



REGROUPEMENT DES MAISONS
POUR FEMMES VICTIMES
DE VIOLENCE CONJUGALE

MISSION TO GREAT BRITAIN (Scotland and England) ON THE CRIMINALIZATION OF COERCIVE CONTROL

September 25, 2024

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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 (Collective of women's shelters for victims of domestic violence) (hereinafter the Collective) launched a vast project to improve judicial practice by integrating 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 the Canadian parliamentary community.

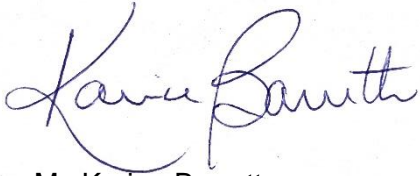
It was in this context that the Collective and the Canadian Association of Chiefs of Police (hereinafter CACP) came out in favour of criminalizing coercive control. Following several submissions, numerous amendments requested by the Collective and the CACP were incorporated into the latest version of 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 about the implementation of the offence, and its practical application by police and prosecutors. Some refer to the challenges encountered in Great Britain, without however adequately grasping the causes or addressing the solutions identified.

It was in this context that a mission to London and Edinburgh was conducted by the Collective, in collaboration with the 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, and concrete solutions to address or, better still, avoid them in Canada.

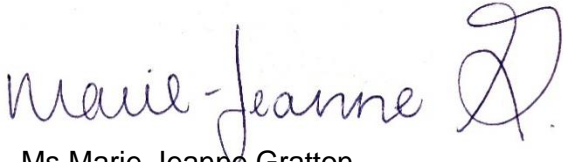
The results of this mission are presented in this report. For ease of reading, we have divided it into four main sections: police (1), prosecutors (2), victim services and researchers (3) and recommendations (4).

We would like to thank Isabelle Dorion, criminal prosecutor and provincial domestic violence coordinator as well as Director of criminal and penal prosecutions, who attended the virtual 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.



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

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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 the challenges of criminalizing 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 face-to-face training session in the year leading up to the Act's entry 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 the continuum associated with coercive control (*course of conduct*) and the police approach to interactions 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. This basic training is now part of the curriculum at the Scottish Police College, ensuring that the next generation of police officers is ready to intervene in cases of coercive control.

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 main aggressor is also covered, to help avoid revictimization through the use of cross-complaints².

As for the elements to be taken into consideration, those we interviewed stressed the importance of training for all judicial actors, in person and not online, to encourage participation and interaction between the trained actors 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). The 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 front-line 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.

These same officers will generally interview the victim using the *Domestic Abuse, Stalking, Harassment and Honour based violence Risk Assessment Tool* (hereinafter DASH), a risk assessment tool developed in Great Britain. This tool poses a series of questions to help officers understand the risk associated with coercive control experienced by the victim. It also helps confirm 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 some 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 makes it easier to 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 report any crime related to domestic violence. This obligation is not questioned by the police officers we met. As for identifying the main 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 main aggressor in the report submitted. 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 mention some additional points raised by representatives of Police Scotland. Elements which, if 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 domestic violence by Scottish police officers. Ongoing training would 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 the coercive control dynamic 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 the 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 reluctant to consult specialized teams (T-2). This reluctance is counter-productive and does not encourage optimum handling of domestic violence cases, nor does it promote consultation 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 gather as much information as possible.

Here are the essential elements of an ideal police intervention by an officer, according to the people we spoke to:

- 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.

A quality control structure must be a key element of 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 mobilization of certain key team members. By the same token, it will reduce the risk of 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 to shed light on the continuum of 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 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> >

Rather than focus on the number of charges laid, which at first glance may not live up to expectations, members of Police Scotland reminded us that it would be preferable to assess the impact of the adoption of the DASA in terms of the security offered to victims. This sense of security includes improved police intervention and the creation of additional levers 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*. These included senior officers and specialized domestic violence investigators.

Training component

The criminalization of coercive control was achieved sooner in England than in Scotland. In 2015, 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 or ex-partners who were still living together. What's more, the offence was, and remains to this day, a subjective one, meaning that the prosecutor must demonstrate to the court the significant effect that the proscribed behaviour has had on the victim. Police officers with no prior training before the legislation came into effect had to deal with a new offence without knowing the ins and outs. This led to a misunderstanding of the offence, an inconsistent application of the law and, as a result, fewer charges being laid than originally expected. It 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. This same institution also developed a "*train the trainer*" training program to help police services better integrate these concepts. It's important to note that in England, the *College of Policing* sets the curriculum for general police training, but that responsibility for delivering this training lies with police organizations.

It should be noted that it will take 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 stated 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 those we interviewed felt the key to success remains training police officers in the field.

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 incident 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 offence is detected, police officers are responsible for securing evidence, interviewing witnesses, children and neighbours, where appropriate, and then arresting the suspect. On the *Metropolitan Police* side, 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. The investigator may also take statements from the children, if 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 report 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 much frustration and can lead police officers to no longer lay coercive control charges. The burden of proof 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, leads to a certain lack of consistency in the evidence requested, and makes 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 he or she does not appear to get 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 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 the police. Also of concern are issues of racism and sexism, which are recognized within police 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 front-line 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 departments 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 face-to-face 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 focuses on the wording of the DASA, but mainly on the notion of patterns of behaviour. In addition, the training includes a section on trauma, providing a better understanding of the different reactions victims have, 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 (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 told them that at a certain point, he would burst the balloon, but he didn't say 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 by specialized domestic violence professionals 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 behaviour patterns and are thus able to identify the main 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 the 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 the DASA to incorporate the important elements to be assessed when dealing with this type of case. These guidelines are not public.

In the judiciary, judges were trained before the DASA came into force. They learned about domestic violence, the concept of behaviour patterns, the trauma-informed approach, the wording of the law, and so on. The training included case studies. The training was provided by prosecutors, a trauma psychologist, 'Caledonians'⁴ 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 the 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 cases of spousal violence involving isolated incidents (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 the DASA) than isolated incidents, as several pieces of evidence can verify the victim's version. Prosecutors need to be able to corroborate only two of the elements charged, even if the perpetrator is charged with a series of situations. This is particularly useful in cases where the victim reports having experienced sexual violence. Under the 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 the DASA specifies that a defendant may be convicted of an alternative offence if the facts proved against do not amount to the offence under section 1 of the DASA. 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 the DASA was the increase in the number of guilty pleas in these cases.

As the offence is not retroactive, a count can only start on April 1st, 2019. Eventually, they will be able to lay a single charge under section 1 of the 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 escalation (unlike the offence, which needs two sources of corroboration), and it can come from a third party.

⁴ 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 the DASA stipulates that where a child is involved (whether directly witnessing the events or not), and there is evidence to that effect, the court must take this into account at the sentencing stage as an aggravating factor.

Best practices

At the COPFS level, the elements identified 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 the 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 to speed up the case resolution process (not restricted to domestic violence) and 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 guilty plea.

Areas of improvement

At the COPFS level, the targeted elements are:

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

(2) ENGLAND

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

Training component

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

Once the law was enacted, CPS designed a one-day face-to-face 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 coercive control and *patterns*. The training includes sections on the law, domestic violence theory as well as myths and stereotypes. They also developed complementary training modules (online, 3 hours each) devoted to understanding coercive control, stalking, a trauma-informed approach, etc.

The reflex of those involved in the justice system is to adopt a vision based on isolated incidents. We had to rely on the concept of coercive control to change this view. One interviewee asserts that while it was normal to identify isolated incidents at first, we now need to be able to dig deeper to 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 for 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. Over the past three years, CPS has also developed a new internal policy on domestic violence, an induction kit for new prosecutors and a joint policy with police officers.

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

As far as the judiciary is concerned, no mandatory training in 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 the examination of deaths in the context of domestic violence, media visibility 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 is too high (around 20% of cases). Instead, their approach is to train all prosecutors 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 significant impact 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 the CPS to counter the view of isolated incidents is to obtain the full version of the police officer's risk assessment (*Domestic Abuse Risk Assessment*, hereafter DARA, or DASH). This also enables more appropriate conditions to be identified and a more representative sentence to be requested.

The goal for prosecutors at the 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 problem between prosecutors and police. The absence of the victim's testimony is an issue in coercive control cases, as proof of impact is required. Sometimes, other witnesses can provide proof (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 file authorization stage (prosecutors review all files authorized or denied each month and may ask the prosecutor to reconsider his or her decision). Sometimes, prosecutors will authorize a charge for a physical violence-related offence separately from the coercive control charge in order to leave a record on the suspect's file (more detailed history), 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 of violence against victims. Few coercive control cross-complaints, as opposed to stalking, are forwarded to the CPS. Instead, the police analyze the identification of the main aggressor beforehand.

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

As for the involvement of children, prosecutors try to limit their participation, 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 represented a great opportunity of empowerment for the child. In general, children are mainly heard at the sentencing stage regarding the consequences of the crime.

Best practices

At the CPS level, the elements identified 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 items to be fetched within the 30-day deadline), and
- the project implemented in certain districts (including North Wales): a managing 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:

- focus on understanding the concept of coercive control (as much as the law) to avoid blaming the victim,
- establish communication between the prosecutor and the victim before the morning of the trial,
- provide victims with more information about the process,
- rebuilding victims' trust in the justice system,
- send positive messages to victims of domestic violence about successful outcomes in the legal process,
- raise public awareness of the concept of coercive control, and
- reduce silo work (criminal law/family law).

SECTION III - VICTIM SUPPORT SERVICES AND RESEARCHERS

(1) SCOTLAND

On May 27 and 28, 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

The 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 is an important acknowledgement that coercive control is unacceptable, but also a validation of their overall lived experience. This symbolic value is very important, something that was emphasized by the many people we interviewed. More time will be required to paint an overall picture of the global impact of the adoption of the DASA, as its entry into force is relatively recent and its application was significantly impacted by the Covid-19 pandemic. Institutions are open to the necessary changes, and key people are mobilized to make them happen. Structures need to be put in place to ensure that effective practices are maintained, regardless of the identity of the managers in place. 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, body-worn camera footage used by police officers is considered to be extremely useful when it comes to understanding victims' reactions during training sessions.

This concept of an alliance with the victim is particularly successful for specialized domestic violence investigation teams at *Police Scotland* levels 2 and 3, i.e. the members of the local specialized teams (T-2) and those of the *DATF* (T-3) respectively. They receive more training in both the dynamics of coercive control and the trauma-informed approach. They have more time to spend with victims and adopt a more informal approach. Victims report a high level of satisfaction from their interactions with these teams. The *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 service 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 of the justice system. While much remains to be done, access to the online directory of victim support services is a simple example. In terms of safety and inclusion, *The Caledonian System*, a resource for perpetrators, ensures communication 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 the DASA might be used against the victim in criminal cases, those we interviewed confirm that this fear did not materialize 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 main aggressor and avoid wrongly bringing the victim to court. The challenge is greater in cases of assault, where there may be confusion about the victim's reactionary violence. Even if the police conduct an analysis of the main aggressor and ultimately do not submit the case against the victim to the prosecutor, it is important to continue to pay attention to the behaviour adopted by the victim during the intervention to avoid her being arrested or feeling at fault and 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 conditions of release.

In summary:

- The legislation is an important recognition for victims.
- Institutions are open to the necessary changes, and key people are mobilized to make them happen.
- The message about the usefulness of police body-worn camera images for training was often reiterated.
- An alliance with the victim is particularly successful for specialized domestic violence investigation teams at *Police Scotland* levels 2 and 3, thanks in part to their enhanced training (coercive control dynamics, trauma-informed approach) and the extra time they have to spend with victims, via 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 the online directory of victim support services is helpful.

Areas of improvement

It is hoped that officer training on several topics will continue: how to interact with victims, the dynamics of coercive control as a means of understanding behavioural patterns, and the identification of evidence to be collected, a step that is much simpler once the concept has been mastered. Victims would have less of a sense 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 the 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 lies in the fact that victims downplay the situation and the obstacles they face in disclosing the history of the relationship. Raising awareness of 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 the 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 video-link testimonials, which are still under-utilized but have proven to be helpful on various levels (stress, trauma-informed approach, etc.), as well as a service to accompany victims to court delivered by volunteers specifically trained to support them on the day of trial. These are often law or psychology students.

Another major flaw that was repeatedly highlighted is the lack of communication between judicial authorities and victims, thereby interfering 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 trauma-informed approaches. Yet, recognizing these impacts, taking steps to limit them, and a systematic referral to resources appear to be essential steps towards improved support for people who have experienced domestic violence. 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.
- Assailants are sometimes released without victims being informed.
- Release conditions need to be improved and adapted to the specific situation of each victim, and their needs taken more seriously by police agencies.
- 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 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 is much more stressful than testifying at a distance.
- 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.
- The silo approach related to incidents 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 the DASA, is under-reported by criminal justice actors. If they are not direct victims, they will not be the part of the conditions of release or the non-harassment order.

(2) ENGLAND

At meetings held on May 30 and 31, 2024, we spoke with a member of the *Women's Aid UK* team, as well as 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 of 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 change takes 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 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 the dynamics of coercive control, but also on people skills rather than knowledge of the law. Legislation will be of little use in combating the problem 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. When coercive control is well understood, the evidence is more abundant. 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 session to police officers, a winning formula is considered to be a one-day face-to-face training course, with a joint presentation by a trained police officer and a representative from a victims' organization. It also includes case histories that emphasize practicality and encourage interaction. Smaller groups allow for immersive learning experiences. For investigators, the emphasis is on the presentation of evolving scenarios in which they must react as they go along, with feedback on the exercise at the end. Training must be developed and presented in collaboration with organizations specializing in domestic violence. The importance of ongoing training was also emphasized. When asked about the scope of participants who should attend the training session, 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 marital 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 confirm the absence of consent. 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 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, than vice versa.

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

- The 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 to specific requests 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, the 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 in tackling the source of the problem. The campaigns came from a variety of sources (*Home Office*, 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, soap operas and series inviting them to raise awareness.

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 many initiatives that are bringing about positive change, the people we interviewed also mentioned several challenges encountered on the ground that prevent English legislation from reaching its full potential in practice:

- **Police:**

- There is a need to prove the significant impact on the victim, which can be difficult to establish and requires a high level of trust.
- Screening for coercive control is hampered when the victim's mother tongue is not English.
- Staff turnover.
- Resistance to change among some members.
- Systemic issues within these organizations: racism, sexism, etc.
- The loss of confidence among women from diverse backgrounds.
- The management of aggressors who are themselves members of a police service.
- 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 was later offered to police officers to help them understand the concept of coercive control, which led to police disengagement as files did not proceed.
- Unofficially high threshold for many prosecutors to proceed with a charge 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 files.
- Lack of funding.
- Lack of understanding and training about domestic violence.

- **Others:**

- It would be useful to set up a mechanism for exchanges and feedback between prosecutors and police officers, so that they can be informed of cases that have been well prepared, were completed, and for which the work was successful.
- The difficulty for victims to identify themselves as such in terms of coercive control, and to recognize proscribed behaviours, as the initial wording shed little light on the subject.
- The lack of funding to combat domestic violence, through health, social services and shelters.
- Challenges in implementing the *Domestic Abuse Act* of 2021 and major delays in cases submitted under this legislation.

It's also worth noting that police officers generally have to finalize the case on the same shift. This pressure means that cases are put together quickly. So, depending on the complexity of the evidence required for 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 could 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 offenses 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 the representing a broader vision of it.

SECTION IV - RECOMMENDATIONS FOR CANADIAN JUDICIAL ACTORS

In light of the information gathered during our mission to 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 face-to-face training session:** A face-to-face training session of a minimum of 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 primary 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.
- 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 provide enhanced support for them, particularly through a genuine understanding of their reactions.
- 4. Use interactive, dynamic teaching methods:** The use of evolving scenarios, case studies, impact techniques, hand-held camera footage and 911 call recordings 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 in evidence, 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 and the sustainability of coercive control know-how, after the initial training.
- 7. Ensure ongoing and specialized training for police personnel:** Ongoing training sessions on domestic violence must be developed for all police personnel. More in-depth training is required for investigative and specialized officers. 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 trainers:** 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 spousal homicide.
- 11. Create specialized teams:** The creation of specialized domestic violence teams for all Canadian police services would provide victims with personalized support, taking into account the time required to facilitate disclosure, complete the associated follow-up and develop 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 high-risk homicidal individuals and repeat offenders, thereby preventing loss of life. This team would be equipped with a wide range of monitoring tools including surveillance, shadowing, intelligence, location tools (GPS, anti-approach bracelets, etc.).
- 13. Ensure collaboration with legal 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 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 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 face-to-face training session:** A face-to-face 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 primary 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 provide enhanced support for them, particularly through a genuine understanding of their reactions.
- 18. Use interactive, dynamic teaching methods:** The use of evolving scenarios, case studies, impact techniques, hand-held camera footage and 911 call recordings 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 provide a concrete illustration of what can be argued in court, while highlighting the successes achieved. It would also help mobilize prosecutors.
- 20. Ensure ongoing and specialized training for prosecutors:** Ongoing training sessions on domestic violence must be developed for prosecutors and support staff. More in-depth training is required for specialized prosecutors. According to the suggestions received, this training could last three (3) days and should encourage joint sessions with specialized police investigators.

In the Field:

- 21. Create teams of specialized prosecutors:** The creation of specialized domestic violence teams for all provincial and federal prosecutor agencies would ensure the development and maintenance of advanced expertise, particularly in terms of approaching victims, personalized consultation with partners, and proof of coercive control and its argumentation.
- 22. Establish a vertical prosecution system:** 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 the victim, while contributing to achieving consistency in case strategies.

- 23. Adapt guidelines and procedures and promote a file review structure:** 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 file review process should ensure consistency between the decisions made by prosecutors and the guidelines that have been adjusted.
- 24. Ensure regular communication with victims:** Given that frequent communication with victims increases their confidence in the judicial process, it is 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, conditions for the release 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 in 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 his or her involvement in the legal process. To achieve this, it is essential to engage in dialogue and to work together, particularly with police officers, victim support workers and family lawyers.

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 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:** Experience in Great Britain (England and Scotland) shows the importance of providing judges with in-depth training on coercive control. This training should last a minimum of one day, be held face-to-face before the offence comes into force, and be developed in collaboration with specialized resources. It would address such essential topics as: the dynamics of domestic violence, coercive control behaviour patterns, the variety of potential victim reactions, myths and stereotypes, and the trauma-informed approach. It would include case histories 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 problem right from the apprenticeship phase of these professions. Ongoing training subsequently received as part of their professional duties would consolidate their 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 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 in Canadian police services:** All the people we spoke to emphasized the relevance of the police using body-worn cameras, both for training purposes and to demonstrate coercive control. It would be a good idea to consider implementing these cameras within Canadian police organizations.
- 31. Ensure sufficient, sustainable funding for victim support services:** Securing recurrent long-term funding for victim support services is and remains a major challenge in Canada. By ensuring continuity, community organizations specializing in domestic violence will 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 their Quebec or Canadian colleagues would have to 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 infringement 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 sham marriage.

2) The need to prove the significant 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 on 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 those involved in the justice system. The risk of revictimization that arises from the need to expose the significant impact can also hinder victims' participation in the judicial process.

3) The lack of specialist domestic violence prosecutors in England

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

4) Poor communication between victim and prosecutor in Scotland and 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) No vertical pursuit in Scotland and England

In addition to the lack of communication with the victim, the absence 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 in-house human resources.

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. Nor do these lawyers benefit from the more extensive face-to-face domestic violence training offered by CPS to its prosecutors, but only from the complementary online modules. The level of knowledge will therefore not be the same. It's probably unusual for a victim to think that a 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 the 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 recorded 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 other offences, with heavier penalties, 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 *pattern-finding* by prosecutors, 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 behaviour 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* have reinstated the primary crime rule, originally withdrawn in 2017, which states that only the most serious offense in an intervention should be counted, even if several have been committed and all should be investigated. Thus, in a domestic violence context where several offenses may be applicable, not all will appear in the statistics reported by the police.

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

Indeed, paragraph 2 of Section 76 of the *Serious Crime Act 2015* established a restrictive definition of the personal connection required. The victim and his or her abuser always had to 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 offenses, 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 5, 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 5, 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 players 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 a single shift per case.

- 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 1^{er} April 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 the 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 people we spoke to, 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 people we spoke to, 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 players 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 is 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-based approach by both police and prosecutors;
- The generally lenient penalties;
- More and more 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, particularly when the aggressor is released;
- Working in silos between institutions and jurisdictions;
- The need to adapt approaches and services with 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, whether the information should be disclosed to the individual's 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, i.e. that victim resources, police and other legal players 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 are keen 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 the Clare Act, which allows police services to disclose criminal records in cases of domestic violence, under certain conditions.

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

CONTENTS

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 an 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.