



CRIMINALIZING COERCIVE CONTROL : WHAT CANADA CAN LEARN FROM GREAT BRITAIN



TABLE OF CONTENTS

INTRODUCTION..... 3

 POLICE ORGANIZATIONS..... 5

 PROSECUTORS..... 5

 SUPPORT ORGANIZATIONS FOR VICTIMS OF DOMESTIC VIOLENCE (SCOTLAND AND ENGLAND)..... 6

 RESEARCHERS (SCOTLAND AND ENGLAND) 6

SECTION I - POLICE 7

SECTION II - PROSECUTION 13

SECTION III - VICTIM SUPPORT SERVICES AND RESEARCHERS..... 19

SECTION IV - RECOMMENDATIONS FOR CANADIAN JUDICIAL ACTORS..... 26

 POLICE 26

 PROSECUTORS 28

 OTHER RECOMMENDATIONS 29

APPENDICES..... 31

 APPENDIX I - DISTINCTIVE FEATURES OF THE CANADIAN CRIMINAL CODE AND THE ADMINISTRATION OF JUSTICE 31

 APPENDIX II - STATISTICS MITIGATION 33

 APPENDIX III - MISCELLANEOUS ITEMS 35

 APPENDIX IV - EXCERPT FROM BILL C-332 ON COERCIVE CONTROL..... 36

INTRODUCTION

In the fall of 2021, thanks to funding from Women and Gender Equality Canada, the Regroupement des maisons pour femmes victimes de violence conjugale (hereinafter the Regroupement) launched a vast project to improve judicial practice by integrating the concept of coercive control. Supported by an advisory committee of some 30 members, the project has so far led to the training of over 6,000 socio-judicial professionals, and the development of a dozen publications and tools.

In the spring of 2023, project manager Karine Barrette travelled to England and Scotland to meet with judicial partners in jurisdictions where coercive control has been criminalized. The valuable lessons learned from these exchanges have not only informed those working in the field of domestic violence, but also those in the Canadian parliamentary scene.

It was in this context that the Regroupement and the Canadian Association of Chiefs of Police (hereinafter CACP) declared themselves in favour of criminalizing coercive control. Following several submissions, numerous amendments requested notably by the Regroupement and CACP were incorporated into the latest version of Bill C-332.

While there seems to be a consensus among political parties, provinces, and territories on the importance of criminalizing coercive control, many concerns remain regarding the implementation of the offence, and its practical application by police services and prosecutors. Some refer to the challenges encountered in Great Britain, without however adequately grasping the causes nor addressing the identified solutions.

It was in this context that a new mission to London and Edinburgh was conducted by the Regroupement, in collaboration with CACP, in the spring of 2024. The objective was to question police officers, prosecutors, domestic violence victim support organizations, researchers, and other legal stakeholders on the real challenges encountered in the implementation of the offence, the reasons for these challenges, and concrete solutions to address or, better still, avoid them in Canada.

The results of this mission are presented in this report. To facilitate reading, we have divided it into four main sections: police (1), prosecutors (2), victim services and researchers (3), and recommendations (4).

We would like to thank Isabelle Dorion, prosecutor and provincial domestic violence coordinator under the *Directeur des poursuites criminelles et pénales*, who attended virtually the meeting with prosecutors in Scotland, and Simon Lapierre, Full Professor at the University of Ottawa's School of Social Work, who took part in the London meetings. Finally, we would like to thank the Régie intermunicipale de police Thérèse-De Blainville for making it possible for its chief of police to take part in this mission.

Mtre Karine Barrette

Lawyer and project manager at Regroupement des maisons pour femmes victimes de violence conjugale responsible for the project *Improving Judicial Practice to Increase the Safety of Women Who Are Victims of Domestic Violence*

Mtre Marie-Jeanne Gratton

Lawyer and project officer at Regroupement des maisons pour femmes victimes de violence conjugale responsible for the project *Improving Judicial Practice to Increase the Safety of Women Who Are Victims of Domestic Violence*

Francis Lanouette, M.O.M.

Chief, Régie intermunicipale de police Thérèse-De Blainville

Co-chair of CACP's Crime Prevention, Community Safety and Well-being Committee

We would like to express our sincere gratitude to all the interlocutors who so generously took the time to share their valuable experience with us:

POLICE ORGANIZATIONS

○ **Police Scotland (Scotland)**

Deputy Chief Constable Bex Smith, Crime and Operational Support

Detective Chief Inspector Adam Brown, Public Protection Unit

Detective Constable Rachel Aiton, Domestic Abuse Investigation Unit

Detective Constable Philip Martin, Domestic Abuse Investigation Unit

○ **Metropolitan Police Force, New Scotland Yard (England)**

Assistant Commissioner Louisa Rolfe

Angela Whitaker, National Police Chiefs' Council lead for Domestic Abuse, Project Manager, Domestic Homicide Project

Detective Inspector Kylie Robson, Tactical Policy Advisor - Domestic Abuse

Detective Sergeant Lucy Chapman, Domestic Abuse Protection Orders Implementation Team

Detective Sergeant Claire Grey, Deputy Tactical Policy Advisor - Domestic Abuse

Detective Sergeant Stephen Kelly

○ **New South Wales Police (Australia)**

Detective Inspector Jane Prior, Domestic and Family Violence Registry

Superintendent Danielle Emerton, Commander, Domestic and Family Violence Registry

PROSECUTORS

○ **Crown Office and Procurator Fiscal Service (hereinafter COPFS) (Scotland)**

Dr. Emma Forbes, National Lead for Domestic Abuse, Assistant Procurator Fiscal, Policy and Engagement

Laura Buchan, Procurator Fiscal, Head of Policy and Engagement

Jennifer Gilmour, Procurator Fiscal Depute, Policy Division, Domestic Abuse

Jennifer Harrower, Depute Crown Agent, Local Court, *Case Management Pilot Program*

Paul Harvey, Assistant Principal Crown Counsel, strategic lead for the prosecution of sexual and domestic abuse offences

Alisdair Macleod, Principal Procurator Fiscal Depute, Policy and Engagement, in charge of the national implementation of the *Domestic Abuse (Scotland) Act 2018*

Katrina Parkes, Scotland's Procurator Fiscal for High Court Sexual Offences

○ **Crown Prosecution Service (England)**

Karen Morgan-Read, Violence Against Women and Girls Strategy Manager, Senior Policy Advisor

SUPPORT ORGANIZATIONS FOR VICTIMS OF DOMESTIC VIOLENCE (SCOTLAND AND ENGLAND)

Cynthia Gimenez, Team Senior, Edinburgh Domestic Abuse Court Service (EDDACS)

Sinead Welsh, Operational Manager, Edinburgh Domestic Abuse Court Service (EDDACS)

Isabella Lowenthal-Isaacs, Senior Policy and Practice Officer, Women's Aid UK

Linda Rodgers, CEO Edinburgh Women's Aid

Dr. Marsha Scott, CEO Scottish Women's Aid

RESEARCHERS (SCOTLAND AND ENGLAND)

Dr. Fiona Morrison, University of Edinburgh

Dr. Andy Myhill, College of Policing (London)

Dr. Cassandra Wiener, City University of London

SECTION I - POLICE

(1) SCOTLAND

The mission began with meetings with representatives of Scotland's national police service (Police Scotland). During these interviews, we discussed challenges related to the criminalization of coercive control.

Training component

Let's begin by specifying that the concept of coercive control was introduced into Scottish legislation when the *Domestic Abuse (Scotland) Act* (hereinafter DASA¹) came into force on April 1st, 2019. To ensure proper implementation, all 17,000 police officers received a one-day in-person training session in the year leading up to the Act's coming into force. This training was developed in collaboration with community organizations specialized in working with victims of domestic violence. The training focused on understanding the dynamics of domestic violence, the notion of continuum associated to coercive control (*course of conduct*), and interpersonal skills for police while interacting with victims to eliminate barriers to reporting. This training was supported by audio excerpts from emergency calls and images from police body-worn cameras to provide a better understanding of victim reactions to police interventions in the context of domestic violence. Let us add that this basic training is now part of the curriculum at the Scottish Police College, which allows to sustain these trainings and ensure that the next generation of police officers is ready to intervene in cases of coercive control.

Along with this training, Scotland has also developed more advanced training for specialized teams to equip investigators for the realities experienced by victims of domestic violence. Here again, the training focuses on interpersonal skills. A section on adopting a *trauma-informed* approach has been incorporated. The identification of the dominant aggressor is also covered, to help avoid revictimization through cross-complaints².

As for the elements to be taken into consideration, those we interviewed stressed the importance of providing training for all judicial actors, in person and not online, to encourage participation and interaction between the participants and the trainers. This does not exclude online updates, as long as the initial training is delivered in person. It is important to note that the trauma-informed approach considerably facilitated participants' understanding, while reducing any biases they might have had regarding the reactions generally expected from a victim.

¹ It should be noted that, unlike in Canada, there is no Criminal Code covering all applicable offences in Great Britain (Scotland/England). DASA is the framework law applicable to domestic violence in Scotland.

² When two partners or ex-partners file a complaint against each other.

Practical aspects (in the field)

Representatives of Police Scotland also gave us the opportunity to learn more about the application of this new law in the field. It's worth noting that, at the outset, the majority of interventions of this nature are carried out by frontline police officers (T-1s), the men and women assigned to respond to service calls. These officers are equipped with body-worn cameras, which they claim offers a definite advantage in terms of the evidence gathered during this type of intervention. Firstly, because the images captured provide the court with an overview of the environment in which the offence occurred, but also because they enable the physical, psychological, and emotional state of the victim of coercive control to be seen.

Generally, these same officers will proceed with the interview of the victim, which is systematically done through the help of the *Domestic Abuse, Stalking, Harassment and Honour Based Violence Risk Assessment Tool* (hereinafter DASH), a risk assessment tool developed in Great Britain. This tool allows to pose a series of questions to enable officers understand the risk associated with the coercive control experienced by the victim. It also helps enhance the key elements of the evidence to be gathered. This statement is generally made in writing, but in certain specific situations, the version will be recorded using the body-worn camera. In certain more complex cases, specialized domestic violence investigation teams (T-2) will interview the victim. These teams have the advantage of having more in-depth training in domestic violence, which allows to more naturally create a bond of trust between the victim and the police. These investigators also have more time to devote to the victim, since they are not assigned to answering calls. For the city of Edinburgh, a team, which we will refer to here as the intermediate team (T-1.1), made up of a sergeant and patrol officers specialized in domestic violence, is responsible for responding to calls dealing with intimate partner violence. At a national level, there is also a specialized investigation team for crimes of intimate partner violence (*Police Scotland's Domestic Abuse Taskforce*, hereinafter DATF / T-3). This team's mandate includes investigating the most complex cases, repeat offenders, or those committing acts throughout Scotland.

One of the special features of the law in Scotland is the requirement of corroboration for all crimes under the legislation. This obligation will be detailed in the section dealing specifically with Crown Prosecutors. According to the police officers we met, corroboration is fairly simple to gather in most cases. For example, text messages, bank statements, circumstantial evidence, testimonials from friends or family members demonstrating isolation, humiliation, or any other manifestation of coercive control covered by the law are sufficient to corroborate the offence.

As in the majority of Canadian provinces, the Scottish justice system has introduced a duty to denounce any crime related to domestic violence. This obligation is not questioned by the police officers we met. As for identifying the dominant aggressor, this is done for each case of domestic violence. This avoids the submission of what is known in Canada as cross-complaints. Police officers must clearly identify the dominant aggressor in the submitted report. They may also mention that the perpetrator claims to be a victim, in order to inform the prosecutor.

Finally, all those we interviewed mentioned that the fact that there is only one police force covering the whole of Scotland may have made it easier to prioritize the problem of domestic violence.

Other factors to consider

We would be remiss not to close this section without mentioning some additional points raised by representatives of Police Scotland. Elements which, once addressed, would, in their view, lead to a clear improvement in police intervention in domestic violence.

To begin with, no ongoing training is currently in place to maintain and improve the knowledge of Scottish police officers in regard to domestic violence. Ongoing training would allow them to improve their understanding of the continuum and help them identify the *pattern*, reduce the trivialization of everyday micro-regulations that are an integral part of coercive control dynamics, and, by the same token, recognize its more subtle manifestations. In this way, the evidence will be better documented, enabling files to be submitted under DASA. Ongoing training could also help reduce the bias that still exists towards victims of domestic violence. We should also mention that the use of multipliers within work teams has been identified as an interesting avenue for disseminating learning about coercive control.

Another point raised was the fact that police officers are still hesitant to consult specialized teams (T-2). This hesitation is counter-productive and does not foster optimum handling of domestic violence cases, nor does it promote dialogue within the Police Scotland.

The time constraint for responding to service calls always seems to be a concern within frontline teams. According to representatives of Police Scotland, this constraint is problematic because it prevents police officers from taking the time they need to spend with victims of domestic violence. Our interviewees stressed the importance of this initial contact. The victim may only be willing to open up on this single occasion, which is why it is so important to take the time, to listen, and thus gather as much information as possible.

Here are the essential elements of an ideal police intervention by an officer, according to our interviewees:

- Validate the victim's experience and show empathy.
- Take the declaration and gather as much information as possible about the site.
- Carry out a risk assessment.
- Transfer the file to the specialized team for further action.

The implementation of a quality control structure must be a key element in the approach to domestic violence. This quality control must be carried out at all organizational levels (supervisors, officers, etc.). In this way, the organization will avoid a situation where improvements rely solely on the engagement of certain key team members. By the same token, it will reduce risks related to the "officer effect" identified by British researcher Andy Myhill, i.e. the fact that case handling varies greatly depending on the identity of the officer encountered by the victim³.

As part of the investigation, the search for the perpetrator's former partners can help shed light on the continuum, micro-regulations that the perpetrator imposes on the victim. This helps to consolidate the evidence of coercive control and to correctly assess the associated homicidal risk.

³ For more on the concept of the "officer effect", see Myhill, A., Hohl, K., & Johnson, K. (2023). *The 'officer effect' in risk assessment for domestic abuse: Findings from a mixed methods study in England and Wales*. *European Journal of Criminology*, 20(3), 856-877. < <https://doi.org/10.1177/14773708231156331> >

Regarding the number of charges laid, which at first glance may not live up to expectations, representatives of Police Scotland reminded us that we should rather assess the impact of the adoption of DASA in terms of the security that this reform offers to victims. A security that includes improved police intervention and the creation of additional tools that members of the organization can use to help and better support victims, so that they can finally break free from the cycle of domestic violence.

Finally, our interviewees stressed the importance of collaboration, partnership, and consultation with local stakeholders in the field. This is an essential element in improving police response to domestic violence. This collaborative approach must take place at the level of training, in forums for exchange, and in the establishment of safety nets.

(2) ENGLAND

In England, we met with current and former representatives of New Scotland Yard Metropolitan Police. Among the interviewees were senior officers as well as investigators specialized in domestic violence.

Training component

The criminalization of coercive control was achieved sooner in England than in Scotland, namely in 2015, when Section 76 of the *Serious Crime Act 2015* came into force. The legislative change came without any prior training for police forces. This legislation, subsequently amended, only considered current partners, or ex-partners who were still living together. What's more, the offence was, and remains to this day, an infraction through a so-called subjective approach, meaning that the prosecutor must demonstrate to the court the serious effect that the proscribed behaviour has had on the victim. Police officers, having had no prior training before the legislation came into effect, had to deal with a new offence without knowing the ins and outs. This situation led to a poor understanding of the offence, an inconsistent application of the law with, as a result, fewer charges being laid than originally expected. This also meant that other offences, easier to prove because they remained within the single-event paradigm, were favoured by some police officers. It was only later that the College of Policing released a *Domestic Abuse Matters* program on coercive control, developed in collaboration with community organizations devoted to fighting domestic violence. This same institution developed a training program under the model of "Train the Trainer", to help police services better integrate these concepts. It is important to note that in England, it is the College of Policing that sets the curriculum for general police training, but that responsibility for delivering this training lies within police organizations.

It should be noted that it will have taken approximately three to four years to catch up on the training component. The "Train the Trainer" program is currently being implemented in the Hampshire region, with promising results. Other regions will be adopting the model. Despite the late start to training, all agree that significant progress is being made. One of the great strengths of England's police service lies in the mandatory ongoing training that has been implemented. Those we interviewed mentioned that one day during each five-week period is devoted to training, and this applies to all police personnel. In addition, in the case of coercive control, training must last at least one day, and be delivered in person, not virtually. The importance of interaction between the various stakeholders in attendance is paramount. They added that training should focus on understanding domestic violence, particular vulnerabilities, the spectrum of victims' reactions, barriers to reporting, and deconstructing myths and stereotypes. Case files are used to illustrate the behavioural pattern of coercive control. Naturally, part of the training must deal with the legal aspect of the wording and application criteria, but this should not be the main focus of

the training. It is important to include victim testimony and the participation of specialized resources. The use of images from police body-worn cameras also bring added value, as does the use of calls received by emergency dispatchers, since they provide excellent insight into victims' reactions. Highlighting cases that have gone well in the courts is another strategy that should be pursued. It provides a concrete illustration of the essential elements to be presented as evidence, while highlighting the successes achieved. Training investigators is also important, but for those we interviewed, the key to success remains training frontline police officers.

Practical aspects (in the field)

When it comes to field work, those we interviewed in England mentioned that the initial intervention in the context of a domestic violence situation is always carried out by police officers assigned to respond to calls for service. One of the key roles of these officers is to educate the victim experiencing coercive control but who is unaware of it. When a coercive control offence or any other domestic violence related offence is detected, police officers are responsible for securing evidence, interviewing witnesses, children and neighbours, when applicable, and then arresting the suspect. On the side of the Metropolitan Police, the file is then handed over to an investigator from the specialized domestic violence team who will complete the case file by taking statements. Statements can be taken in writing or via video. It is the investigator who would take statements from the children, if deemed necessary. Once completed, the file is submitted to the prosecutor who may or may not lay charges. It should be noted that, unlike in Scotland and Canada, police agencies in England are not obligated to submit a domestic violence file to the court (obligation to denounce). They must, however, draft a report and submit it to their superiors.

According to those we spoke to, the relationship between prosecutors and the police seems to be a constant challenge. The main issue is the frequent requests for additional evidence to support cases of domestic violence. This back-and-forth between prosecutors and police results in creating a certain frustration and can lead police officers to no longer lay coercive control charges. The amount of evidence required by each prosecutor is inconsistent, which ends up discouraging some law enforcement officers. What's more, a case may be handled by more than one prosecutor during the judicial process, which, according to police officers, is detrimental to expertise and to a certain lack of consistency in the evidence requested, as well as making it difficult to develop a police-prosecutor relationship.

Another major challenge is the need to prove the impact of coercive control on the victim. This notion of subjective severity adds complexity to the production of evidence. Victims may find it difficult to express the effect the situation has had on them. In such cases, the evidence presented does not accurately reflect the subjective severity, leading to minor sentences.

Among available legal tools, a prosecutor mentioned the *Domestic Abuse Protection Order* in a separate meeting. This order, if breached, can lead to criminal charges. On the other hand, police members indicated that it was difficult for officers to know whether a person was subject to such an order, as it does not seem to be registered in a database accessible to all police forces in England.

Other factors to consider

Other issues and challenges were raised by representatives of New Scotland Yard. These included the lack of diversity in England's police forces. This situation affects the understanding of victims' experiences of domestic violence. Immigrant women feel less understood and are therefore afraid to come forward because they don't trust police services. Also of concern are issues of racism and sexism, which are recognized within law enforcement agencies.

Staff turnover within England's police services and the shortage of manpower are also identified as major challenges that create a vicious circle. Staff shortages put pressure on frontline officers, particularly in terms of the time they have to devote to each service call. Staff turnover, meanwhile, creates a training gap, as the departure of experienced police officers results in a loss of expertise, particularly in the field of domestic violence intervention. Added to this is the impact of compassion fatigue among police officers and prosecutors, which is detrimental to the way they deal with victims and can lead to revictimization.

Representatives from *New Scotland Yard* also highlighted the correlation between coercive control and murder in the context of domestic violence. Given that coercive control is present in almost all cases of domestic homicide, police intervention needs to properly assess this type of behaviour.

Finally, our interviewees stressed the importance of partners in responding to domestic violence. In this respect, they pointed out that there is still an issue within police services in terms of the low level of referrals made to victim support services. These referrals are essential to ensure a solid safety net for victims.

SECTION II - PROSECUTION

(1) SCOTLAND

On May 28, 2024, we met with a team of prosecutors from the *Crown Office and Procurator Fiscal Service* (hereafter COPFS). Two representatives of the New South Wales police force in Australia were also present. The following are the main points shared at the meeting.

Training component

Scottish prosecutors received a one-day in-person training session before the law came into force (April 1st, 2019). In their view, upstream training of judicial actors is a critical condition for the success of criminalization. In terms of content, the training addresses the wording of DASA but focuses mainly on the notion of patterns of behaviour. In addition, the training includes a section on trauma, which allows for a better understanding of the different reactions from victims, which may not necessarily be those expected. This training is mandatory for all new prosecutors.

Other essential elements that have helped to achieve a better level of understanding for prosecutors are:

- testimonials from victims of domestic violence (key element),
- images from police body-worn cameras, and
- records of calls to 999 (the equivalent to 911).

In one example of a particularly striking training component, a trainer asked all participants to close their eyes. He walked behind each participant, manipulating a helium-filled balloon. He mentioned that at a certain point, he would burst the balloon, but without specifying when. After a few minutes, he asked the participants to open their eyes, without ever having popped the balloon. This impactful technique enabled participants to fully grasp the state of hypervigilance in which victims of domestic violence find themselves on a daily basis.

A three-day training course has also been developed for prosecutors specializing in domestic violence. This training is provided through resources specialized in domestic violence and police officers.

Before criminalization, there was a general fear that the offence would be misused, be too vague, or be instrumentalized by aggressors. For example, a perpetrator might lodge a complaint against his partner or ex-partner, claiming to be the victim of coercive control himself, as a tactic to harm the victim. This fear has not materialized, in large part because the organizations have invested a great deal of time in training to ensure that all stakeholders understand the notion of behaviour patterns and are thus able to identify the dominant aggressor. When judicial actors are trained, they are able to delve into the history of the relationship to determine which partner is trying to dominate and take control over the other. In this way, the perpetrator's attempt to instrumentalize the criminal complaint is rendered null and void, since there is no evidence of a pattern of behaviour set up by the victim of coercive control.

In practice, cross-complaints are very rarely submitted to COPFS, due to the analysis carried out by police officers at the time of the intervention. To their knowledge, the law is not used by aggressors to harm victims.

Prosecutors' guidelines were adapted following the adoption of DASA in order to incorporate the important elements to be assessed when dealing with this type of case. These guidelines are not public.

At the judiciary level, before DASA came into force, judges were trained on domestic violence, the concept of behaviour patterns, the trauma-informed approach, the wording of the law, and so on. The training included case studies. This training was provided by prosecutors, a psychologist specialized in trauma, members of the 'Caledonians' program⁴, and victim services workers.

Practical aspects (in the field)

The people we met observed a slight annual increase in the number of cases brought to court under DASA since it came into force. An estimated 65% of DASA cases are prosecuted by summary procedure (maximum sentence = 1 year). Detention is rarely ordered at the sentencing stage in summary cases.

According to the most recent data available, 84-86% of isolated episodes of domestic violence (i.e., not prosecuted under DASA) involve male perpetrators. For cases prosecuted under DASA, this rate rises to 94-96%.

It is easier to corroborate the continuum of behaviours (under art. 1 of DASA) than isolated incidents, as several pieces of evidence can corroborate the victim's version. Prosecutors need to be able to corroborate only two of the elements charged, even if the perpetrator is charged for a series of misconducts. This is particularly useful in cases where the victim reports having experienced sexual violence. Under DASA, when the dynamic of coercive control is established, it is not necessary to corroborate sexual violence if there is corroborating evidence on at least two other elements. Examples of corroborating evidence include injuries observed by police officers, testimonies from neighbours, family, colleagues, text messages, images from police officers' body-worn cameras, broken objects in the home, etc.⁵

Section 8 of DASA specifies that a defendant may be convicted of an alternative offence if the threshold to reach for an offence under section 1 of DASA is not met. The lesser and included offences specifically named in the Act are threatening or abusive behaviour and stalking (ss. 38 and 39 of the *Criminal Justice and Licensing (Scotland) Act 2010*).

Because police officers delve into the history of the relationship at the time of intervention, they have noted an increase in cases of sexual assault in a conjugal context. Moreover, the prosecutors who handle sexual assault cases (Superior Court) have received feedback from victims who have experienced the legal process. They concluded that the victim's objective is generally not for the offender to receive a significant sentence. Some provided positive feedback on their experience, even if the case ended in acquittal, because they received services and support throughout the legal proceedings.

Another phenomenon observed in the early days of DASA was the increase in the number of guilty pleas in these cases.

As the offence is not retroactive, a count can only start as of April 1st, 2019. Eventually, they will be able to lay a single charge under section 1 of DASA over a period of 10, 15, or 20 years.

The aggravating factor regarding children⁶ is applied in 16-24% of cases. Only one source is required to prove the aggravation (unlike the offence, which needs two sources of corroboration), and it can come from a third party.

⁴ A program offered at the sentencing stage for perpetrators of domestic violence.

⁵ Corroboration is required for all offences in Scotland. It is not required in Canadian law, with a few rare exceptions.

⁶ Section 5 of DASA stipulates that where a child is involved (whether directly witnessing the events or not), and there is evidence submitted to that effect, the court must take the aggravation in determining the appropriate sentence.

Best practices

At the COPFS level, the identified elements are:

- involvement of the victim support sector at every stage: development of the law, upstream training, support for victims throughout the process, etc.,
- the objective approach favoured by the legislator (reasonable person test) in the wording of DASA,
- the quasi-systematic imposition of a protection order in cases of domestic violence (new presumption in the law),
- the *Case Management Pilot Program* established in 2022 which allows to speed up the case resolution process (not restricted to domestic violence) and to promote communication between the prosecutor and the victim before the trial date,
- public awareness campaigns, and
- the media coverage of certain court cases that end in a conviction or a guilty plea.

Areas of improvement

At the COPFS level, the targeted elements are:

- freeing up time in prosecutors' schedules so that they can talk or meet with victims earlier in the process to build trust,
- having more time to prepare cases properly,
- creating a vertical prosecution system for domestic violence,
- increasing the number of domestic violence cases brought to court under DASA,
- offering more support to victims/witnesses and provide stable, sustainable funding for victim support services,
- reducing silo work (criminal law/family law), and
- adapting the current law to better meet the needs of women from immigrant backgrounds or with particular vulnerabilities.

(2) ENGLAND

On May 31st, 2024, we met with a prosecutor from the *Crown Prosecution Service* (hereafter CPS). Here are the main points shared during this meeting.

Training component

The CPS developed a training course six months before the law came into force (December 2015), delivered to select prosecutors who then disseminated the information in the field (the "Train the Trainer" method). This one-hour training focused on the content of the law, thereby potentially limiting its impact. Between December 31st, 2015 and March 31st, 2016, only five coercive control cases were prosecuted under the new offence. That said, every time that prosecutors and police officers are trained in matters regarding domestic violence, the number of cases brought to court increases.

Once the law was enacted, CPS designed a one-day in-person domestic violence training course for all prosecutors, during which they worked on case studies. The training is developed in-house. Consultations are held annually with organizations specializing in domestic violence to test the material and incorporate their expertise. For prosecutors, the difficulty lies not in understanding the law, but in grasping what is coercive control, its patterns. The training includes a section on the law, on domestic violence theory, and on myths and stereotypes. They also developed complementary training modules (online, 3 hours each) on understanding coercive control, stalking, trauma-informed approach, etc.

The habit of those involved in the justice system is to adopt a vision based on isolated incidents. It was necessary to rely on the concept of coercive control to change this view. One interviewee affirms that while it was normal to identify isolated incidents at first, it was necessary to then be able to dig deeper and understand the pattern of behaviour.

In terms of training, the testimony of victims of domestic violence has the greatest impact on prosecutors and police officers.

The guidelines regarding coercive control were developed in the first year, then improved in subsequent years (with the addition of specific examples relating to the reality of immigrant women, a section on myths and stereotypes, etc.). Their guidelines are publicly available. In addition, over the past three years, CPS has developed a new internal policy on matters regarding domestic violence, an induction kit for new prosecutors and a joint policy with police officers.

Recently, they made a significant change to their directive that deals with the selection of charges. Now, prosecutors must always approach cases as if they were *behaviour driven offences* (such as coercive control or stalking). If this is not the case, then the file will be treated as an isolated incident.

At the level of the judiciary, no mandatory training in matters regarding coercive control was provided before or after the law came into force. Elements that may have had an impact on judges' awareness are: coroners' recommendations concerning deaths reviews in the context of domestic violence, media coverage of the issue, and changes in social discourse.

Practical aspects (in the field)

The CPS is divided into 14 sections and represents some 2,000 prosecutors.

At CPS, there are no specialized prosecutors for domestic violence (unlike for sexual assault), because the volume of cases related to this issue would be too high (around 20% of cases). Instead, their approach is to train all prosecutors to be able to handle domestic violence cases.

A major issue in the field is the ability of police officers and prosecutors to distinguish between legislation on stalking, coercive control, and harassment (three separate laws).

For the offence of coercive control, the prosecutor must prove the serious effect of the accused's behaviour on the victim (subjective approach). This can be particularly challenging if the victim is resilient or unwilling to get involved despite the existence of independent evidence. The maximum sentence for the offence of coercive control is five years.

One way for CPS to counter the approach of isolated incidents is to obtain the full version of the police officer's risk assessment (either through the *Domestic Abuse Risk Assessment*, hereafter DARA, or

DASH). This also enables to identify more appropriate conditions and to request a more representative sentence.

The goal for prosecutors at CPS is to build a case that is as complete as possible, that will lead to a guilty plea or conviction without the victim's testimony. They often ask the police to continue the investigation to obtain all possible independent evidence, even when there is no obligation to corroborate. These requests extend the duration of investigations. According to those we spoke to, there is clearly a communication issue between prosecutors and police. The absence of the victim's testimony is a challenge in coercive control cases, as proof of effect is required. Sometimes, other witnesses can provide evidence (family, colleagues, professionals, etc.).

There are more guilty pleas in domestic violence cases than in other crimes against women. The breakdown of statistics is not available for coercive control.

Police officers in England are under no obligation to denounce. They therefore have the option of closing the case at their own level, without submitting it to a CPS prosecutor (for example, if the victim does not wish to become involved in the judicial process).

At CPS, there is a monthly review process by supervisors at the stage of file authorization (prosecutors review all authorized or denied files each month and may ask the prosecutor to reconsider his or her decision). Sometimes, prosecutors will authorize a charge for an offence related to physical violence separately from the coercive control charge in order to leave a record on the suspect's file (a more detailed background), but also because it may lead to a more severe sentence.

The CPS doesn't have enough prosecutors to handle the volume of cases. They assign certain files to other lawyers (e.g. defense attorneys) shortly before trial. This means that several lawyers from outside the organization are involved in the case, without knowing the victim, and with a high risk of losing the strategy along the way. They may represent accused persons the very next day.

The offence of coercive control does not appear to be instrumentalized by perpetrators against victims. Few cross-complaints in the matter of coercive control, as opposed to stalking, are forwarded to CPS. Instead, the police analyze the identification of the dominant aggressor beforehand.

Generally, in cases of domestic violence, bail conditions are imposed on the accused during the proceedings (e.g., not to approach the victim, not to communicate with her, etc.). However, breaches of conditions do not constitute a criminal offence, and the consequences are minimal.

As for the involvement of children, prosecutors try to limit their implication, unless they are witnesses or direct victims. They seem increasingly inclined to accept the child's wishes. In one case, the mother didn't want to testify, but her 12-year-old daughter did, because it was important to her. This allowed for the child a great empowerment. In general, children are mainly heard at the stage of sentencing for the consequences of the crime.

Best practices

At the CPS level, the identified elements are:

- the model implemented in Greater Manchester: daily exchanges between police officers and prosecutors to discuss cases (instead of waiting for the prosecutor to send a list of elements to gather within the 30-day deadline), and

- the project implemented in certain districts (including North Wales): a case management judge coordinates proceedings for the same family (youth protection, family, criminal) and decides which case will proceed first.

Areas of improvement

At the CPS level, the targeted elements are:

- focusing on understanding the concept of coercive control (as much as the law) to avoid blaming the victim,
- establishing communication between the prosecutor and the victim, and doing so before the morning of the trial,
- providing victims with more information about the process,
- rebuilding victims' trust in the justice system,
- sending positive messages to victims of domestic violence about successful outcomes in the legal process,
- raising public awareness on the concept of coercive control, and
- reducing silo work (criminal law/family law).

SECTION III - VICTIM SUPPORT SERVICES AND RESEARCHERS

(1) SCOTLAND

On May 27th and 28th, 2024, we held three separate sessions with team members from Edinburgh Women's Aid, Edinburgh Domestic Abuse Court Service (hereafter EDDACS) and Scottish Women's Aid, as well as a professor from the University of Edinburgh. Here are the main points shared during these discussions.

Learning and best practices

DASA has increased the awareness of society in general regarding the reality of coercive control. Despite the challenges and imperfections encountered, victims themselves say that the adoption of this legislation constitutes an important acknowledgement of coercive control as unacceptable, but also of their overall lived experience. This symbolic value is very important, as was emphasized by the interviewees. More time will be required to paint an overall picture of the global impact of the adoption of DASA, as its entry into force is relatively recent and its application significantly impacted by the Covid-19 pandemic. Institutions are open to the necessary changes, and key actors are mobilized to make them happen. Structures need to be put in place to ensure that best practices are maintained, regardless of the identity of the managers in office. Adopting the law is not enough. It's important to think ahead about the implementation of legislation, its evaluation, and the measures to be put in place to avoid pitfalls.

Regarding interactions with the police, the importance of establishing a partnership with the victim was reiterated on several occasions. The victim is the best source of information, particularly in terms of the evidence to be gathered. The need to emphasize interpersonal skills in training is therefore essential. In this respect, footage from body-worn cameras used by police officers is considered to be extremely useful when understanding victims' reactions is addressed during training sessions.

This concept of an alliance with the victim is particularly successful with teams specialized in domestic violence investigation at Police Scotland tiers 2 and 3, i.e. the members of the local specialized teams (T-2) and those of DATF (T-3) respectively. They receive increased training in both the dynamics of coercive control and trauma-informed approach. They have more time to spend with victims, in a more informal approach. Victims report a high level of satisfaction from their interactions with these teams. DATF (T-3) is perceived to be highly effective and completely focused on victim safety. The team is able to recognize the *modus operandi* of repeat offenders and track down former partners across the country. Its officers are said to be some fifteen years ahead of the rest of the police forces in terms of expertise.

On the other hand, any measure that promotes transparency and the inclusion of victims in the process, such as information sharing, is beneficial to their experience within the justice system. While much remains to be done, online access to court records for victim support services is a simple example of such measures. In terms of safety and inclusion, *The Caledonian System*, a resource for perpetrators, ensures to communicate with victims and their children during their risk assessment process, resulting in a better reflection of the situation and danger.

As for the fear that DASA might be used against the victim in criminal matters, those we interviewed confirm that this fear proved unfounded in the field. It is important to note that over 95% of victims of coercive control in court cases are women. When those involved in the justice system are properly trained to detect patterns of behaviour, they will be able to identify the dominant aggressor and avoid wrongly judicializing the victim. The challenge is greater in cases of assault, where there may be confusion over reactionary violence from the victim. Even if the police conduct an analysis of the dominant aggressor and ultimately do not submit the case against the victim to the prosecutor, it is important for officers to remain mindful of their behaviour during the intervention, to avoid for the victim to get arrested or feeling at fault, leading to a breach of trust.

From a legal standpoint, non-harassment orders are generally viewed positively. A breach of such an order will result in the case being processed more quickly, unlike a breach of bail conditions.

In summary:

- The legislation is an important recognition for victims.
- Institutions are open to the necessary changes, and key actors are mobilized to make them happen.
- The usefulness of images from police body-worn cameras for training purposes was often reiterated.
- Alliance with the victim is particularly successful with investigation teams specialized in domestic violence at Police Scotland tiers 2 and 3, notably due to their enhanced training (coercive control dynamics, trauma-informed approach) and the extra time they can spend with victims, in a more informal approach.
- With the right training, those involved can see that behaviour patterns are absent in cases where a victim is falsely accused by the perpetrator.
- Non-harassment orders are viewed positively; a breach of such an order will result in the case being processed more quickly.
- Access to court records online for victim support services is helpful.

Areas of improvement

It is hoped that frontline officer training on several topics will continue: the soft skills to prioritize during interactions with victims, the dynamics of coercive control to better understand patterns of behaviour, and the identification of evidence to be collected, a step that is much easier once the concept has been mastered. Among other things, victims would have less the impression that the burden of proactively providing evidence of coercive control rests primarily on them.

An improved understanding of coercive control, of the course of conduct, by all those involved in the justice system would encourage greater use of the full potential of DASA, which is still often abandoned in favour of prosecutions for isolated incidents, due to the absence of evidence to confirm patterns of behaviour. A quality control structure at the police level managed by colleagues who have a solid grasp of the concept and how to bring it to light, could be one possible solution. Another possible explanation stems from downplay of the situation by the victims and the obstacles they face in disclosing the history of the relationship. Raising awareness on the dynamics of domestic violence would benefit all socio-judicial professionals. At the moment, lawyers and social workers still have no mandatory training on this issue, despite the adoption of DASA.

It is considered essential to improve the availability, sustainability and funding of counseling services for victims. Better support for victims encourages their continued participation in the judicial process and increases their safety. Among the measures most appreciated by victims are videolink testimonies, which are still under-utilized but have proven to be helpful on various levels (reducing stress levels, trauma-informed approach, etc.), as well as a support service to accompany victims to court, delivered by volunteers specifically trained to support them on the day of trial, often law or psychology students.

Another major flaw that was repeatedly highlighted is the lack of communication between judicial authorities and victims, which interferes with the creation of a sense of trust in the system. The individuals we interviewed confirm that this lack of transparency and inclusion of victims (who are not informed of decisions taken) leads to secondary victimization and rekindles trauma. Judicial actors, including sheriffs (lower court judges), lawyers and court staff, have no mandatory training in matter relating to trauma-informed approaches. Yet, recognizing these impacts and taking steps to limit them appear to be essential steps towards improved support for people who have experienced domestic violence, along with systematic referral to resources. Among the pitfalls encountered:

- Women are often surprised that some charges are upheld, especially those related to physical violence, while others are not, and they receive very little explanation.
- Perpetrators are sometimes released without victims being informed.
- Bail conditions need to be improved and adapted to the specific situation of each victim, and their breach to be taken more seriously by police forces.
- There is often only one meeting between the prosecutor and the victim, on the morning of the trial.
- Cancellations, postponements or settlements occur at the very last minute, when the victim has taken time off work for her testimony, with all the stress that that entails, only to learn that her testimony will not be required.
- The inadequate layout of courthouses and courtrooms is a deterrent to participation in the judicial process for some victims. Testifying through a screen remains much more stressful than testifying remotely.
- The generally low sentences for domestic violence contribute to victims' loss of confidence in the justice system and discourage them from engaging in this long and arduous process.
- Working in silo approach, for instances of family and criminal law, means that sheriffs don't always take into account proceedings in other jurisdictions, leading to inconsistencies.
- Finally, the involvement of a child, which is an aggravating factor under DASA, is under-reported by criminal justice actors. If they are not direct victims, they will not be included in the bail conditions or the non-harassment order.

(2) ENGLAND

At meetings held on May 30th and 31st, 2024, we spoke with a member of the Women's Aid UK team, as well as with a researcher from the College of Policing, and a researcher from City, University of London. Here are the items that emerged.

Learning and best practices

While estimates regarding the proportion of cases that would be dealt with under the laws criminalizing coercive control were much higher than is actually the case today, researchers point out that legal changes take time, especially since these laws are progressive and represent a full 180 degree turn from the historical view of isolated incidents.

The people we interviewed mentioned that the fear of using the offence of coercive control against the victim has not materialized in the field, for reasons similar to those in Scotland. Family lawyers, however, are said to have little skill in recognizing domestic violence and understanding its complexity, particularly because of a lack of training and the confusion that still exists between separation conflict and ongoing post-separation violence.

With respect to training, the main point to consider is that it would have been essential to train judicial actors earlier, before the law came into force. In terms of content, it's important that the training not only focus on what is coercive control and its dynamics, but also on soft skills rather than knowledge of the law. Legislation will be of little use in combating the issue if those involved do not have a good understanding of coercive control. If police officers don't master the concept, they won't ask the right questions or gather the necessary evidence. Evidence with regards to coercive control is more abundant as long as it is well understood. It may, however, take longer to gather than for an individual offence, even if this is not necessarily more difficult when the concept is mastered.

It is also important to capitalize on a trauma-informed approach and on the lived experience of victims, so that those involved understand the coping mechanisms of victims in the context of domestic violence. In this respect, the use of body-worn camera images is deemed to be highly relevant during training to illustrate the various possible scenarios in terms of victims' reactions. The training, delivered to police officers in collaboration with victim support organizations, seems to have improved their understanding of coercive control. Feedback from victims and the community sector about the progress made in the field is positive.

In terms of the preferred format for the delivery of a training session to police officers, a winning formula is considered to be a one-day in-person training course, given jointly by a trained police officer and a representative from a victims' organization, and including case studies that emphasize practical aspects and encourage interactions. Smaller groups allow for immersive learning experiences. For investigators, the emphasis is on presentations of evolving scenarios to which they must react as they go along, with feedback on the exercise at the end. The training must be developed and presented in collaboration with organizations specializing in domestic violence. The importance of ongoing training was also emphasized. Regarding the scope of participants who should receive training, one interviewee indicated that anyone called upon to interact with victims of domestic violence should receive mandatory training, whether they work in the judicial system, health care, social services, public organizations, etc.

The issue of sexual violence in a conjugal context was also addressed. In these cases, the evidence must be analyzed in light of the dynamics of coercive control, which makes it possible to establish that

consent was vitiated. It is therefore essential that police officers be better equipped to recognize patterns of behaviour and be committed to delving into the history of the relationship. The ideal model would consist of a team of investigators specialized in domestic violence, but trained in matters regarding sexual assault, as it is easier to initiate an investigation into domestic violence and to develop a bond of trust with the victim, which will encourage the disclosure of sexual assault, rather than the opposite.

Numerous effective practices and initiatives, whether legislative or organizational, have been implemented in England over the years, since the legislation was passed. Here are a few of them:

- CPS organized a major consultation with victim support services, where it demonstrated a willingness to understand real problems from the ground up. According to those we spoke to, it is also increasingly adopting an intersectional approach.
- The use of the risk assessment tool (DARA) by police officers would limit *officer effect*. Approximately three police services use it to date, including the Metropolitan Police Force.
- The creation of the position of *Domestic Abuse Commissioner*⁷ has had several positive impacts, particularly in terms of supporting the defense of victims' rights when assistance services met with resistance from certain institutions. It is important, however, that the role be given binding power, and that a lack of response from the government regarding specific requests does not remain without consequence.
- A self-represented accused is now prohibited from cross-examining the victim in a criminal trial for domestic violence.
- As referrals to victim support organizations remain an issue at all levels, new statutory guidelines now include measures for referrals to resources.
- Campaigns to raise public awareness of coercive control were also very effective. Many addressed misogyny in general, which was helpful as it involved tackling the source of the problem. The campaigns came from a variety of sources (Home Office, the Mayor of London, victim support services).
- Other recommended strategies include talking about femicide and coercive control publicly, on the most-watched programs, having well-known ambassadors raise the issue, and educating the producers who create popular reality shows in order to increase their awareness, as well as producers of soap operas and TV shows.

⁷ This person's mandate is to represent the interests of victims and survivors of domestic violence. Through the powers granted to her under the *Domestic Abuse Act*, the Commissioner raises public awareness of the issue, makes recommendations and ensures that institutions and governments are accountable for the steps they take to combat domestic violence.

Areas of improvement

While the discussions highlighted numerous initiatives that are bringing about positive change, the people we interviewed also mentioned several challenges encountered in the field that prevent English legislation from reaching its full potential in practice:

- **Police:**
 - The need to prove serious effect on the victim, which can be difficult to establish and requires a high level of trust from the victim.
 - Screening for coercive control hampered when the victim's mother tongue is not English.
 - Staff turnover.
 - Resistance to change among some members.
 - Systemic issues within organizations: racism, sexism, etc.
 - The loss of confidence among women from underrepresented groups.
 - The management of perpetrators who are themselves members of a police force.
 - The lack of mental health support for police officers who can develop compassion fatigue, a factor that can have a negative impact on the handling of domestic violence cases, particularly in terms of trivializing certain behaviours.

- **Prosecutors:**
 - Training after police officers on understanding the concept of coercive control, which led to police disengagement as cases were not proceeding.
 - Unofficially high threshold for many prosecutors to proceed with a count of coercive control.
 - Lack of specialized prosecutors, resulting in a lack of expertise.
 - The use of external lawyers for hearings, contributing to a loss of strategy and experience.
 - Long delays in processing cases.
 - Lack of funding.
 - Lack of understanding and training on domestic violence.

- **Others:**
 - Perfectible mechanism for exchanges and feedback between prosecutors and police officers, so that they can be informed of cases that have been well prepared and pleaded successfully.
 - The difficulty for victims to identify themselves as such in terms of coercive control, and to recognize proscribed behaviours, as the initial legal wording shed little light on the subject.
 - The lack of funding to fight domestic violence across health, social services, and shelters.
 - Challenges in implementing the *Domestic Abuse Act of 2021* and major delays in cases submitted under this legislation.

Police officers generally have to finalize the case on the same shift. This pressure means that cases are put together quickly. As such, depending on the complexity of the evidence required in the matter of coercive control, some police officers will prefer to use other offences that are simpler to prove.

Finally, opting for a vision of isolated incidents and a multiplication of offences, rather than an umbrella approach such as the one adopted in Scotland, could contribute to a poor assessment of risk. This lack of global vision would lead to a false perception of the situation, leading to an underestimation of the homicidal risk. Some professionals are astonished that it is often situations wrongly identified as low or medium risk where domestic homicides are found. The language of the *Domestic Abuse Act* of 2021 adds to this separation of individual offences to create a false dichotomy between coercive control and other behaviours related to domestic violence. It makes it a form of domestic violence, rather than being its broader vision.

SECTION IV - RECOMMENDATIONS FOR CANADIAN JUDICIAL ACTORS

In light of the information gathered during our mission in Great Britain (Scotland and England), we present the following recommendations. It should be noted that some of the recommendations relate specifically to the eventual implementation of Bill C-332 in Canada, while others are aimed more broadly at improving practices for the benefit of all victims of domestic violence.

POLICE

Training:

- 1. Hold a one-day in-person training:** An in-person training session of minimum one day must be provided to all personnel before the new coercive control legislation comes into force. This training would be developed and delivered in collaboration with resources specialized in domestic violence and would include victim testimonials.
- 2. Develop content focused on understanding domestic violence:** Training content would focus on understanding the dynamics of coercive control, the homicidal risk associated with these patterns of behaviour, and identifying the dominant aggressor. The content should also incorporate an intersectional approach. A particular emphasis would be placed on how to interact with victims during these types of interventions.
- 3. Integrate a trauma-informed approach:** The inclusion of a trauma-informed approach would not only promote the well-being of victims during their judicial process, but would also facilitate enhanced support for them, particularly through an improved understanding of their reactions.
- 4. Use interactive, dynamic teaching methods:** The use of evolving scenarios, case studies, impact techniques, body-worn camera footage, and recordings of 911 calls would ensure concrete, practical, and impactful teaching.
- 5. Highlight cases that have led to convictions:** Showcasing actual cases that have made their way through the justice system would provide a concrete illustration of the essential elements to be presented as evidence, all while highlighting the successes achieved. It would also help to mobilize the workforce.
- 6. Develop a *Train the Trainer* structure:** This structure would make it possible to have trainers within work teams, particularly within the call response units. This would ensure the ongoing dissemination of knowledge on coercive control and its continuity after the initial training.
- 7. Ensure ongoing and specialized training for police personnel:** It would be necessary to develop ongoing training sessions on domestic violence for all personnel working within police organizations. As for specialized resources and those dedicated to investigations, a more in-depth training would be called for. According to the suggestions received, this training could last three (3) days and should include joint sessions with specialized prosecutors.

In the field:

8. **Set up a quality control structure:** Setting up supervisory and review mechanisms, as well as adapting guidelines, procedures, and operational practices, would help ensure the quality of interventions and reporting related to cases of domestic violence.
9. **Identify champions:** The appointment of trainers who have completed the *Train the Trainer* course would enable teams to be staffed with resource persons who possess more in-depth knowledge of the issue. These individuals would then be in a position to train their colleagues on the reality of the problem following the initial training, and could accompany them when they intervene in situations involving domestic violence.
10. **Develop a risk assessment tool incorporating coercive control:** The development and use of a DARA-inspired risk assessment tool would enable Canadian police officers to better detect behaviours associated with coercive control, and thereby prevent domestic homicide.
11. **Create specialized teams:** The creation of teams specialized in domestic violence for all Canadian police services would assure victims personalized support, taking into account the time required to facilitate disclosure, associated follow-ups, and the development of a bond of trust.
12. **Establish provincial and territorial teams dedicated to high-risk cases and repeat offenders:** Setting up specialized, permanent, provincial and territorial units inspired by the Scottish model (*Domestic Abuse Task Force*) would ensure optimal monitoring of individuals at high-risk of homicide and repeat offenders, thereby preventing loss of life. This team would be equipped with a wide range of monitoring tools including surveillance, intelligence, and location tools (GPS, anti-approach bracelets, etc.).
13. **Ensure collaboration with judicial and community partners:** Concerted efforts among judicial and community partners, particularly those specialized in domestic violence, would help ensure greater efficiency in the development of safety nets. These exchanges would also help to maintain the involvement of victims all throughout the judicial process. Finally, it would take into account the importance of systematic referral, thus avoiding a gap in the continuum of services.
14. **Strengthen the link between police and prosecutors:** Optimum communication between police and prosecutors is essential. Feedback on the construction of cases and on the evidence to be obtained would enable the court to be provided with robust legal cases. The creation of platforms and of communities of practice between police officers and prosecutors working on domestic violence cases would provide a much-needed forum for discussing the challenges encountered and the possible solutions to address them.

PROSECUTORS

Training:

- 15. Hold a one-day in-person training session:** An in-person training session of a minimum of one day must be provided to all prosecutors before the new coercive control legislation comes into force. This training would be developed and delivered in collaboration with resources specialized in domestic violence and would include victim testimonials.
- 16. Develop content focused on understanding domestic violence:** Training content would focus on understanding the dynamics of coercive control, the homicidal risk associated with these patterns of behaviour, and identifying the dominant aggressor. The content should also incorporate an intersectional approach. Particular emphasis would be placed on how to interact with victims during these types of interventions.
- 17. Integrate a trauma-informed approach:** The inclusion of a trauma-informed approach would not only promote the well-being of victims during their judicial process, but would also facilitate enhanced support for them, particularly through an improved understanding of their reactions.
- 18. Use interactive, dynamic teaching methods:** The use of evolving scenarios, case studies, impact techniques, body-worn camera footage, and recordings of 911 calls would ensure concrete, practical, and impactful teaching.
- 19. Highlight court cases that have led to convictions:** Showcasing cases that have successfully made their way through the justice system would allow for a concrete illustration of the elements to emphasize in court, all while highlighting the successes achieved. It would also help mobilize prosecutors.
- 20. Ensure ongoing and specialized training for prosecutors:** It would be necessary to develop ongoing training sessions on domestic violence for prosecutors and support staff. As for specialized prosecutors, a more in-depth training would be called for. According to the suggestions received, this training could last three (3) days and should include joint sessions with specialized investigators.

In the field:

- 21. Create teams of specialized prosecutors:** The creation of teams specialized in domestic violence for all provincial and federal prosecutors would ensure the development and maintenance of advanced expertise, particularly in terms of connecting with victims, personalized consultation with partners, as well as putting into evidence coercive control and pleading it.
- 22. Establish a vertical prosecution system:** The implementation of a vertical prosecution structure, where a single prosecutor remains in charge of the case throughout the judicial process, would foster a bond of trust with judicial partners and with the victim, all while contributing to consistency in case strategies.

- 23. Adapt directives and procedures and promote a structure of case reviewing:** The evolution of jurisprudence related to domestic violence and the ongoing improvement of practices in this field make it necessary to modify guidelines and procedures. With the potential introduction of an offence of coercive control, the case review process should ensure consistency between the decisions made by prosecutors and the directives that would have been adjusted.
- 24. Ensure regular communication with victims:** Given that maintaining frequent communication with victims increases their confidence in the judicial process, it appears essential to ensure an improved flow of information, particularly regarding the following: explanation of the prosecutor's role and the decisions rendered in the case, bail conditions of the accused, support available within the organization, special assistance measures for testifying, and referrals to appropriate external resources. Holding preparatory meetings would contribute to the victim's feeling of inclusion.
- 25. Develop a holistic approach by facilitating consultation with partners:** Detailed knowledge of partners involved through a holistic approach would help to ensure greater efficiency in the development of safety nets. An understanding of the victim's overall situation would also reduce the obstacles to her involvement in the legal process. To achieve this, exchanges and collaborations, particularly between police officers, victim support workers, and family lawyers, is essential.

OTHER RECOMMENDATIONS

- 26. Develop awareness campaigns for the general public:** The development of awareness campaigns on coercive control for the general public is a must. This type of communication initiative would first and foremost allow to educate the public about the broader concept of domestic violence, so that they can recognize and denounce it. It would also enable victims to identify what they are experiencing and seek the help they need from specialized resources and socio-judicial partners.
- 27. Organize specific training for the judiciary:** The experiences of Great Britain (England and Scotland) show the importance of providing judges with in-depth training on coercive control. This training should last a minimum of one day, be held in person before the offence comes into force, and be developed in collaboration with specialized resources. It would address essential topics such as: the dynamics of domestic violence, coercive control behaviour patterns, the variety of potential reactions from victims, myths and stereotypes, and a trauma-informed approach. It would include case studies and victim testimonials.
- 28. Include training on coercive control for aspiring police officers and bar students:** The integration of training modules into academic curricula, developed in collaboration with resources specialized in domestic violence, seems essential to facilitate the development of an understanding of the issue starting at the earlier stages of training for these professions. Ongoing training subsequently received as part of professional duties would consolidate acquired knowledge.

- 29. Provide training on coercive control for all professionals who work with victims of domestic violence:** To ensure a consistent approach and a standard in the quality of support for all services received by victims, training on coercive control should be offered to all those who work with victims, including specialized victim resource workers, social workers, health and social service professionals, and court personnel.
- 30. Evaluate the feasibility of implementing body-worn cameras for Canadian police services:** All the interviewees we met with emphasized the relevance of the police using body-worn cameras, both for training purposes and to put into evidence coercive control. It would be advisable to consider implementing these cameras within Canadian police organizations.
- 31. Ensure sufficient, sustainable funding for victim support services:** Securing recurrent and sufficient long-term funding for victim support services is and remains a major challenge in Canada. By ensuring its sustainability, community organizations specializing in domestic violence would be able to fully play their role in supporting victims, promoting their well-being throughout the judicial process, as well as with socio-judicial partners. These services are an essential link in providing victims with the psychological and physical safety net they need.

APPENDICES

APPENDIX I - DISTINCTIVE FEATURES OF THE CANADIAN CRIMINAL CODE AND THE ADMINISTRATION OF JUSTICE

Some major distinctions exist in both the administrative structure and the justice systems between the Scottish, English, and Canadian regimes. Many of these represent potential difficulties encountered either by victims in their judicial journey, or by police officers and prosecutors who face requirements that are sometimes distinct from those that their Quebecois or Canadian colleagues would encounter. Although the structures for administering justice vary from one jurisdiction to another in Canada, the following main distinctions should be noted:

1) The corroboration requirement in Scotland

An accused person can only be convicted of a crime if the essential elements - that the offence was committed by the accused - have been corroborated by evidence from two separate sources. This additional requirement poses a particular challenge, especially in the context of offences committed primarily in the private sphere, such as domestic violence.

Note that under DASA, it is not necessary to corroborate each and every situation that meets the offence threshold; it is sufficient to corroborate the presence of the *course of conduct*.

This requirement only exists for three offences in Canada: perjury, high treason, and feigned marriage.

2) The requirement to prove the serious effect on the victim in the *actus reus* of the offence in England

This is one of the biggest distinctions between the offence in England and the wording of Bill C-332 passed by the House of Commons in Canada. This requirement for police officers and prosecutors represents a major challenge, requiring a high level of trust between the victim and those involved in the justice system, in order to obtain the evidence to support the victim's case. The difficulty becomes greater when the victim is more resilient, shows no fear, or reacts in a way that is not expected by judiciary actors. The risk of revictimization that arises from the necessity to expose the serious effect can also hinder victims' participation in the judicial process.

3) The lack of prosecutors specialised in domestic violence in England

With the exception of sexual assault cases, which are dealt with by a specialist team at CPS, prosecutors in England are generalists. Although domestic violence accounts for around 20% of their caseload, the organization has not yet set up a team dedicated to the subject, and which could have developed specific expertise.

4) Poor communication between victims and prosecutors in Scotland and in England

In both jurisdictions, there is very little communication between the victim and the prosecutor who will plead the case at the hearing. In the vast majority of cases, the victim only meets the prosecutor on the morning of the trial. This means that the victim has very little information about the steps being taken prior to the hearing, and it is difficult to establish a bond of trust with the prosecutor, who is essentially unknown to the victim.

5) Lack of vertical pursuit in Scotland and in England

In addition to the lack of communication with the victim, the lack of a vertical prosecution reduces the sense of ownership of the case and complicates exchanges between the prosecutor and the other parties involved, as well as hindering the development of a special bond of trust between the victim and the prosecutor.

6) The use in England of lawyers from outside the organization to act as prosecutors, including defense lawyers, in the absence of sufficient human resources in-house

The arrival of a new lawyer at the very end of the process, just before the hearing, and from outside the organization, increases the risk of a loss of strategy in the case. These lawyers do not benefit from the more extensive in-person domestic violence training offered by CPS to its prosecutors, but only from the additional online modules. The level of knowledge will therefore not be the same. It's probably strange for a victim to think that the lawyer can represent an accused person in the days that follow.

7) The absence of a duty to denounce in England

Even in a situation where a domestic violence offence is reported, a police officer may decide not to submit the case to CPS. In this way, a police report can be written without any further legal action being taken.

It is therefore difficult to estimate the number of coercive control infractions that could have been accounted for if all those reported had been submitted for analysis by a prosecutor.

8) Lesser sentence for the offence of coercive control in England than for other criminal offences applicable to domestic violence

The lower sentence for the offence of coercive control may encourage the choice of laying charges for other offences, with heavier sentences, especially considering the work required to prove controlling and coercive behaviour. The maximum sentence for coercive control is five years, while stalking and harassment can carry sentences of up to ten years' imprisonment, or even life imprisonment for rape.

APPENDIX II - STATISTICS MITIGATION

The low rates of cases submitted under the coercive control offence rather than under individual offences can be explained by several factors. Some would be distinct from the situation of criminalization under Bill C-332 in Canada, others could find echoes in the country as well:

1) In England, sexual assault, harassment and stalking are treated as separate offences from coercive control.

Thus, as the offence of coercive control is not an "umbrella" offence, it is stripped of certain controlling behaviours in favour of other offences such as stalking, harassment, and sexual assault. As a result, the number of cases identified as coercive control offences is likely to be lower.

In Scotland, these behaviours can also be treated individually but should be submitted under DASA when a pattern of behaviour is established. One of the objectives of COPFS is to increase the proportion of domestic violence cases dealt with under DASA rather than as separate offences. This approach, however, requires improved evidence gathering by police officers and prosecutors successfully highlighting patterns, with a better understanding of the dynamics of coercive control. Canada could face a similar challenge in the early years of the legislation.

2) Decline in the number of domestic violence trials: situations grouped under DASA in Scotland

Greater use of DASA should theoretically lead to a reduction in the number of trials: rather than giving rise to a multiplication of separate cases, a pattern of behaviours stretching over a certain period of time should constitute a single case.

3) Change in counting methodology in England

The way in which police must record crimes changed in June 2023. The *Home Office Crime Recording Rules* reinstated the principal crime rule, originally withdrawn in 2017, which states that only the most serious crime in an intervention should be recorded, even if several have been committed and all should be investigated. Thus, in a domestic violence context where several offences may be applicable, not all of them will appear in the statistics reported by the police.

4) In England, prior to April 5th, 2023, post-separation domestic violence was not covered by this offence.

Indeed, paragraph 2 of Section 76 of the *Serious Crime Act 2015* had established a restrictive definition of the personal connection required. The victim and her abuser had to still be in a relationship, or live together AND have been in a relationship or be related. Post-separation domestic violence by a couple no longer residing together was instead to be considered under other offences, including stalking.

It is only recently, following the amendment of the *Serious Crime Act 2015* by section 68 of the *Domestic Abuse Act 2021*, a legislative change which came into force on April 5th, 2023, that coercive control can be considered for behaviour occurring post-separation of a couple no longer cohabiting together. This amendment is not retroactive and therefore does not cover behaviour that occurred prior to April 5th, 2023. Statistics over the next few years may provide a more representative picture of the extent of controlling and coercive behaviour.

In Canada, the amended wording of Bill C-332 does not specify a time limit since the end of the relationship for the offence to apply.

- 5) In England, a file must generally be submitted by the police officer and authorized by the prosecutor within the same shift.

It remains more comfortable for the actors to build a case on an isolated incident approach, and the investigation of a coercive control offence takes more time to delve into the history of the relationship with the victim. It therefore often appears simpler to submit an individual offence, in order to respect the constraint of submitting and authorizing a case within a single shift.

- 6) In Scotland, the short time that has elapsed since DASA came into force does not allow us to have a complete picture of the legislation's effectiveness, especially with the pandemic.

DASA only came into force on April 1st, 2019. The COVID-19 pandemic that occurred less than a year after DASA came into force affected the judicial system in Scotland, as elsewhere in the world. In addition to institutional slowdown, the need for corroboration under Scottish criminal law presented a particular challenge, due to the isolation exacerbated by the health restrictions imposed. According to the interviewees, it is too early to draw any real conclusions from the statistics surrounding the application of DASA.

- 7) Lack of understanding of coercive control by some judicial actors

As mentioned by most of the interviewees, legislative change is of little use if police and prosecutors do not understand the dynamics of domestic violence. A mastery of the concept of coercive control is necessary to be able to identify the available evidence and build a case under this offence. The increase in cases submitted under these new laws will continue as the actors refine their understanding.

- 8) Victims' difficulty in recognizing coercive control

In order for victims to report offences to the police, the public must be equipped to understand what coercive control is and what behaviours fall under it. Many have told us that victims still have difficulty identifying the actions that constitute coercive control, and that efforts must continue in this direction.

- 9) Drop in charges for all types of crime

According to some of the people we spoke to in England, the drop in the number of charges is affecting not only domestic violence cases, but all types of crime. One of the causes would be the lack of funding for the justice system.

- 10) Presence of deterrents to victims' involvement in the judicial process:

- Inadequate layout of courthouses and courtrooms.
- Lack of counselors and support for victims within judicial organizations, due to lack of funding.
- Lack of mastery of the trauma-informed approach by both police and prosecutors.
- The generally lenient sentences.
- The multiplication of delays and postponements in proceedings at the very last moment, when the victims have taken time off work to testify.
- The lack of communication between victims and prosecutors, and the scarcity of information passed on to them, including when the aggressor is released on bail.
- The work in silos between institutions and jurisdictions.
- The need to adapt approaches and services to younger victims, such as the use of text messaging.

APPENDIX III - MISCELLANEOUS ITEMS

On the Disclosure Scheme for Domestic Abuse Scotland (hereinafter DSDAS) ⁸

DSDAS is a mechanism by which a person can ask the police whether an individual has a history of domestic violence, and if so, that the information be disclosed to his partner. The request for verification can be completed by the partner herself, or by a third party if that person believes that the partner should be informed of the history. *Police Scotland's* stated aim is to enable the partner to make an informed decision about continuing the relationship if there is a risk. A panel of experts then meets to decide whether, how, and what information should be passed on to the partner.

For the DSDAS to be applicable, the partner must be in a relationship or at risk of being in a relationship with the individual. There must also be at least one element in a police report, even if no charges have been laid beforehand.

The effectiveness of disclosure mechanisms such as DSDAS depends primarily on the quality of collaboration between the members of the decision-making committees, meaning that victim resources, police, and other socio-judicial actors work as equals. An evaluation process could be relevant to ascertain the victim's sense of safety in the short and medium term after receiving the information, but also to find out whether the decision to remain in the relationship despite knowledge of the communicated risk has been upheld against them in family law.

About EDDACS

This is a support service for victims of domestic violence during their legal proceedings. Victims must give their consent to receive the service and are mainly referred by police officers following the arrest of their partner or ex-partner. The team generally receives the police report, then contacts the victim before filing their own report with the court, in time for the suspect's appearance. When interviewing the victim, staff seek to find out her perception of the situation and the risk she faces. If she agrees, a risk assessment is carried out. Protection scenarios are also identified.

EDDACS and its specialized domestic violence counsellors also prepare the testimony with the victim and submit requests for special testimonial assistance measures.

⁸ Some Canadian provinces have adopted Clare's Law, which allows police services to disclose certain risk-related information in cases of domestic violence, under certain conditions.

APPENDIX IV - EXCERPT FROM BILL C-332 ON COERCIVE CONTROL

SUMMARY

This enactment amends the *Criminal Code* to create an offence of exercising coercive control of an intimate partner by engaging in a pattern of conduct that consists of any combination, or any repeated instances, of any of the following acts: using, attempting to use or threatening to use violence against certain persons, coercing or attempting to coerce the intimate partner to engage in sexual activity or engaging in other conduct that could reasonably be expected to cause the intimate partner to believe that their safety, or the safety of a person known to them, is threatened.

It also makes consequential amendments to other Acts.

An Act to amend the Criminal Code (coercive control of intimate partner):

“Offence

264.01 (1) Everyone commits an offence who engages in a pattern of conduct referred to in subsection (2)

- a) with intent to cause their intimate partner to believe that the intimate partner’s safety is threatened; or
- b) being reckless as to whether that pattern could cause their intimate partner to believe that the intimate partner’s safety is threatened.

Pattern of Conduct

(2) A pattern of conduct consists of any combination, or any repeated instances, of any of the following acts:

- (a) using, attempting to use or threatening to use violence against
 - (i) the intimate partner,
 - (ii) any person under the age of 18 who is the intimate partner’s child or who is in the intimate partner’s lawful care or charge,
 - (iii) any other person known to the intimate partner, or
 - (iv) any animal that is in the care or is the property of the intimate partner;
- (b) coercing or attempting to coerce the intimate partner to engage in sexual activity;
- (c) engaging in any other conduct — including conduct listed in any of the following subparagraphs — if, in all the circumstances, the conduct could reasonably be expected to cause the intimate partner to believe that the intimate partner’s safety, or the safety of a person known to them, is threatened:
 - (i) controlling, attempting to control or monitoring the intimate partner’s actions, movements or social interactions, including by a means of telecommunication,
 - (ii) controlling or attempting to control the manner in which the intimate partner cares for any person under the age of 18 referred to in subparagraph (a)(ii) or any animal referred to in subparagraph (a)(iv),
 - (iii) controlling or attempting to control any matter related to the intimate partner’s employment or education,
 - (iv) controlling or attempting to control the intimate partner’s finances or other property or monitoring their finances,
 - (v) controlling or attempting to control the intimate partner’s expression of gender, physical appearance, manner of dress, diet, taking of medication or access to health services or

- to medication,
- (vi) controlling or attempting to control the intimate partner's expression of their thoughts, their opinions, their religious, spiritual or other beliefs, or their culture, including the intimate partner's use of their language or their access to their linguistic, religious, spiritual or cultural community,
 - (vii) threatening to die by suicide or to self-harm.

Circumstances

- (3) The circumstances referred to in paragraph (2)(c) include the nature of the relationship between the accused and the intimate partner, in particular whether the intimate partner is in a position of vulnerability in relation to the accused.

Punishment

- (4) Everyone who commits an offence under this section is
- (a) guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years; or
 - (b) guilty of an offence punishable on summary conviction.

For greater certainty

- (5) For the purposes of this section, and for greater certainty, a person's safety includes their psychological safety."