

Title: Coercive control: Patterns in crimes, arrests and outcomes for a new domestic abuse offence

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Introduction

When any criminal offence is created, there is a period of uncertainty about how successful that law will be in achieving the goals of its authors and in how enthusiastically it will be used by victims, police and prosecutors. For the criminalisation of coercive control in England and Wales, under the Serious Crime Act (2015), this uncertainty was particularly acute because it was only the second legal jurisdiction to do so. In addition to having little precedent with which to estimate use of the new law, there was significant debate about whether 'more law' (Walklate, Fitz-Gibbon and McCulloch, 2017; Padfield, 2016) was the most appropriate strategy to prevent and respond to this type of domestic abuse (Stark and Hester, 2019). In particular, critics were sceptical about the ability of the criminal justice system to identify, investigate and prosecute an offence that is based on a course of conduct and victim accounts of fear when their performance with more typical violent domestic abuse incidents was already lacking.

To date, only partial information has emerged about the number of crimes of coercive and controlling behaviour reported to police, the number of arrests made or the distribution of crime outcomes as a result of this legislation (McGorrery and McMahon, 2019; Barlow, Johnson, Walklate and Humphreys, 2020). The information that has emerged has only covered a small number of areas, meaning that little is known about patterns in police force-level recorded crime, arrests or outcomes. Finally, little is known about how these crimes, arrests and outcomes have changed in the years since this offence was introduced. Such information is necessary to inform policy and practice, to facilitate a practical understanding of how this law is being used and to inform theory about how societies respond to dynamic conceptualisations of crimes.

To address this dearth of knowledge and to inform the ongoing debate about the implications of criminalising coercive control, this paper contributes in three ways. First, it provides and describes the first comprehensive data set on arrests for controlling or coercive behaviour offences at the police force level in England and Wales. The data set on arrests was collected by the authors and the methods underpinning the data set, which is open access, are described. Secondly, merging the police force-level arrest data with police force-level data on crimes and outcomes, we present descriptive statistics and visualisations of the patterns in crimes, arrests and outcomes in the large majority of police forces in England Wales across the first four years of the law's existence. Finally, comparing outcomes for coercive control to those for domestic abuse in general, we demonstrate patterns in the investigation and prosecution of coercive control crimes – relatively high rates of cases being discontinued and relatively low rates of charge/summons – that have major implications for the criminal justice response to coercive control.

The emergence and criminalisation of coercive control in England and Wales

Though prominent only in recent years in UK public policy, the concept of coercive control has been central to feminist-activist theory and practice on domestic abuse since the 1970s (see Dobash and Dobash, 1979; Schechter, 1982). In 1995, Evan Stark called for a reframing of the criminal justice response to domestic abuse. He criticised the existing 'assault' model (Stark, 1995: 980-981), which views domestic abuse as 'a discrete episode or act', as misrepresenting the 'far more severe pattern of coercive behaviours' experienced by the majority of victims; experiences that are 'typically ongoing' and 'can elicit hostage-like levels of fear, isolation [and] entrapment' (Stark, 1995: 975). Such calls were repeated by other

commentators (see, for example, Tuerkheimer, 2004) and Tasmania introduced the first legislation to criminalise economic abuse and emotional abuse and intimidation in an intimate relationship (Family Violence Act (Tas.), 2004). Further recognition of the importance of coercive control in intimate relationships followed the publication of Stark's book *'Coercive Control: How men entrap women in personal life'* (2007). In 2013, the Home Office changed the cross-government definition of 'domestic violence and abuse' to incorporate controlling behaviour ("a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour") and coercive behaviour ("an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim" (Home Office, 2013).

In 2014, the government of England and Wales canvassed public and professional opinion about the need to criminalise coercive control through consultation on 'Strengthening the Law on Domestic Abuse' (Home Office, 2014). The introduction to the consultation document argued that violent domestic abuse was already effectively legislated against but non-violent domestic abuse was not. It identified existing stalking and harassment legislation as being effective but noted that it "is not explicitly applicable to intimate relationships" (p. 11). It also noted that police often discount the seriousness of domestic abuse, particularly when it does not involve a violent physical assault. The consultation document proposed that explicitly criminalising non-violent abuse could help victims to recognise that they are being abused, it could help perpetrators to recognise that their behaviour is harmful and it could signal to police and other frontline and criminal justice

agencies the importance of non-violent abuse. In addition, by criminalising coercive control government sought to address the dissonance that its working definition of domestic abuse included coercive control but coercive control was not a criminal offence.

In response to the consultation, proponents of criminalising coercive control suggested that the existence of such an offence would better reflect the lived experiences of victim-survivors. In addition, capturing a broader range of abusive behaviours and harms would represent 'fair labelling', communicate (to wider society) the full gravity of domestic abuse and validate victims' experiences while encouraging help-seeking (Youngs, 2015). Such law would also address the perceived disadvantages of the 'assault model' by criminalising abusive behaviour not covered by existing crime codes and making the context and full range of abuse relevant evidentially, as opposed to just the most recent or severe physical assault (Bishop and Bettinson, 2015).

As a counterpoint to the arguments presented for the criminalisation of coercive control, the government consultation noted that victims had concerns about accessing the criminal justice system to address abuse, presumably suggesting that criminalisation may not be the most effective way to prevent and respond to coercive control. Additionally, it recognised that the criminalisation of coercive control would not fill the legislative gap neatly: the offence of common assault could be applied to a domestic abuse incident in which there was a threat of imminent violence and that the non-violent component of coercive control could potentially be addressed through existing stalking and harassment legislation. Consequently, the imperfect alignment of a new offence, the consultation suggested, could duplicate existing legislation on stalking and harassment.

In the consultation response and in academic and public fora, numerous commentators expressed concerns about the criminalisation of coercive control. It was noted that the criminal justice system has already been shown to fail and harm victims of domestic abuse and the addition of a new offence that is likely to be complex to identify, investigate and evidence is unlikely to improve the situation. To this end, Padfield (2016) and, later, Walklate and Fitz-Gibbon concluded that, while coercive control is a significant problem in the lives of women, 'more law is definitely not the answer' (2019, p. 104).

Despite these concerns over the conceptualisation and operationalisation of coercive control and the poor track record of the criminal justice system to prevent and respond to domestic abuse, controlling or coercive behaviour in an intimate or family relationship was criminalised under Section 76 of the Serious Crime Act (2015) and enacted in December 2015.

Responding to coercive control

Those who were sceptical about the likely success of this legislation emphasised the difficulties that police would likely face in identifying this offence and collecting sufficient evidence to make a successful prosecution likely. They pointed to the already high rates of victim withdrawal of support for police action (commonly known as Outcome 16 in reference to its crime outcome number (Home Office, 2020)), evidential difficulties faced even in episodic, physical domestic abuse cases and very low rates of prosecution as evidence that an arguably more complicated offence was doomed to failure. Burman and Brooks-Hay (2018) and Tolmie (2018) suggested that police officers attending incidents

would find it difficult to identify non-physically abusive behaviours, which tend to exist on a continuum and are present to some degree even in 'healthy' relationships. Going further, Walklate *et al.* (2018) suggested that policing would not be able to adapt to the new conceptualisation of domestic abuse as an ongoing pattern of abuse driven by uneven distributions of power within a relationship. Early evidence from a variety of sources suggested that was indeed the case. Interviews with police officers in different areas consistently found that police officers were unprepared to conceptualise domestic abuse as a pattern of behaviour rather than episodes (Brennan *et al.*, 2018). In addition, the absence of physical evidence could allow perpetrators even more latitude to present these crimes to attending officers as the victim 'over-reacting' and to convince officers that no crime has taken place, as observed in cases of stalking and harassment (Taylor-Dunn, Bowen and Gilchrist, 2018).

Evidencing coercive control

There were also concerns surrounding perceived difficulties with evidencing coercive control, even if it was identified by victims and/or police officers. Tolmie (2018) suggested that evidencing behaviours and impacts requires an appreciation of the wider context of the relationship, as well as an understanding of the gender norms through which the abuse may operate; an understanding that would also need to be fostered across other criminal justice agencies (see also Brennan *et al.*, 2019; Burman and Brooks-Hay, 2018; Walklate *et al.*, 2018). Furthermore, the nature of coercive control – an ongoing pattern of behaviours that is often verbal and threatening, as opposed to time-bound and physical – means that convincing or indisputable evidence would be harder and more resource intensive for police

to collect¹. The proportion of cases that are discontinued because of evidential difficulties when the victim supports action (also referring to its crime outcome number, this is commonly known as Outcome 15) is, for all offences, around 11% (HO Open data, year ending Mar 2020). In cases of domestic abuse, this rises to between 20% and 25%. These offences, usually characterised by an episode of violence, can often leave physical evidence, such as injury or property damage, that is easily identified and collected. In contrast, controlling and coercive abuse is not easily photographed; its interpretation is warped by subjective gender norms and structural inequalities and it is not a discrete incident in a way that lends itself to being evidenced in court through a collection of physical artefacts. As noted by Bettinson and Robson (2020), as a course of conduct, coercive control can occur over an extended period of time and behaviour in the period prior to the commencement of the Serious Crime Act in late 2015 will not constitute evidence in a prosecution. Therefore, it is possible that rates of Outcome 15 should be highest in the first year of the legislation and to then decrease, all other things being equal.

Impact on victims

The proportion of domestic abuse cases where the victim does not support police action is high: between four and five cases out of every ten are discontinued for this reason compared to approximately one in four for all offences (a large number of which will be domestic abuse, indicating the domestic abuse rate is even more extreme). Bettinson and Robson (2020) note that “pressurising a victim to retract a complaint coupled with the obstruction of access to support are at the heart of the offending behaviour” (p.1122).

¹ The ‘Strengthening the Law on Domestic Abuse Consultation – Summary of Responses’ document notes that this issue was raised by an anonymised criminal justice agency, but the full response is not available.

Therefore, with an offence such as coercive control, where an abuser exerts a hold over their victim's action and decision-making that is difficult to break and that can reach far beyond the point of police involvement, it is reasonable to expect that the proportion of Outcome 16s will be higher for coercive control than for other types of domestic abuse.

It was also suggested that the offence may place a greater emphasis on victim testimony², increasing existing inequalities for disadvantaged groups of victims for whom engagement with the criminal justice process is difficult (see Walklate *et al.*, 2018). Tolmie (2018) suggested that if the offence was in fact difficult to operationalise it may have the opposite effect to validating the experiences of victims whose abuse fell outside traditional crime categories. Some observers felt the legislation presented a 'low bar' (Burman and Brooks-Hay, 2018:77) that created the potential for the criminalisation of women's resistive violence (see also Tolmie, 2018; Walklate *et al.*, 2018), and/or an increase in 'legal systems abuse' by perpetrators (see for example Burman and Brooks-Hay, 2018; Walklate *et al.*, 2018).

Decisions to charge

Outcome 15s and Outcome 16s account for the majority of outcomes in domestic abuse cases and they relate directly to issues with evidence that are necessary for a successful prosecution, or at least the expectation of a successful prosecution. A logical extension of the pessimism in the literature that rates of Outcome 15 and 16 will be high for coercive

² These fears were further realised in the later framing of the Serious Crime Act, which in stating in section 76 (1) (d) "the behaviour [of an abuser] has a serious effect on [a victim]", placed a burden on the victim to demonstrate how they were harmed. This burden is significant in that it presents an opportunity for an abusive partner to use the levers of criminal justice to perpetrate further 'legal systems abuse'.

control is that rates of charge/summons will be low compared to that of domestic abuse in general. Although a charge is issued by police and recorded as a police outcome, the decision to charge is made by the Crown Prosecution Service (Crown Prosecution Service, 2020). It is possible, for example, that a domestic abuse case that involves a combination of coercive control and assault. In such a case, the Crown Prosecution Service may choose not to lay a charge in relation to coercive control but to prosecute the individual for assault. In this situation, the outcome would be recorded as a charge/summons in our data set, but the charge may not include coercive control.

Hypotheses

To date, much of the support for and objection to the criminalisation of controlling or coercive behaviour has been based on theoretically-informed reasoning and past experience of the criminal justice response to domestic abuse. Questions remain about the enthusiasm with which victims and police use the law, the ability of police to effectively investigate and charge these offences and the willingness of victims to proceed with criminal charges. In addition to describing the crime, arrest and outcome data for this new offence, we test three hypotheses that are informed by the debate around the criminalisation of coercive control:

1. Rates of charge/summons will be lower for controlling or coercive behaviour than for other domestic abuse offences
2. Controlling or coercive behaviour will be more difficult to evidence than other domestic abuse offences

3. Victims of controlling or coercive behaviour will be less likely to progress with prosecution than victims of other domestic abuse offences.

Methods

Data

Three categories of data were obtained detailing recorded crimes, arrests and crime outcomes.

Crimes and outcomes

The recorded crimes and crime outcomes are collected by police forces and submitted to the UK Home Office who collated and provided the data as a single data set that we refer to hereafter as the 'crimes/outcomes' data set. All crimes reported to the police are recorded and categorised according to a national recording standard. The 'crimes/outcomes' data set was limited to all crimes that were categorised as '008/67 - Engage in controlling/coercive behaviour in an intimate/family relationship'. Each crime was accompanied by an 'outcome' that described how the crime was resolved. During the period of this study, crimes could result in one of twenty-two separate outcomes (Home Office, 2020), including charge/summons, a caution, and the discontinuation of a case due to evidential difficulties (importantly, this outcome is divided into instances where the victim does and the victim does not support further police action). The Home Office provided this data disaggregated at monthly and police force level for the months January 2016 to September 2019, inclusive, for the 37 police forces who had submitted the data by December 2019. The Home Office outcomes framework is designed to accommodate all crime types. As some outcomes, such

as 'warning for possession of khat', are likely to only be applicable to cases of coercive control very rarely, the data have been aggregated to groups of outcomes: Charge/summons; Out of court (formal and informal); Evidential difficulties (suspect identified; victim supports action); Evidential difficulties (victim does not support action); and Other.

In order to compare crimes and outcomes for coercive control to domestic abuse in general, as per our hypotheses, we accessed open source data from the Office for National Statistics (2018; 2019) which provided annual data on number of domestic abuse crimes and outcomes per police force. It should be noted that these figures on all domestic abuse include crimes of coercive control, providing a conservative estimate of the relative outcomes.

Arrests

Data on the number of arrests carried out by individual police forces are collated centrally and published by the Home Office, but only for broad-brush categories such as 'violence against the person'. Arrest data are retained locally and categorised by crime type, however, which allows arrests for coercive or controlling behaviour specifically to be isolated with ease. To obtain this information, we submitted freedom of information requests to all 43 territorial police forces in England and Wales. The request was for data on the number of arrests under s.76 of the Serious Crime Act per month between January 2016 and September 2019, inclusive. Thirty-nine forces responded to the request and thirty-four provided monthly data. One force, Merseyside, provided data that were censored if the monthly count was one or two arrests. In the seventeen months where this was the case,

we imputed a randomly-generated '1' or '2' to complete the data set. In order to examine if there were patterns in the return of the Freedom of Information requests by police forces that might relate to overall performance in the policing and recording of domestic abuse, we modelled this outcome (returned request/did not return request) using cross-tabulations and t -tests. We used 2016 domestic abuse rate, 2016 domestic abuse performance (HMIC PEEL Vulnerability score) and crime data integrity performance (HMIC Crime Data Integrity score, 2016-2020) as predictors of returning the request. None of domestic abuse rates ($t=-0.6$, $p=0.54$), domestic abuse effectiveness ($t=0.25$, $p=0.81$) or crime data integrity ($t=-1.86$, $p=0.08$) were statistically significantly associated with returning the request.

The Freedom of Information requests were collated in a .csv file, hereafter referred to the 'arrests' data set. All Freedom of Information request responses for the study and the data set are available here and can be re-used under a Creative Commons-By Attribution 4.0 license: https://osf.io/vx789/?view_only=deecac637a4be445bbbe7b4067ecda55d (link to anonymised website).

Domestic abuse data sets

In order to compare patterns in crimes, arrests and outcomes for coercive control relative to those for all domestic abuse, data on number of crimes, arrests and outcomes for all domestic abuse were obtained from Office for National Statistics open data tables for the financial years 2016/17 (Office for National Statistics, 2017), 2017/18 (Office for National Statistics, 2018) and 2018/19 (Office for National Statistics, 2019).

Analysis plan

We generated descriptive statistics for the crime, arrest and outcomes data using counts and population-adjusted rates. Trends in crimes and arrest counts and population-adjusted rates at the police force level were also visualised. Recorded crimes and arrests were described at police force level and outcomes were described at a national level.

In order to test our three hypotheses, we calculated the likelihood of three outcomes for controlling or coercive behaviour using outcomes for all domestic abuse as a reference. Hypothesis 1 – the relative rate of charge/summons is lower for controlling or coercive behaviour crimes than for other domestic abuse crimes – was tested using the rate of charge/summons. Hypothesis 2 – controlling or coercive behaviour is more difficult to evidence than other domestic abuse – was tested using the rate of Outcome 15 (no further action taken despite the victim supporting police action). We acknowledge this to be a partial test of the hypothesis as there will be important decision points relating to evidence not represented in outcome data – most notably the initial decision to record or otherwise a crime of controlling and coercive behaviour. Hypothesis 3 – victims of controlling or coercive behaviour are less likely to progress with prosecution than victims of other domestic abuse – was tested using the combined rate of Outcome 14 and 16 (no further action taken because victim declines or is unable to support further police action to identify the offender, or the victim does not support or has withdrawn support for further police action). The risk of an outcome group for a coercive control crime was calculated relative to the risk of an outcome group for all domestic abuse crimes and was expressed as relative risk with 95% confidence intervals.

Results

Description of trends and distribution

Recorded crimes

In the 45 months of the study timeframe, 32,464 crimes of controlling or coercive behaviour were reported to 37 police forces, representing approximately 1% of all domestic abuse crimes in this population in 2016/17 rising to approximately 2.5% in 2018/19³. The 37 police forces have a combined catchment population of 51.32m people, which is a rate of 63.2 recorded crimes per 100,000 population over the 45 months, or 1.4 crimes per 100,000 per month. However, this statistic obscures the steady increase in recorded crimes over time, as illustrated as population-adjusted rates in Figure 1. In January 2016, the first full month in which coercive control was an offence, the rate was 0.2 crimes per 100,000, but peaked at 2.7 crimes per 100,000 in January 2019. Annually, the number of recorded crimes more than doubled: 2,711 in 2016, 6,907 in 2017 and 12,201 in 2018. The data set only contains data for nine months of 2019 and the later months did not include all crimes as many were likely to be unresolved at the time the data were returned (in 2017/18, 11% of domestic abuse offences did not have an outcome 100 days after being recorded (Office for National Statistics, 2018)).

Numbers and rates of recorded crimes of coercive control varied considerably across police forces and across time. Table 1 summarises counts and population-adjusted rates for the 37 forces for which data were available. By the end of 2016, all forces had a recorded coercive control offence, with the minimum being 3 crimes and the maximum being 261. By the end

³ 2016/17: 4,113/420,583; 2017/18: 8,316/51,545; 2018/19: 14,565/632,071

of 2018, the average force had almost one recorded crime per day. Adjusting for population, the range of crimes per 100,000 population per year was 1.94 to 34.09 with an average of 6.59 crimes per 100,000 in 2016. This rose to 26.3 crimes per 100,000 in 2018.

	2016	2017	2018
Min count	3.00	0.00	1.00
Max count	261.00	645.00	1511.00
Mean count	73.27	186.68	329.76
Min rate (per 100,000)	1.94	0.00	3.90
Max rate (per 100,000)	34.09	36.95	65.50
Mean rate (per 100,000)	6.59	14.18	26.30

Table 1. Number and rates of recorded controlling or coercive behaviour crimes by year

Arrests

Trends in arrests followed a similar pattern to those of crimes. Table 2 summarises counts and population-adjusted rates for the 30 forces for which data were available. In the 45 months of the study timeframe, 12,271 arrests were made across 30 police forces. The combined catchment population of these forces was 43.61m, which is a rate of 28.16 arrests per 100,000 population or 0.62 arrests per 100,000 population per month. As with crimes, these statistics hide the steady increase in number and rate of arrests over time. In January 2016, the rate of monthly arrest was 0.14 per 100,000 but this peaked at 1.08 arrests per 100,000 population in July 2019. Annually, the number of arrests doubled from 2016 (1,431) to 2017 (2,888) and then continued to increase at a slower rate, adding 40% more arrests in 2018 (4,027 arrests) compared to the previous year. Data for 2019 only includes the first nine months of the year but was on course to further increase the rate of arrest (3,925 arrests up to September 2019, inclusive).

In 2016/17, coercive control accounted for, on average, 1.2% (Standard deviation 2.1%) of all domestic abuse arrests. In 2017/18, this proportion rose to 1.9% (Standard deviation 3.2%) and 2.8% (Standard deviation 3.1%) in 2018/19. During this three-year time period, for the 24⁴ forces that both reported domestic abuse arrests and returned useable data on coercive control arrests, domestic abuse arrests rose by 6.9% before falling back to 2016/17 numbers (a net two-year increase of 0.6%). In the same time period, arrests for coercive control rose by 66.8% from 2016/17 and 2017/18 and then rose a further 39.1% from 2017/18 to 2018/19 (a net two-year increase of 131.9%).

	2016	2017	2018
Min count	0.00	0.00	3.00
Max count	178.00	392.00	514.00
Mean count	51.10	96.70	133.93
Min rate	0.00	0.00	0.58
Max rate	23.18	33.32	44.25
Mean rate	4.21	7.40	10.55

Table 2. Number and rates of arrests for controlling or coercive behaviour crimes by year

Outcomes

The distribution of outcomes for coercive control crimes are detailed in Table 3. The table demonstrates that the proportion of crimes that resulted in a charge/summons was close to 10% in the first financial year after the inception of the legislation, but this fell to less than 6% by the third year. Out of court disposals, which include cautions, were very rare,

⁴ Avon and Somerset, Bedfordshire, Cheshire, Cleveland, Cumbria, Devon and Cornwall, Dorset, Dyfed-Powys, Gwent, Hampshire, Merseyside, Metropolitan Police, Norfolk, North Wales, North Yorkshire, Northamptonshire, Northumbria, South Wales, Suffolk, Surrey, Sussex, Thames Valley, West Midlands, West Yorkshire

accounting for fewer than one in two hundred crimes and reflecting the general aversion to using out of court disposals in domestic abuse cases (CPS, 2020). Approximately one in three disposals was a discontinuation of the case on the grounds of evidential difficulties when the victim supported police action (Outcome 15) and a further 50%, on average, were discontinued with the victim not supporting police action (Outcome 16). Notably, the proportion of cases in which the victim did not support police action rose from 45% to 53% over the three years, but the proportion of cases where the victim did support action was comparatively stable over time. Other disposals, which includes a broad range of categories but notably, 'not in the public interest' accounted for fewer than one in fifty crimes.

Comparison of outcomes for coercive control and domestic abuse

Table 4 presents outcome summary statistics derived from three years, 2016/17, 2017/18 and 2018/19. The distribution of outcomes for offences of controlling or coercive behaviour are presented compared to the distribution of outcomes for domestic abuse cases in general. This comparison is expressed as a relative risk statistic for each of the three years with 95% confidence intervals and only uses the 37 forces for which both coercive control and domestic abuse outcome data was available to us.

As hypothesised, rates of charge/summons were considerably lower for controlling or coercive behaviour than for domestic abuse offences in general. The relative risk for charge/summons was between 0.50 and 0.52 for each of the three years tested. Hypothesis two was also strongly supported: the risk of a case being discontinued despite the victim supporting police action was between 35% and 47% higher for coercive control crimes than for domestic abuse in general. Differences between controlling or coercive behaviour and

other domestic abuse offences in the likelihood of a case being discontinued because of a victim withdrawing support – hypothesis three – were also observed in the hypothesised direction although the relative risk – between 1% and 9% was less emphatic than for Outcome 15s.

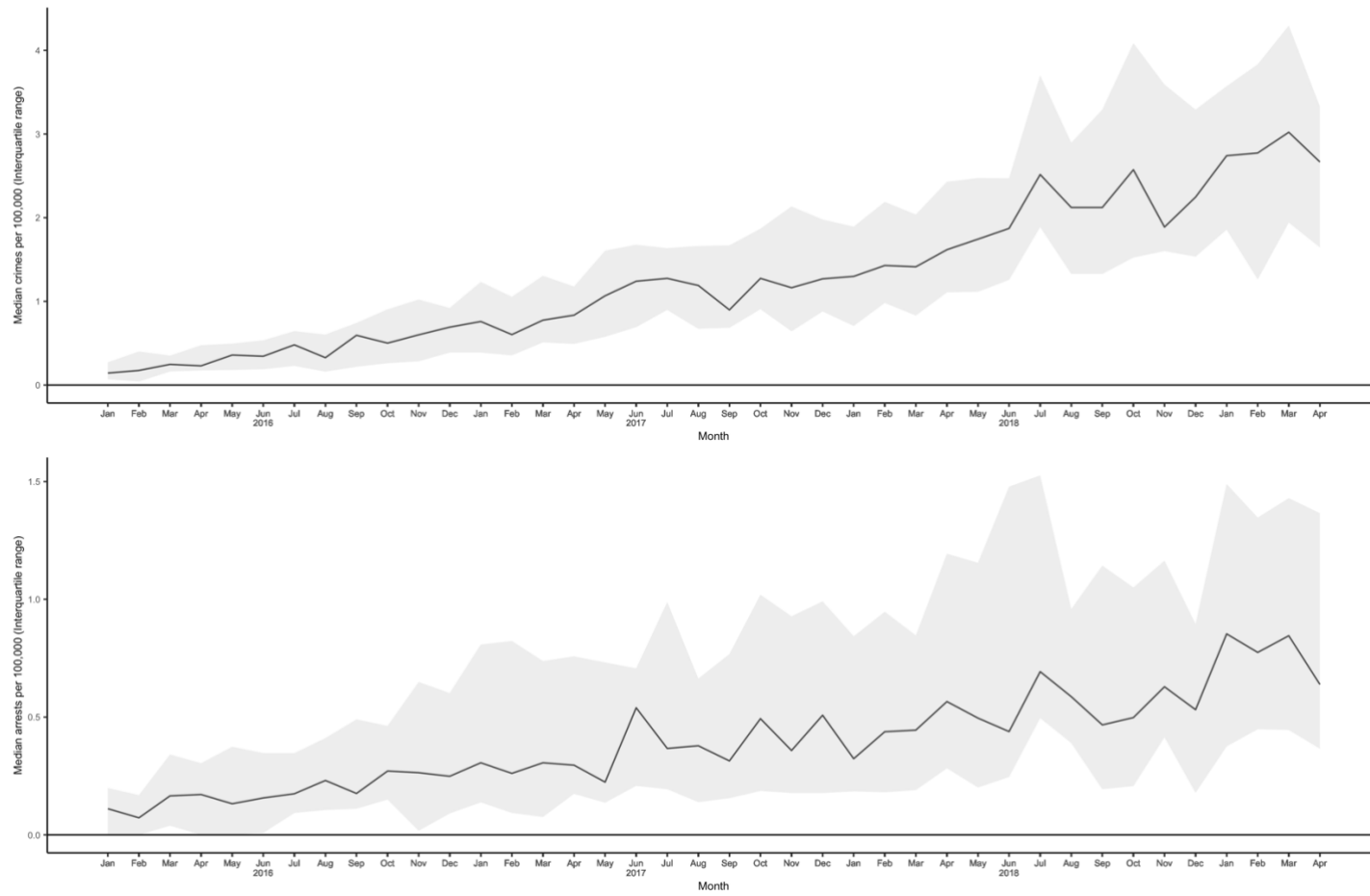


Fig. 1. Trends in rates (cases per 100,000) of recorded crimes (upper facet) and arrests (lower facet) including interquartile ranges

Outcome description	2016/17		2017/18		2018/19	
	Coercive control	Domestic abuse	Coercive control	Domestic abuse	Coercive control	Domestic abuse
Charge/summons	9.51	18.37	7.46	14.79	5.82	11.09
Out of court (formal and informal)	0.58	5.41	0.38	3.90	0.30	2.71
Evidential difficulties (suspect identified; victim supports action)	34.01	25.21	31.78	21.56	32.62	22.56
Evidential difficulties (victim does not support action)	45.76	41.81	50.29	47.77	53.04	52.35
Other (including 'not in the public interest' and outcome pending)	10.14	10.09	8.22	9.20	11.98	11.29
Total	100	100	100	100	100	100

Table 3. Percentage of police outcomes per year for controlling or coercive behaviour and for all domestic abuse

Outcome description	2016/17	2017/18	2018/19
Charge/summons	0.52 (0.42-0.61)	0.5 (0.43-0.58)	0.52 (0.46-0.59)
Out of court (formal and informal)	0.11 (0.07-0.16)	0.10 (0.07-0.14)	0.11 (0.08-0.15)
Evidential difficulties (suspect identified; victim supports action)	1.35 (1.31-1.39)	1.47 (1.44-1.51)	1.45 (1.42-1.47)
Evidential difficulties (victim does not support action)	1.09 (1.06-1.13)	1.05 (1.03-1.07)	1.01 (1-1.03)
Other (including 'not in the public interest')	0.62 (0.36-0.88)	0.91 (0.74-1.07)	0.68 (0.54-0.82)

Table 4. Risk of police outcomes for controlling or coercive behaviour per year relative to other domestic abuse crimes recorded by police

Discussion

This paper sheds light on recording, arrests and outcomes for the offence of controlling and coercive behaviour in England and Wales and compares outcomes to those for all domestic abuse offences. We observed a steady increase in the number and rate of offences recorded in the first three years of the coercive control legislation. The number of arrests for this offence also increased at a similar rate. However, approximately six out of every seven cases were discontinued because of evidential difficulties, and, by the third year, less than six per cent of crimes resulted in a charge or summons. Police outcomes for coercive control were notably poorer than for domestic abuse offences more generally. The significantly elevated relative risk of a case being discontinued because of evidential difficulties when the victim supports police action (Outcome 15) is particularly alarming, and the rate of charge/summons for coercive control was also significantly lower than for domestic abuse crimes in general.

The analysis showed that, even by its peak in 2019, coercive control represented only 3% of recorded domestic abuse crimes. It is difficult to assess what an appropriate proportion should be, due to the absence of a robust measure of coercive control in the Crime Survey for England and Wales (CSEW) which measures also reporting to the police (Myhill, 2017). There is, however, strong theoretical and emerging empirical evidence to suggest coercive control represents a majority of the abuse that requires an agency and/or criminal justice response. When proposing a typology for domestic abuse, Stark (2007) suggested that by its ongoing and more severe nature coercive control, as opposed to time-bound incidents of situational 'fighting', represents the majority of cases dealt with by agencies. Qualitative

research with survivors of domestic abuse supports this position. Kelly (1999), for example, found that a typical pattern is for victims to minimise and try to manage within the relationship the abuse they suffer; reporting to the police tends to be at a point of 'crisis'. Support for the prominence of coercive control in agency caseloads can also be found both in survey and police data. Myhill (2015) showed, using CSEW data, that cases involving ongoing emotional abuse and frightening threats were most likely to be reported to the police. Barlow *et al.* (2020) found, in an analysis of police case files, that nine in ten recorded crimes of assault⁵ had elements of controlling and coercive behaviour.

Each year the rate of recorded crimes of coercive control observed in the data approximately doubled. Despite the aforementioned inability to estimate accurately what the observed trends in coercive control crimes represents relative to the overall incidence of the crime, the trend may indicate that victims are increasingly recognising coercive control as a crime and bringing it to the attention of the police. It will be some time, however, before we can draw conclusions about how embedded the notion of coercive control has become in society or about the extent to which reporting patterns reflect those of other crimes. It is possible that the increases in recording reflect an increased recognition, ability and willingness by police to record reported behaviours as coercive control as the offence beds in. It should be acknowledged that the police have always recorded a large number of 'non-crime' domestic-related incidents, some of which would have been eligible to be recorded as coercive control. Furthermore, hidden within this upward trend is large inter-area variation. We did not hypothesise any such geographic heterogeneity, but this is an

⁵ The research sampled cases of actual bodily harm which should be recorded alongside controlling and coercive behaviour, according to the Home Office counting rules for recorded crime.

important area of research for the future. While reasons for these variations may reflect heterogeneity in total crime rates, or those for domestic abuse more generally, there is no clear reason to think that rates of this crime specifically would vary significantly across police forces areas. More likely, perhaps, is that this heterogeneity reflects force-level differences in recording (HMIC, 2014), leadership, priorities, training, resourcing and levels of knowledge. It may also reflect differing levels of trust in the police and/or availability of domestic abuse resources that support victims and communities to recognise and report this crime. Again, a robust measure of coercive control fielded in a national population survey will be an essential tool in understanding these patterns.

Over the study period, arrests also approximately doubled each year at a rate broadly parallel with patterns of recorded crime. These findings are the first detailed description of patterns in arrests for coercive control in any country. Although this increase represents encouraging evidence that the police are using their new powers, the population-adjusted rates in arrests also revealed substantial variations across police forces during the study time period. Although all forces increased their number and rate of arrests, the quartile minima and maxima were approximately 0.5 and 1.5, respectively, meaning that the most prolific 25% of forces were arresting for coercive control at three times the rate of the least prolific (variations in crime rates notwithstanding). Therefore, some forces used their new powers enthusiastically, while others barely used them. This low per capita rate of arrest in some forces affirms concerns that some police forces would struggle to adapt to a new conceptualisation of domestic abuse (Walklate *et al.*, 2018). However, a positive development is that training whole forces to understand domestic abuse in terms of gender

dynamics and to better understand coercive control can result in a meaningful albeit temporary increase in arrests (Brennan *et al.*, 2021).

In contrast to recording and arrest, the data showed a downward trend in charge/summons for coercive control from around 10% to less than 6% over the three full years of data. This trend may be accounted for by the increasing proportion of Outcome 15s but also reflects a downward trend in the prosecution of all domestic abuse offences during this time. The relative risk of coercive control offences being discontinued because of evidential difficulties where the victim does not support action (outcome 14 or 16) was slightly elevated compared to all domestic abuse offences, but the trajectory of relative risk (9% more likely in 2016/17, 5% more likely in 2017/18 and 1% more likely in 2018/19) suggests that the differences are minimal and decreasing. Thus, despite an initial period of enthusiasm, victims of coercive control are now withdrawing their support for police action at a similar rate to those of other victims of domestic abuse or put another way, they are being failed by the criminal justice system at similar rates to victims of other domestic abuse crimes. By any standard, the rate of Outcome 16 for all domestic abuse crimes is very high and an indicator of the failure of the criminal justice system's management of domestic abuse in England and Wales. Bettinson and Robson (2020) have emphasised the need for a better intelligence infrastructure and training to support the building of 'evidence-led' domestic abuse cases that can proceed without relying on victim testimony. Other outcomes for controlling and coercive behaviour stayed relatively stable over the three-year period: out of court disposals were very rare (fewer than 1 in 200 cases), as were 'Other' disposals including 'not in the public interest'. Although the proportion of cases that were discontinued because of

evidential difficulties when a victim *supported* police action accounted for one-third of all outcomes, this rate was consistent.

Our analysis demonstrates a substantial divergence between controlling or coercive behaviour and outcomes for all domestic abuse offences. As hypothesised, the relative risk of an offender being charged when the offence is controlling or coercive behaviour is substantially lower – approximately half as likely – compared to all domestic abuse offences, a statistic that was consistent across the three years of the observed data. As further hypothesised, rates of cases being dropped because of evidential difficulties when a victim supports police action (Outcome 15) were also considerably higher for coercive control offences than for other domestic abuse crimes: over the three years observed, Outcome 15 was between 35% and 47% more likely. Concerns over the evidencing and charging of coercive control offences have been voiced repeatedly since the criminalisation of coercive control was mooted (Bishop and Bettinson, 2018; Burman and Brooks-Hay, 2018; Padfield, 2016; Tolmie, 2018). This evidence reaffirms such concerns and indicates a substantial problem for victims and the criminal justice system.

The simplicity of the data prevents our offering a nuanced explanation of the low rate of charge/summons and a combination of space and incomplete and non-coterminous data has prevented our analysis of these patterns across police force areas. Charging decisions are made by the CPS but are a product both of police evidence gathering and subsequent case-building between the police and CPS prosecutors. The high rate of Outcome 15 may reflect, then, difficulties in the police finding and recording evidence, but it may also reflect a risk-averse approach by the CPS and/or that the evidential bar is set too high for many of

these cases to clear (McGorrery and McMahon, 2019). For conviction, the prosecution should be able to show (i) abusive behaviour that is 'repeated' or 'continuous' (ii) a 'serious effect' on the victim and (iii) intent to coerce or control the victim. There is an urgent need for an examination of how police gather evidence around offences of coercive control and how the CPS make charging decisions when an offence involves coercive control; particularly when coercive control is the only offence. A comparison with the Scottish offence of 'domestic abuse' may be informative in this respect, as there the prosecution has only to demonstrate behaviour and intent.

Although these observations indicate significant obstacles to be overcome if coercive control is to become a significant tool in the protection of victims, they also raise further questions. For example, are particular types of coercive control more easily evidenced than others? With reference to the finding that the vast majority of ABH cases featured controlling and coercive behaviour (Barlow *et al.*, 2020), are the police focusing more on one type of impact (substantial adverse effect on day-to-day activities) than another (fear of violence on two or more occasions)? Are cases that include only non-physically violent coercion and control less likely to be charged than cases that feature also physical assaults? And, crucially, why do some forces use the legislation more than others? It is likely that these questions will be answered only by in-depth qualitative/observational study.

This article has stopped short of declaring that the evidence presented indicates support for the criminalisation of coercive control or declaring that the criminal justice system has failed to adapt to the expanded conceptualisation of domestic abuse. It is far too soon for a declaration of success or failure, if that is even possible. In addition, the successes and

failures of a law inevitably appear at different speeds. Usually, at the inception of a law, a formal recording mechanism is established. This mechanism is inherently biased to reflect the effective use of a law. Few policy makers are sufficiently pessimistic to also establish a system to count how their new law might be failing. Consequently, official records only count the use of a law as it was designed to be used: the failings, perversions and absences of use that lack a formal metric, are lost. This optimistic approach fails to appreciate that when failings in legislation – particularly domestic abuse legislation – have been recognised in the past, it has been through an informal, qualitative process with a framework for the quantification of these failures not being established until much later, if at all and it also fails to recognise that those victims, advocates and practitioners who come forward about legislative abuses and failings often represent a hidden population rather than being just the exceptional few. Any legislature that chooses to criminalise coercive control cannot plead ignorance to the possible abuses of and failings of such a law. The myriad ways in which legal systems abuse is perpetrated have been clearly demonstrated. Therefore, the future criminalisation of coercive control should be accompanied by mechanisms to measure the failings and potential abuses of this legislation as well as its use and successes. An obvious first step would be to extend the analysis of Barlow et al. (2020) and conduct a dip-sample both of ‘non-crime’ domestic incidents and incidents recorded as domestic assaults or criminal damage to get an indication of the extent of underrecording but listening and responding meaningfully to early signs of abuse and failings will allow unanticipated consequences to be identified and measured.

Limitations

Some fundamental limitations of using administrative data to inform future decisions to criminalise coercive control have already been discussed. In addition, it is important to identify limitations in the study data. Neither the crimes/outcomes dataset nor the arrest dataset feature the full complement of police forces in England and Wales. Although covering far more of the population than other related studies, it is not possible to rule out systematic bias in the return of data to the Home Office, or to our Freedom of Information requests that was not addressed by our analysis of non-response to the Freedom of Information requests. A further limitation is that the crimes/outcomes data and the arrest data are monthly aggregates and are not linked at the case level, which made it impossible to determine which incidents resulted in an arrest and, consequently, to estimate the proportion of coercive control crimes resulting in arrest, a valuable indicator of police activity in this area. Third, our relative risk calculations are imperfect as the data were not available for us to remove the outcomes for coercive control from the 'all domestic abuse' data set. However, as coercive control accounts for just 3% of all domestic abuse, the impact this will have on our findings is minimal: if anything, it will make our relative risk estimates more conservative. Finally, we have used number of arrests as one indicator of police activity in this area. Arrest rates are responsive to force-level policies and resources as well as crime rates (Bourg & Stock, 1994). Therefore, they are an imperfect measure of police activity through which to interpret policy activity. Despite this limitation, they are, arguably, the most consistent unit of comparison between and within police force activity relating to coercive control and have been used as a central metric of police performance on domestic abuse (HMICFRS, 2019). When taken in concert with recorded crimes and outcomes at a national level, they offer valuable insight into overall trends.

Concluding remarks

This paper has presented new information about the early years of the criminalisation of coercive control. Creating a novel data set through freedom of information requests to police forces and combining that data with data collected from police forces by the Home Office, we have demonstrated the steady upward trajectory in the use of legislation that criminalised this form of domestic abuse. We then tested three hypotheses about the outcomes this innovative offence would yield, when compared to other domestic abuse offences. In the case of two of these hypotheses, the fears of some advocates, practitioners and researchers are affirmed: the rate of charge or summons for perpetrators of controlling or coercive behaviour offences is half that for other domestic abuse offences, and the likelihood that a case will be discontinued because of evidential difficulties is more than 50% more likely than for other domestic abuse offences. In fact, six out of seven coercive control crimes are discontinued due to evidential difficulties. While it is noteworthy that the likelihood that a case will be discontinued because the victim no longer supports police action is little different from that of other domestic abuse offences, this is faint praise when approximately half of all domestic abuse cases end in this way.

With these findings, we make no declaration about the success of Section 76 of the Serious Crime Act (2015). Nonetheless, our findings present convincing evidence of the gap in successful investigation and prosecution of coercive control offences when compared to other domestic abuse offences. As noted repeatedly, the poor outcomes for domestic abuse in general makes these findings all the more poignant.

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