archer, J. (2000). Sex differences in physical aggression to partners: A reply to Frieze (2000), O'Leary (2000) and White, Smith, Koss and Figurelo (2000). *Psychological Bulletin* 126, 697-702.
- (11) Stets, J.E. and Straus, M.A. (1989). The marriage license as a hitting license: A comparison of assaults in dating, cohabiting and married couples. *Journal of Family Violence* 4, 161-180.
- (12) Stets, J.E. and Straus, M.A. (1990). Gender differences in reporting marital violence and its medical and psychological consequences. In: M.A. Straus and R.J. Gelles (Eds) '*Physical violence in American families: Risk factors and adaptations to violence in 8,145 families*'. 151-166. Transaction Pub. Brunswick, NJ.
- (13) Lie, G-Y. and Gentlewarrior, S. (1991). Intimate Violence in Lesbian Relationships: Discussion of Survey Findings and Precise Implications. *Journal of Social Service Research* 15, 41-59. (In their 1990 survey of 1,099 lesbians, the authors found that 52% had been victims of aggression by their partners).
- (14) Dutton, D.G. (1994). Patriarchy and wife assault: The ecological fallacy. *Violence and Victims* 9, 167-182.
- (15) Home Office Research Study 191. Domestic Violence: Findings from a new British Crime Survey self-completion questionnaire. Catriona Mirrlees-Black. Home Office, January 1999.
- (16) Mann, C.R. (1990). Black female homicide in the United States. *Journal of Interpersonal Violence* 5, 176-201. See also: Mann, C. (1988). Getting Even? Women Who Kill in Domestic Encounters. *Justice Quarterly* 5, no.1, 1988, 33-50.
- (17) Carrado, M., George, M.J., Loxam, E., Jones, L., Templar, D. (1996). Aggression in British heterosexual relationships. *Aggressive Behavior* 22, 401-415.
- (18) Bland, R. and Orn, H. (1986). Family violence and psychiatric disorder. *Canadian Journal of Psychiatry* 31, 129-137.

- (19) Sommer, R., Barnes, G.E. and Murray R.P. (1992) Alcohol consumption, alcohol abuse, personality and female perpetrated spouse abuse. *Journal of Personality and Individual Differences* 13, 1315-1323.
- (20) Fiebert, M.S. and Gonzalez, D.M. (1997). Women who initiate assaults: The reasons offered for such behavior. *Psychological Reports* 80, 583-590.
- (21) DeMaris, A. (1992). Male versus female initiation of aggression: The case of courtship violence. In: E.C. Viano (Ed) *Intimate violence: Interdisciplinary perspectives*, 111-120. Taylor and Francis, Bristol, PA.
- (22) Sarantakos, S. (2003). Deconstructing self-defence in wife to husband violence. *Journal of Men's Studies*. In press (?).
- (23) George, Malcom J. (1999). A victimisation survey of female perpetrated assaults in the United Kingdom. *Aggressive Behavior* 25, 67-79.
- (24) Bates, F. (1981). A plea for the battered husband. *Family Law* 11, 92-94.
- (25) Grandin, E., Lupri E. and Brinkerhoff, M.B. (1997). Couple violence and psychological distress. *Canadian Journal of Public Health* 89, 43-47.
- (26) Shepherd, J. (1990). Violent crime in Bristol: An accident and emergency department perspective. *British Journal of Criminology* 30, 289-305.
- (27) Stanko, E.A. and Hobdell, K. (1993). Assault on men: Masculinity and male victimisation. *British Journal of Criminology* 33, 400-415.
- (28) Henman, M. (1996). Domestic violence: Do men under-report? *Forensic Update* 47, 3-8.
- (29) Yarwood, J. D. (1997). Domestic Violence Statistics 1995/96, England and Wales: Summary of information by police forces in England and Wales in response to private enquiry. Dewar Research, Ascot.
- (30) Buzawa, E.S. and Austin, T. (1993). Determining police response to domestic violence victims. The role of victim preferences. *American Behavioural Scientist* 36, 610-623.
- (31) Feather, N.T. (1996). Domestic violence, gender, and perceptions of justice. *Sex Roles* 35, 507-519.
- (32) Cook, C.A. and Harris, R.J. (1994). Attributions about spouse abuse: It matters who batterers and victims are. *Sex Roles* 30, 553-565.
- (33) George, Malcolm J. (1994). Riding the donkey backwards: Men as the unacceptable victims of marital violence. *Journal of Men's Studies* 3, 137-159.
- (34) Ben-David, S. (1993). The two faces of female violence: The public and the domestic domains. *Journal of Family Violence* 8, 345-359.
- (35) Hedderman, Carol and Hough, Mike. Does the Criminal Justice System treat Men and Women differently? Home Office Research Findings No.10, May 1994.
- (36) Hedderman, Carol and Dowds, Lizanne. The sentencing of women. Home Office Research Findings No.58, 1997.
- (37) Criminal Justice Act 1991. Section 95 report. Statistics on Women and the Criminal Justice System. Home Office, 2000.
- (38) Bickle, G.S. and Petersen, R.D. (1991). The impact of gender-based family roles on criminal sentencing. *Social Problems* 38, 372-394.

(39) Ford, M.R. and Widiger, T.A. (1989). Sex bias in the diagnosis of histrionic and antisocial personality disorder. *Journal of Consulting and Clinical Psychology* 57, 301-305.

(40) Criminal Statistics, England and Wales, 1997, para 4.13 and Table 4A. Home Office, Cm 4162.

(41) US Department of Justice, Office of Justice Programs. *Murder in Families*. Bureau of Justice Statistics Special Report, July 1994.

(42) Criminal Statistics, England and Wales, 2000, Table 4.4. Home Office, Cm 5312.

(43) Statistics Canada, Canadian Centre for Justice Statistics. National Trends in Intimate Partner Homicides, 1974-2000, Table 2. (Catalogue No. 85-002-XIE, Vol 22, No.5).

(44) Faigman, David L. and Wright, Amy. (1997). The Battered Woman Syndrome in the Age of Science. *Arizona Law Review*, Vol. 39:67, 67-115.

Photocopy attachments:

1 Paper by: M.J.George "Invisible Touch". *Aggression and Violent Behavior* 8 (2003), 23-60.

2 Paper by: David L.Faigman and Amy Wright "The Battered Woman Syndrome in the Age of Science". *Arizona Law Review*, 1997, Vol. 39:67, 67-115.