



Ministry
of Justice

Domestic Homicide Sentencing Review: Findings of the Initial Case review

Methodology

1. For this initial case review the sentencing remarks of 118 domestic homicide cases which were concluded in the courts between 2018 and 2020 and where the victim was a partner or ex-partner of the offender were analysed. The aim was to consider all such cases from this period in the analysis, however, it is not guaranteed that every such case has been identified.
2. In the analysis of sentencing remarks, it is rare to be able to precisely identify the adjustment a judge has made for individual aggravating or mitigating features. Rather than attempt to identify individual adjustments for specific factors, this review seeks to quantify the overall increase or decrease in a sentence as 'substantial' (+ or - >5 years), 'medium' (+ or - 1 to 5 years) or 'small' (+ or - <1 year or nominal / none). This review addresses in more detail below the difficulty in seeking to analyse individual factors. Necessarily, this assessment is subjective in nature, relying upon an evaluation of the sentencing remarks, as opposed to any more specific statistical analysis.

Summary overview

3. The matters considered in this review and the key findings can be summarised as follows:

I. The use of a weapon in cases of domestic murder

Key finding 1: The question of whether a weapon used was brought to the scene makes a significant difference to the overall length of sentence. A perpetrator who kills using a weapon that was at the scene is likely to receive a lower minimum term than a perpetrator who brought a weapon to the scene.

Weapon used but not brought to the scene

Key finding 2: in the cases where the 15-year starting point was increased to 25 years or more, that was largely due to the presence of other significant aggravating features, to the extent that these cases could be considered to be ‘outliers’.

Weapon used having been brought to the scene

Key finding 3: in a case in which paragraph 5A of schedule 21 to the Criminal Justice Act 2003¹ applies, the perpetrator is more likely to receive a sentence significantly higher than a case in which a weapon was obtained from the scene.

II. Female perpetrators of murder and the use of a weapon

Key finding 4: there does not appear to be any single ‘gendered’ factor which expressly affects the length of sentence. Despite that, it would appear that female perpetrators tend to receive a lower overall minimum term.

Key finding 5: each of the murders committed by female perpetrators involved the use of a weapon.

Key finding 6: when a female kills with a weapon it often involves a single blow and is a less violent attack than a murder committed by a male.

III. Domestic murders in which no weapon was used

Key finding 7: whilst minimum terms for murders not involving weapons are often above the 15-year starting point, it is less likely that the minimum term would achieve parity with murders where a weapon has been brought to the scene.

¹ Paragraph 5A is now replicated in paragraph 4 of Schedule 21 of the Sentencing Act 2020 but references in the cases considered will continue to be to paragraph 5A because the cases reviewed were dealt with before the enactment of the Sentencing Act 2020

IV. Weight given to individual aggravating and mitigating factors and the impact of domestic violence

Key finding 8: This review did not consider it possible or reliable to seek to identify the precise figure by which a sentence has been increased or decreased by an individual aggravating or mitigating feature. This is the case for both murder and manslaughter.

Key finding 9: It is clear that judges do pay particular attention to previous domestic abuse in sentencing for murder. The weight that they attach to it can vary from case to case.

Key finding 10: Whilst it is not possible to identify the specific impact of domestic abuse, it is noteworthy that in some cases it does not serve overall to markedly increase the minimum term.

V. Use of defences in cases of domestic homicide

Key finding 11: No themes have been identified. A judge is entitled to consider as mitigation, if appropriate, any mental disorder falling short of diminished responsibility; provocation falling short of loss of control; and the extent to which there was any self-defence.

VI. Domestic manslaughter

Key finding 12: there are a number of different types of manslaughter and the factual circumstances of cases can vary considerably. Therefore, this review did not consider it possible or reliable to seek to analyse differences in starting points as between different cases. Unlike murder and schedule 21, there are no statutory starting points against which to make such comparisons.

VII. Use of defences in cases of domestic manslaughter

Key finding 13: previous domestic violence against a perpetrator by a victim in domestic manslaughter cases can play a significant role on appropriate facts.

I. The use of a weapon in cases of domestic murder

Weapon used but not brought to the scene

Key finding 1: The question whether a weapon used was brought to the scene makes a significant difference to the overall length of sentence. A perpetrator who kills using a weapon that was at the scene is likely to receive a lower minimum term than a perpetrator who brought a weapon to the scene.

Key Finding 2: In the cases where the 15-year starting point was increased to 25 years or more, that was largely due to the presence of other significant aggravating features, to the extent that these cases could be considered to be ‘outliers’.

4. There were a total of 89 murder cases among the cases considered. Within that total, 53 involved a weapon which had not been brought to the scene (in other words, the use of a weapon that was already at the scene).
5. Out of those 53, there are about 25 cases in which there was a ‘substantial’ increase from the 15-year starting point because of aggravating features, which can include the use of a weapon and the nature of the killing.
6. It is instructive to consider those cases in which there was a ‘substantial’ increase to identify whether in fact the gap between the statutory starting points is narrowed in practice.
7. There appear to be only four cases in which such an increase meant that the final minimum term was 25 years or more. Therefore, in practice the ‘gap’ between the two starting points is normally not reduced.
8. Consequently, this review considers that in most cases in which a domestic murder is committed by use of a weapon which came from the scene, the final sentence is more likely to be less than a case in which a weapon was brought to the scene.
9. Those four cases are summarised here. Even in these cases, had the statutory starting point been 25 years, one would expect the final sentences to have been higher still, given the multiple aggravating features present (in addition to the use of the weapon).
 - a. Kerrell: The defendant killed his wife in the kitchen of her own home with a hammer; he then strangled her. He did so whilst her three young children were in the house. He then wrapped up her body, put it in plastic bags and buried her in a shallow grave on remote farmland. Immediately after killing her, Kerrell set about laying a false trail, contacting friends and family saying he was concerned for his wife and pretending that he was trying to find her. He deliberately sought to mislead the police enquiry. Later he admitted to the police that he had killed her (only when the evidence against him became overwhelming). There were multiple injuries. The attack was described as brutal. The perpetrator had been described as jealous, and sometimes violent towards her. He was manipulative and controlling. The victim had sent her sister messages, including: “He’s just been in shed and got a hammer?” The perpetrator accepted that when he

arrived at the property, he went to the shed outside the back door and came back into the kitchen with the hammer. The judge observed that the case was 'only just' within para 5A and was not sufficiently serious to warrant a 25-year starting point. However, the fetching of the hammer, together with other features, warranted a substantial increase to the 15-year starting point. With a reduction of 1 year 4 months for his plea, the defendant received a minimum term of 25 years.

- b. Farrell: The defendant was convicted of murder and an offence of wounding with intent to cause grievous bodily harm. On another occasion, he had repeatedly struck his former girlfriend's new partner with a wooden staff. At the time of the killing, he tied a gag around her mouth to stop her screaming. He slashed her face and neck with a large kitchen knife and stabbed her eight times. He stabbed her in more than one location in the flat. It was a savage and brutal attack. The starting point was 15 years. There were additional aggravating features, including: a significant degree of premeditation; the nature of the attack and the use of the weapon; causing real suffering. There was no mitigation. The total minimum term was 26 years, which included an adjustment to reflect the wounding with intent offence.
- c. Choudhry: The defendant brutally murdered his wife. He had been controlling and she was trapped in the marriage. She had been unhappy for some time and had fallen in love with someone else. The defendant had on occasion physically assaulted her. She was highly vulnerable. The fatal assault started upstairs and ended up in the kitchen, and then outside in the back yard. The defendant had taken a knife from a block and went after her. The attack was witnessed by neighbours. The attack was sustained and involved the use of a total of three knives from the block, with the defendant re-arming himself three times after breaking the first knife and bending the other two. The injuries were horrific. It had an element of ritualistic punishment about it. Their seven-year-old son witnessed part of it. This was not a case where the defendant had taken the knife to the scene, so the starting point was 15 years. However, his general culpability fell into the same general bracket as someone who takes a knife to the scene intending to use it. The aggravating features were vulnerability, the pain and suffering inflicted on the victim before death and the fact that their seven-year-old boy witnessed part of the killing. The minimum term was 28 years.
- d. Kostiajevas: The defendant had murdered his wife. He was also convicted of the attempted murder of his nephew, aged nine, and an assault on an emergency worker. He had attacked his wife with a kitchen knife, whilst she was in her bedroom. It bent to almost 90 degrees with the force. He went downstairs to re-arm himself, taking knives from the kitchen. A total of six knives were used. The knife attack was not the cause of death, however. This was hammers which had been kept in his toolbox, which he used to fracture her skull and then used a screwdriver to penetrate her skull. It was a vicious, sustained and frenzied attack. He stabbed his nephew ten times. It was only luck that he did not die. The defendant had been abusive and violent to his wife in the past. The starting point was 15 years. The judge observed that there were fine distinctions on

where the weapons were located and where they were taken to should not result in major differences in sentences in cases of similar culpability. This was a savage and frenzied attack; featuring mental and physical suffering. He received a minimum term on the count of murder of 28 years' imprisonment. The minimum term had been increased by seven years to reflect the custodial term which would have been served on the attempted murder.

10. These cases involved other serious aggravating features, other than the use of a weapon, which served to increase the minimum terms:
 - a. Kerrell: the perpetrator buried the victim in a shallow grave; the attack was brutal, and children were in the home. Nevertheless, the judge remarked that the case was 'only just' within paragraph 5A: the perpetrator had gone to get the hammer from a shed.
 - b. Farrell: there was an additional offence of wounding with intent.
 - c. Choudhry: the perpetrator had used a number of knives and had re-armed himself. The judge remarked that despite the 15-year starting point, his general culpability fell into the same general bracket as someone who takes a knife to the scene intending to use it.
 - d. Kostiajevas: the perpetrator also fell to be sentenced for attempted murder of his nephew aged nine, which increased the minimum term by seven years.
11. It appears to be rare for judges to place a case where a weapon was not brought to the scene, but the perpetrator had to fetch a weapon from another room, within paragraph 5A.
12. The Court of Appeal decision in *Kelly* was clear in indicating that the movement of a weapon from one part of a home to another did not involve taking a weapon to the scene.
13. In these cases, judges will often identify a 15-year starting point but then increase the minimum term to reflect the use of a weapon. However, the final minimum term in those cases is not usually in the region of 25 years.
14. The following are examples of where a weapon was not brought to the scene, but the perpetrator had to fetch a weapon from another room, as opposed to a weapon that simply had come to hand.
 - a. Joe Atkinson: the perpetrator pleaded guilty to stabbing the victim to death. He had been out drinking and returned to the victim's flat where they had both been living. The victim, who had previously ended the relationship with the perpetrator, was in the bedroom. The perpetrator fetched a knife from the kitchen and stabbed her in the bedroom and then again in the hallway. The starting point was 15 years. The use of a knife was an aggravating feature. The minimum term was fixed at 16 years and two months (reduced from 18 years to reflect the plea).
 - b. John Lewis: the perpetrator used a knife to cause at least 26 injuries to the head, face, and upper chest. It was a sustained assault intended to kill. The judge found the weapon was picked up within the house and therefore the starting point was 15 years. The judge found that the perpetrator was controlling and the domestic abuse guidelines applied. The minimum term was 19 years.

- c. Jeremy Clarke: the perpetrator brought a knife from the kitchen to the bathroom. The starting point was therefore 15 years. The offence was aggravated by the nature of the killing. The minimum term was 22 years.
 - d. See also the case of Kerrell above.
15. The above cases were all male perpetrators who killed female victims.
16. Overall, the difference in sentence between murder with a weapon at the scene, as opposed to a weapon brought to the scene, remains significant.

Weapon used having been brought to the scene

Key Finding 3: In a case in which paragraph 5A applies, the perpetrator is more likely than not to receive a sentence higher than a case in which a weapon was obtained from the scene.

17. The other side of the analysis concerns murders where a weapon was brought to the scene. It provides further support for the notion that there is a disparity between the two categories of murder in the majority of cases, even when allowing for particular aggravating features.
18. It is illustrative to consider the following examples:
- a. Ricardo Godinho: murdered his wife whilst she was on the school run. He tracked her movements and had armed himself with a knife. Jury rejected loss of control. He took the knife to the scene. Therefore the starting point was 25 years. The final term was 27 years.
 - b. Muhammed Javed: killed wife, jury rejected his defence of diminished responsibility. Perpetrator had been violent, coercive and controlling over ten years. He had a hammer and a machete that had been taken from the shed at the bottom of the garden into the living room with the intention of inflicting injury upon her. He then hacked the victim and she sustained more than 75 injuries inflicted with the hammer and the machete. It was common ground that at the time of the killing the perpetrator was suffering a mental abnormality. He had brought two weapons from the shed at the bottom of the garden. The judge concluded that paragraph 5A applied with a starting point of 25 years. Mental health reduced culpability to a limited extent. The minimum term was 20 years.
 - c. John Garner: conducted a savage attack using a hammer. There were elements of violence and controlling behaviour in the past. The hammer had been taken into the house by him that morning with the intention of using it as a weapon. It was therefore para 5A with a starting point of 25 years. The judge said there would be a downward adjustment, to 22 years:

“It would simply not be right for there to be a starting point of 15 years if the hammer had been picked up from, say, the kitchen worktop or, indeed, if it had been on the floor by the back door. As opposed to 25 years where, as here, I am satisfied that it had been taken from the outside shed and carried a matter of yards into the house and then upstairs to where it was used.”

- d. Genu Armeanu: purchased a knife and waited on the street for the victim to return, before stabbing her 19 times. The starting point was 25 years as he had taken a knife to the scene. The minimum term was 28 years.
19. In these cases, if the weapons had not been taken to the scene the final minimum term is likely to have been lower.
20. In cases where para 5A does apply, it is open to judges to move downwards from the starting point if they consider it appropriate, e.g., Garner above.

II. Female perpetrators of murder and the use of a weapon

Key Finding 4: There does not appear to be any single 'gendered' factor which expressly affects the length of sentence. Despite that, it would appear that female perpetrators tend to receive a lower overall minimum term.

Key Finding 5: Each of the murders committed by female perpetrators involved the use of a weapon.

Key Finding 6: When a female kills with a weapon it often involves a single blow and is a less violent attack than a murder committed by a male.

21. In total, there were eight murders committed by female perpetrators against male victims
- a. Gabriel: stabbed her partner outside her house. She used a knife, which was not taken to the scene. The starting point was 15 years. It was a single stab wound.
 - b. Welsh: convicted of murdering her husband using a knife at the scene. Both were heavy drinkers; both argued and would turn violent. The perpetrator was the instigator of the violence; she was intoxicated. There was a single wound. She did not have an intention to kill and there was a lack of premeditation. The use of a knife was aggravating. The minimum term was 15 years.
 - c. Ogonowska: with a knife that had been brought to the scene. Starting point was therefore 25 years. She was 18 years old. It was a single stab wound and she did not intend to kill, it was not premeditated. There were some mental health issues. There was an element of provocation. The minimum term was 17 years.
 - d. Carroll: murder of her husband. Both were drunk and argued. The perpetrator picked up a knife from a knife block in the kitchen and walked in to where her husband was sitting on the sofa. She stabbed him from behind once in his left shoulder and then called 999. The starting point was 15 years. The use of a knife was an aggravating feature. There had not been any prior domestic violence. It had been a loving relationship. The minimum term was 10 years.

- e. Donnelly: murdered her husband using a rolling pin to hit him around the head. She had inflicted injuries on victim over a period of time. There was a sustained campaign of physical abuse. The victim had previously used some violence at one incident, but that was out of character for him. There was no intent to kill and no previous convictions. The use of a weapon did aggravate the case. The victim was vulnerable and suffered. 16-year minimum term.
 - f. Clare McMahon: had taken two knives into the bedroom that night and launched an unprovoked and sustained attack. The injuries were severe. The relationship had been troubled. The victim could be obnoxious and aggressive when in drink; his long-term use of cannabis had made him paranoid which in turn led to him behaving in a controlling way. However, the perpetrator's claims were grossly exaggerated and dishonest. There were episodes in which the perpetrator had been violent to the victim in the past, including taking up a knife. The starting point was 15 years. There were long term mental health problems and there was a degree of provocation falling short of loss of control. The minimum term was 18 years.
 - g. Juskauskiene: her partner was killed with a weapon brought to the scene (but not used by herself, rather by a co-defendant: however, they were both charged jointly with and convicted of his murder). The judge observed that they had both deliberately and cynically lured the victim to a dark alley. The attack was brutal, and he suffered 35 individual wounds to his neck, head, arms and body. The starting point was 25 years. The perpetrator received 24 years.
 - h. Donovan: killed her great-uncle using a knife taken to the scene by her male cousin, in a robbery aimed at stealing money to feed their drug habits. There were several blows. The perpetrator and victim had been involved in a sexual relationship in the years leading to the murder. The minimum term was 26 years.
22. The above cases illustrate that often female murderers use just a single blow. Where a male kills using a weapon it is often a more brutal killing, which itself justifies an increase from the 15 year starting point.
23. However, it should also be noted that on occasions female perpetrators have also committed more brutal killings (see examples at e. and f. above).
24. Where relevant, the court can make reductions to reflect provocation, for example: c. above.
25. The above female examples indicate that increases markedly above the starting point are less common in cases involving female perpetrators.

III. Domestic murders in which no weapon was used

Key Finding 7: Whilst minimum terms for murders not involving weapons are often above the 15-year starting point, it is less likely that the minimum term would achieve parity with murders where a weapon has been brought to the scene.

26. Given the structure of schedule 21, and the fact that the use of a weapon is itself a separate aggravating feature, a typical murder involving no weapon is bound to receive a lower sentence (in the absence of any other significant aggravating features).
27. The starting point for murders involving no weapon is usually 15 years (unless another paragraph of schedule 21 is applicable, for example a double murder).
28. In the 23 cases where no weapon was used, these all involved male perpetrators. Out of the 23, only five cases involved a 'substantial' uplift from the 15-year starting point:
 - a. Thomas Peter: the perpetrator had previously treated his wife abysmally; there were previous assaults; and he was a controlling bully. He strangled her and intended to kill. He also started fires in the bedroom after the killing. The death must have been agonising, but it was not planned. The aggravating features were so grave that a minimum term of 25 years was appropriate.
 - b. Plunkett: there was a history of his being violent. He pleaded guilty to murder. The victim would have suffered before she died. The perpetrator and victim had been drinking. They argued and it may have been that the victim was screaming out and threatening to call the police. Even on the perpetrator's account, he was trying to stop her. He repeatedly and with some force placed his hand over her mouth on a number of occasions. It was a determined effort to keep her silent. Her death was not immediate. The perpetrator continued to apply the force. She was vulnerable. She was killed within her own home. There was a history of verbal abuse. There was an intention to cause really serious harm. It was not a killing that was either planned or premeditated. There was a significant aggravating feature, and that was his previous conviction in 1995 for the unlawful killing of his then partner. The starting point was 15 years, but the minimum term imposed was 26 years (reduced to 23 years to reflect the plea).
 - c. Charlton: the perpetrator had abused and controlled the victim and subjected her to domestic violence. He punched, kicked or stamped on her, so that she suffered significant injuries. The blows to her head caused damage to the underlying structure of her brain. None of those injuries were the direct cause of death; the fatal injury was caused by gripping around the neck. The starting point was 15 years. Given the aggravating features, including domestic abuse, previous convictions for serious crime, the fact he was on licence at the time, the sustained attacks and the infliction of mental and physical suffering, the minimum term was 21 years.
 - d. Gyde: the perpetrator murdered his wife by strangling her at home. He had discovered his wife was having an affair. He responded manipulatively. The strangulation was determined, persistent and with significant force. The minimum term was 15 years. The judge had express regard to the domestic abuse guidelines, which made the offending more serious. There was not a history of domestic violence, but the judge considered the perpetrator's behaviour was of a controlling nature. There were two further aggravating factors: the presence of a child who tried to pull him away and the fact this was a considered and deliberate decision to end her life. It was common ground that he was suffering from a mental disorder, this was of a mild nature at the bottom end of the scale of such factors. 19 years was the appropriate minimum term.

- e. Christopher Taylor: murdered the victim on wasteland. He had been part of a ruse to persuade her to meet with him. Her body was found naked save for a bra in a shallow grave. The body had been dismembered. The head was never recovered. Cause of death was inconclusive, but likely to be some form of trauma to the head. The starting point was a term of 15 years. The most serious aggravating feature was the desecration of the body. The minimum term was fixed at 24 years.
29. Therefore, it is rare for a murder not involving a weapon to be elevated substantially above the 15-year starting point, or in a way that means the sentence is equivalent to a murder with a weapon brought to the scene.
 30. Indeed, it is notable from the above examples that these cases all involved other serious aggravating features:
 - a. Thomas Peter: previous assaults and controlling; use of fire and arson.
 - b. Plunkett: history of being violent; previous conviction in 1995 for the unlawful killing of his then partner.
 - c. Charlton: controlled the victim; domestic violence; on licence.
 - d. Gyde: not a history of domestic violence, but the perpetrator's behaviour was of a controlling nature; the presence of a child.
 - e. Christopher Taylor: the body had been dismembered.
 31. The minimum terms in these cases would have been less but for these additional aggravating features.
 32. As remarked above, where no weapon is used in a killing, it is inherent in the structure of the sentencing scheme that such a murder will receive a lower sentence than a murder involving a weapon (in the absence of other significant aggravating features).

IV. Weight given to individual aggravating and mitigating factors and the impact of domestic violence

Key Finding 8: This review did not consider it possible or reliable to seek to identify the precise figure by which a sentence has been increased or decreased by an individual aggravating or mitigating feature. It is very rare for a judge to break down sentencing remarks in that way.

33. The same is applicable to the question of precisely how much a history of domestic abuse has aggravated a sentence. Given the way in which judges approach their sentencing remarks, the review did not consider it would be reliable to seek to do so.

Key Finding 9: It is clear that judges do pay particular attention to previous domestic abuse in sentencing for murder. The weight that they attach to it can vary from case to case.

34. There is only one example in which the judge explained how much domestic abuse had aggravated a sentence in a murder case:
- a. Dyson: murdered his wife by kicking and stamping. The relationship had been described as toxic, given the mutual abuse and extremes of affection and hatred that were a feature of their relationship. The relationship was also tainted by regular violence on the perpetrator's part. He sought to control her. His attack was brutal. She suffered 37 fractures to her ribs, over 70 bruises, a broken chest bone, internal blood loss, and the tearing of the very ligaments which kept her intestines in place. The judge had not left a defence of loss of control. The minimum term was 15 years. The judge specifically said that the domestic violence was a seriously aggravating feature that warranted an increase to the starting point by 3 years 6 months, taking the sentence to 18 years 6 months. Having regard to the mitigating and aggravating factors, the final minimum term the judge reached was then 17 years 6 months (before reduction for plea).
35. It is noteworthy that despite the obvious aggravating features, a final sentence of 17 years 6 months was imposed.
36. Moreover, it might be observed that this is significantly lower than the case of Plunkett, which received 26 years and was a similarly brutal attack. However, in Plunkett the perpetrator had a previous conviction for killing a previous partner, which amounted to a significant aggravating feature.
37. As noted above, it can be very difficult to seek to compare individual cases where the nature of the killing might have been similar, but where there were then aggravating and mitigating features that were specific to the individual cases.

Key Finding 10: Whilst it is not possible to identify the specific impact of domestic abuse, it is noteworthy that in some cases it does not serve overall to markedly increase the minimum term.

38. By way of example:
- a. Avaliani: there had been incidents of domestic abuse and the domestic abuse Guideline applied. He had been dominating over the victim. The minimum term was 15 years. The domestic abuse was an aggravating feature. Furthermore, there was the planning to dispose of the body. This was a sustained, forceful and brutal incident of domestic violence (there was no weapon). The aggravating features outweighed any mitigating features. The minimum term was 17 years.
 - b. Simon Winstone: the relationship with the victim was characterised by domestic abuse. There was no weapon, but there were some 50 sites of external injuries and a devastating injury which also caused injury to the heart and lung. There

were at least 28 rib fractures and a fractured skull. There was extensive bleeding in the stomach cavity and further bleeding behind the belly, with the kidney torn in two and its artery torn, and there was bleeding from the duodenum into the bowel. There was no doubt she would have suffered excruciating pain. The perpetrator had previous convictions for violence. The starting point was 15 years. The domestic abuse guideline applied. The minimum term was increased to 18 years.

39. It is interesting to note that these cases did not involve the use of a weapon. As discussed above, given the structure of schedule 21, and the use of a weapon being an aggravating feature, it is perhaps to be expected that non-weapon murders result in lower sentences.

V. Use of defences in cases of domestic murder

Key Finding 11: No themes have been identified. A judge is entitled to consider as mitigation, if appropriate, any mental disorder falling short of diminished responsibility; provocation falling short of loss of control; and the extent to which there was any self-defence (see schedule 21; see manslaughter guidelines).

40. The following are examples of where judges have taken account of such matters in murder cases:
- a. David Clarke: there had been ‘some provocation’ in the conduct of the victim. The jury had rejected his defence of loss of control. However, the judge did take account of this element of provocation as a mitigating factor.
 - b. Paul Jordan: selected a large kitchen knife from a block on the kitchen worktop and went upstairs to his wife’s bedroom and stabbed her once to her chest. The issue at trial was diminished responsibility. The judge held it was plain that he was suffering from an abnormality of mental functioning by way of a delusional disorder, albeit on the jury’s finding it was insufficient to found the defence. Whilst the mental illness lowered his culpability, significant culpability remained.
 - c. Peter Stalgis: made the considered decision to go to the kitchen to get a knife. Provocation falling short of the defence together with his mental health reduced his culpability to a limited extent.
 - d. Sylva: there was no doubt the perpetrator was a sick man, but the jury’s verdict meant they did not accept that his responsibility was diminished. The judge reduced the sentence to reflect his illness, but also accepted that he killed because he was a man of violent disposition. There was not any significant degree of preplanning, although the perpetrator went to the kitchen and armed himself.

41. Equally, there are examples of cases in which a judge has rejected as mitigation defences that were put forward at trial.
- a. Michael Marler: the perpetrator was previously violent to the victim. There were many stab wounds and also blunt force trauma. The judge observed that the knife had been taken from the kitchen. The judge rejected self-defence as mitigation. The starting point was 15 years. The previous domestic violence was an aggravating feature. The minimum term was 21 years.

VI. Domestic manslaughter

Key Finding 12: There are a number of different types of manslaughter and the factual circumstances of cases can vary considerably. Therefore, this review did not consider it possible or reliable to seek to analyse differences in starting points between different cases. Unlike murder and schedule 21, there are no statutory starting points against which to make such comparisons.

42. By way of example:
- a. Jason Gaskell: a case of gross negligence manslaughter where the perpetrator indulged in consensual, yet highly dangerous sadomasochistic sexual practices. 8 years imprisonment (before credit).
 - b. Long: aged 80, killed his wife who was unwell with Alzheimer's. She was a mentally ill woman and the judge accepted that that made the perpetrator's life particularly unhappy and stressful. It was not a mercy killing. He killed her because he snapped and in temper throttled her with both hands. There was no domestic violence. 5 years imprisonment (before credit).
43. It should be noted that the current sentencing guidelines for manslaughter only came into force on 1 November 2018. Before that, there were no guidelines for manslaughter (save for manslaughter by provocation and no such cases feature within this review). Therefore, whilst this review has reviewed the manslaughter cases sentenced prior to 1 November 2018, those ought to be approached with a degree of caution in that direct comparisons with cases sentenced after 1 November 2018 would not be possible.
44. It is noteworthy that females make up a larger proportion of the perpetrators of manslaughter than they do murder. In 11 out of the 29 manslaughter cases analysed the perpetrator was female.

VII. Use of defences in cases of domestic manslaughter

45. There are a number of cases in which a partial defence has been put forward at trial and succeeded in reducing the offence to an act of manslaughter rather than murder. Furthermore, as with murder, there are examples of manslaughter convictions where a judge has considered defences that have been rejected by a jury:
- a. Skingsley: (female, unlawful act manslaughter) the jury rejected a defence of self-defence. The judge did not accept that the victim was violent. In temper, she drove a car at the victim. Her account of an assault that afternoon was self-serving. The judge observed that the perpetrator was essentially someone who could behave in a petulant and childish manner. She was sentenced to 10 years.
 - b. Helena Atay: (female, unlawful act manslaughter) had a long history of anxiety and depression. A pathological bereavement disorder. Violent when in drink. Alcohol dependent. Armed with knife, severe blows. Rejected self-defence. She was sentenced to 14 years.
 - c. Nicola Lee: (female, unlawful act manslaughter) Stabbing. Perpetrator had been violent in the past. Agreed between the prosecution and the defence she had a diagnosed condition of emotionally unstable personality disorder with depression. She was sentenced to 14 years.
 - d. Rickardo Wilson (male, unlawful act manslaughter): many forceful blows, neck compression. The judge rejected self-defence. He was sentenced to 20 years imprisonment (15 years plus 5 years extended).
 - e. David Sadler (male, unlawful act manslaughter): sustained assault, manual strangulation / suffocation. The judge rejected any provocation or loss of control. He was sentenced to 10 years 6 months (before credit).
46. No themes were identified.

Previous domestic abuse in manslaughter cases

Key finding 13: Domestic violence against a perpetrator by the victim can play a significant role on appropriate facts.

47. Out of the 11 manslaughter cases committed by a female, in six of those the perpetrator was the victim of domestic abuse. The following provide useful examples:
- a. Packiam Ramanathan: loss of control manslaughter. The perpetrator (aged 73) killed her husband (aged 76), after an extensive history of domestic violence. This killing involved a severe beating by a wooden pole. The perpetrator had been abused, physically, sexually and mentally. She was treated like a slave. There was controlling behaviour. Sentenced to 2 years 4 months' imprisonment (after one third discount for plea).

- b. Alex Glanfield-Collis: loss of control manslaughter. The victim was an extremely difficult individual, who very probably had an anti-social personality disorder. There had been earlier violence in the relationship. The perpetrator used a very large hunting type knife to cause serious injury. Having regard to controlling and coercive behaviour towards the perpetrator throughout the relationship, the sentence was 7 years' imprisonment.
48. There were no manslaughter cases in which a judge specifically stated the precise figure by which a sentence had been aggravated to reflect a previous history of domestic abuse. In conclusion, it is not possible accurately to determine by how much previous domestic abuse aggravates any sentence.
49. As with murder cases, in domestic manslaughter cases previous domestic abuse does serve to aggravate sentences:
- a. Grainger (male, unlawful act manslaughter): the judge referred to the fact that the killing was an episode of domestic violence and that was always a serious aggravating feature. The judge also noted that provocation was not mitigation except in rare domestic cases.
 - b. Rodi (male, diminished responsibility): the perpetrator had been controlling and coercive. He had been violent to the victim in the past, including forms of asphyxiation.
 - c. Simone Fergus (female, diminished responsibility): the judge observed there was a history of violence by the perpetrator towards the male victim. However, the perpetrator herself was suffering battered woman syndrome, PTSD, and had complex mental health issues. There was also an element of self-defence.
50. However, these cases also illustrate again the important point that cases of manslaughter are very fact specific, and it is not possible precisely to assess the extent to which these sentences were aggravated by previous domestic abuse.

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