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The legislative context

Introduction

UK governments have enacted more family, childcare and mental health legislation during the past 50 years than all of their predecessors combined. Much of that recent legislation is relevant to the cases listed in Chapter 5. This chapter will focus on the three categories of legislation most pertinent to filicide and familicide killings: (i) legislation to combat domestic violence; (ii) legislation to improve mental health services, particularly in respect of mentally ill parents and their vulnerable children, and (iii) legislation to safeguard and promote the welfare and protection of children.

The new legislative frameworks are broadly welcome, and must inevitably improve the quality of services to children and families. With new laws should come changing attitude and culture. This is particularly evident in respect of the current more robust response by police to domestic violence. Yet, ironically, it is the law itself, more specifically, childcare law, and the timing and the means by which it is implemented in bitter, residence and contact disputes, which can pose the greatest risk to children. As this chapter will demonstrate, a good many filicide victims are killed before, during, or immediately after courts make decisions on these matters. It is a dangerous time, to be explored with reference to cases from the current study.
Domestic violence

A different culture in tackling domestic violence

Table 5.1 on p. 74 on male filicides revealed that 44 per cent (27) of 62 cases had incidents of domestic violence preceding the killings. Other researchers reveal even higher frequencies of domestic violence (Johnson, 2005; Kirkwood, 2012; Saunders, 2004). Nearly one million incidents of domestic violence perpetrated against women were recorded in the year 2009–10 (Home Office, 2010). There has been a flurry of legislative activity to deal with this situation. A decade ago, the Crown Prosecution Service (CPS) did not even monitor domestic violence cases, and common assault in a domestic violence situation was not even an arrestable offence. Yet in 2009–10, the CPS prosecuted over 74,000 perpetrators (Starmer, 2011). It was able to do so primarily because of new legislation and a fundamental change of attitude in the agencies at the forefront of tackling domestic violence: the Home Office and the police.

Police Domestic Violence Units were introduced in the 1990s, the beginning of a culture change within the most important agency dealing with the problem. In 2000, the police were advised by the Home Office to consider arrest whenever they responded to domestic violence incidents. This pro-arrest view was immensely challenging to those police officers more accustomed to delivering pep talks to an aggressive parent and then walking away. A White Paper, Safety and Justice (Home Office, 2003), further refined government thinking on the matter. There would be more focus on prevention through education and awareness training, and assessment of risk factors like alcohol and drugs. Most significantly, breaching civil orders such as the Non-molestation Order would be made a criminal offence. Police would be able to check for previous breaches and act accordingly, for example, by invoking the pro-arrest facility then available to them and increasingly being used. The government ear-marked £19 million of new funding which greatly facilitated the expansion of women’s refuges.

A professional, systematic and rigorous approach

The changes in police culture and in their frontline responses to domestic violence occurred at different speeds in different locations. In police forces leading the field, much progress was made in