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Domestic Abuse (Scotland) Act 2018 and the Criminal Justice System

Women's experiences two years in; the emerging findings.

January 2022

Collated and written by Dr Nancy Lombard, Dr Katy Proctor,
and Dr Nel Whiting | Glasgow Caledonian University

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Most of all, however, we are enormously grateful to all the women who gave up their extremely valuable time to contribute to our research survey and interviews. Your generosity, strength, and resilience continues to inspire us all.


The views expressed in this report are those of the authors and not necessarily those of the Scottish Government or JAS.

DEDICATION

For all victim/survivors, past, present and future, of gender-based violence.

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EXECUTIVE SUMMARY

INTRODUCTION AND METHOD

This report has been collated as part of the Reporting Requirement (Section 14) of the Domestic Abuse (Scotland Act) 2018 (DASA)¹. This includes an obligation to report on “information about the experience of witnesses (including witnesses who are children) at court”. It is specified that this information must cover both DASA Section 1 offences and aggravated domestic abuse offences as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. The aims of the research for this requirement were to;

1. Explore the individual experiences of women, age 18+, who progressed through the criminal justice system (from initial reports to the police through to court proceedings) as victims/survivors of domestic abuse since the Domestic Abuse (Scotland Act) 2018 was implemented.
2. Consider their experiences through the lens of procedural, distributive, effective and therapeutic justice.
3. Explore participant reflections on the effectiveness of non-harassment orders (NHO), the impact of COVID, and suggested improvements to the justice system that could improve female victim/survivor experiences.

Data was gathered through an open online survey which was distributed through social media, criminal justice networks and organisations including the Scottish Women's Rights Centre, ASSIST, the Scottish Women's Aid network, and the Crown Office and Procurator Fiscal Service. The data was drawn from a survey funded as part of a wider Justice Analytical Services Grant programme on improving the evidence base around the experiences of users of the justice

system to examine women's experiences of the criminal justice system having reported coercive control, stalking and related crimes. This report focuses on only the responses of women who had made their initial contact with the criminal justice system since the inception of DASA (1 April 2019) and identified themselves through the survey as doing so. Quantitative data was collected (from closed questions) as well as qualitative data (from open questions) within the body of the survey.

The survey questions were broken down into the following sections ;

1. About You – demographic questions³
2. Your Experiences – general information about the context of their experiences
3. About the Perpetrator
4. Your Experience with the Police
5. Your Experience with the Procurator Fiscal
6. Your Experience with the Criminal Courts – including questions about the court process, non-harassment orders, special measures, sentencing
7. Other Related Experiences – questions about related agencies such as Criminal Justice Social Work, Child Contact Centres etc.
8. Your Reflections on Your Experiences

This research captured the views and experiences of (female) adult victims/survivors in order to improve our understanding of the operation and effectiveness of the new domestic abuse legislation. The research will also inform the wider policy development for Violence Against Women and Girls and ongoing delivery of the Scottish Government's Equally Safe Strategy.

A survey was used to collect data to maximise the number of participants who could take part within the

1. The research that informs this report was conducted in 2021 as part of a larger Scottish Government funded project.
2. A separate report is being prepared on the findings of the grant funded piece.
3. The majority of questions were not compulsory for participants to answer and so there were some sections which had no responses from this cohort of participants. In other sections, only qualitative answers were given.

time constraints of the project. In addition, a survey allowed a greater degree of flexibility for women to respond. They could choose the time and place in which they answered the questions and could complete the survey incrementally if necessary. As the DASA law was established in 2019 there was a limited pool of individuals who had experienced DASA court processes from start to finish, however, as the statutory domestic abuse aggravator was implemented in the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 the research had potential to draw a large participant cohort. However, despite this, the report is informed by the responses of only 29 participants (12 of whose cases were referred to court). Whilst all the women reported experiences of coercive control and psychological abuse, not one of them in this sample

reported that the perpetrator received a conviction for the crime of Domestic Abuse under the Domestic Abuse Scotland Act (2018). Therefore, the findings are limited in their scope and cannot be generalised.

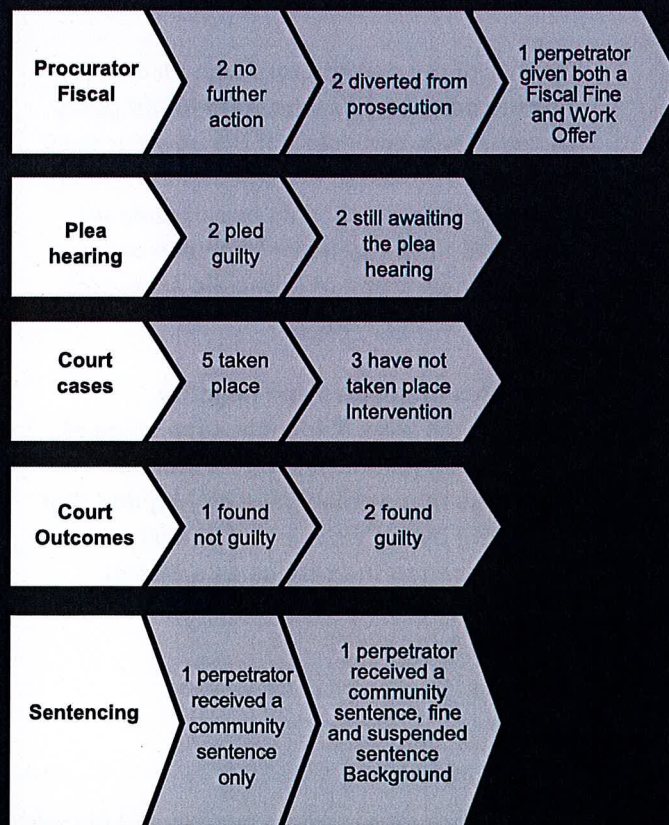
The small number of participants could be due to many factors, however, it is not possible to say definitively why the response rate was so low. It may have been a consequence of the disruption caused by the onset of COVID-19 pandemic in March 2020 or methodological limitations. It is also possible that as the survey asked about experiences with the criminal justice system that started only after the 1st April 2019 many women felt they were unable, emotionally, to reflect on their experiences so soon. Figures 1 and 2 summarise the women's journeys through the criminal justice system.

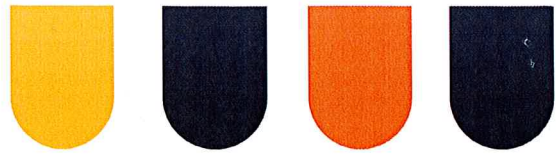
Figure 1: The number of participants whose reports progressed to the procurator fiscal, court, plea hearing and trial respectively.



*Neither were found guilty of the crime of Domestic Abuse

Figure 2: A summary of case outcomes at different stages of the Criminal Justice System.



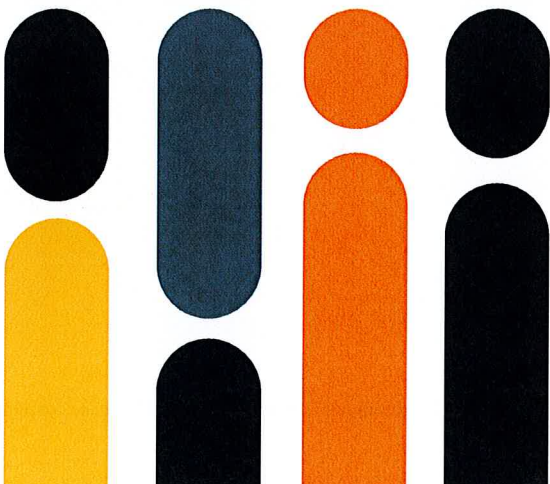


KEY FINDINGS

- **With the implementation of the progressive Domestic Abuse Scotland (2018) Act, Scotland continues to lead the way in striving to provide a survivor centred approach to address some of the challenges described in the wider academic literature. It is in that context that this report evaluates women's experiences of the criminal justice system as they progress under the DASA.**
- **Twenty-nine women who had made their initial contact with the criminal justice system after the implementation of the DASA participated in this research.**
- **At the time of writing 11 charges of Domestic Abuse had been made, and five cases had gone to trial. Two perpetrators were found guilty⁴, however, it was not possible to establish the specific crimes of which they were found guilty, only that they were related to domestic abuse.**
- **Neither of the perpetrators who pled guilty, nor the perpetrators who were found guilty in court were convicted of the new crime of Domestic Abuse (as specified in the DASA). Of these four cases, only one participant indicated the perpetrator had been charged with the new crime of Domestic Abuse (as specified in the DASA).**
- **Examples of positive and negative experiences were evident at each stage of the criminal justice system for women. The examples that women gave highlighted that treatment by individuals within each service (as opposed to the service as a whole)**
 - **determined whether an experience was positive or negative. In particular, women noted that communication (good or bad) with respective agencies was of significance in how they experienced the criminal justice system. It was also evident that regardless of the process outcome, kind and empathetic treatment could make a significant difference to women's experiences.**
- **Overall women reported a sense of alienation and exclusion from the justice process primarily due to a lack of regular communication from respective services⁴.**
- **DASA has the potential to excel with regards to procedural, effective, distributive, and therapeutic justice, yet these findings suggest that for some women, there are actors and processes within the criminal justice system that undermine its effectiveness for victim survivors.**
 - **Women respondents report that perpetrators continue to exploit the processes and procedures of the criminal justice system to further their abuse.**
 - **Women reported perpetrators were able to breach their bail, interdicts and Non-Harassment Orders without criminal justice intervention.**
- **Often, the case outcome left women feeling like it had been a waste of time, that the sentences (where applicable) were too lenient, their experiences of abuse were minimised, and that they were not valued within the criminal justice system.**

4. The survey did not ask about women's experiences of the third sector during their contact with the criminal justice system.

- **The effects of COVID appear to have compounded existing delays exacerbating women’s feelings of a lack of safety and further impacting their mental health.**
- **Overall, this research concludes that it is too early to evaluate the effectiveness of the legislation, especially as its inception happened shortly before the COVID 19 pandemic. However, to date, the findings from this small sample of victims/survivors do not show any substantive evidence of DASA having had a positive impact on practice and women’s experiences of the criminal justice system.**





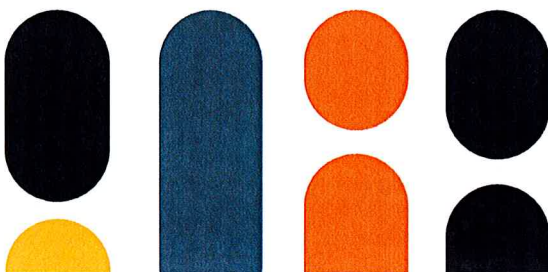
INTRODUCTION AND BACKGROUND

This report has been collated as part of the Reporting Requirement (Section 14) of the Domestic Abuse (Scotland Act) 2018 (DASA) to assess the effectiveness of the new law. The Domestic Abuse (Scotland) Act 2018 (referred to as 'DASA') came into force on the 1st April 2019. The Act aims to improve how the justice system responds to domestic abuse by ensuring that the criminal law reflects that domestic abuse can often be a course of conduct which takes place over a sustained period and that this can consist of both physical violence and threats, and psychological and emotional abuse.

The DASA created a new statutory sentencing aggravation to reflect the harm that can be caused to children growing up in an environment where domestic abuse takes place. The Act also requires courts to consider imposing a Non-Harassment Order on an offender convicted of a domestic abuse offence to protect their victim from further abuse and makes a number of other reforms to criminal procedure to protect victims. An explanatory note of the Act is available [here](#). The DASA operates in the wider context of the Scottish Government's Equally Safe Strategy (2018a) which was launched in 2014.

The DASA includes a reporting requirement. Under Section 14, subsection 2 (f) is the requirement to provide 'information about the experience of witnesses (including witnesses who are children) at court'. There is a three-year reporting period – up to April 2022 – after which the information must be presented to Parliament as soon as is practicable. The full wording of the requirement can be seen [here](#). It covers both new DASA offences and aggravated offences as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.

In addition to this survey, the Scottish Government is undertaking further research on the experiences of child and adult victims/witnesses in domestic abuse court cases, including a similar survey for male victims of domestic abuse and some in-depth, qualitative research with child and adult victims/witnesses.



LEGISLATIVE AND POLICY CONTEXT

Scotland's track record in tackling domestic abuse has been identified as an exemplar (MacKay, 1996; Lombard and Whiting, 2017). A national strategy to address domestic abuse was first published in 2000, with the agenda subsequently broadening to cover all aspects of violence against women and girls. It was under the auspices of the current strategy (Equally Safe) that DASA was introduced. Similarly, Scotland has taken a proactive approach in striving to provide a victim centred criminal justice system evident in the introduction of special protective measures available for court appearances through the Victims and Witnesses (Scotland) Act 2014; and a positive policing and prosecution approach with an emphasis on arrest and enhanced evidence gathering towards prosecution (COPFS & Police Scotland, 2019). There has also been a growing focus on 'victims' rights and a recognition that the system, at the very least, needs to treat victims with respect (Edwards, 2020). The recently refreshed Victims' Code for Scotland states that "victims' interests remain at the heart of our criminal justice system", that victims should feel confident their voices will be heard and that they will be treated with dignity and respect (Scottish Government, 2018b; modified 2020).

The DASA was introduced to improve how the justice system responds to domestic abuse by aligning the law to the lived experiences of victims in recognising domestic abuse as a course of conduct (See Appendix 1).

It criminalised abuse directed toward a partner or ex-partner, where there has been a pattern of abusive behaviours (2 or more incidents) that a reasonable person would think would have caused the victim/survivor to suffer physical or psychological harm (including fear, alarm and distress) and where the perpetrator intended to cause physical or psychological harm or was reckless as to whether the behaviour would cause such harm. The behaviours can include physical abuse, sexual abuse, isolating the survivor from family and friends, monitoring and regulating the survivor's activities, controlling their money and/or activities, depriving them from their freedom of action, frightening, humiliating, or degrading them, among other things. The new law also recognises the impact that domestic abuse has on children with an aggravator attached where a child is adversely impacted by the abuse. The new offence only applies to conduct that took place on or after 1 April 2019, when it came into effect.

The Crown Office and Procurator Fiscal Service (2021) reported that in the first year of the legislation (2019-2020), 1,065 charges were reported under the DASA, accounting for 3.5% of all domestic abuse charges reported. This increased to 1581 charges during 2020-21. Court proceedings were commenced in 96% (2019-20) and 95% (2020-21) of the DASA charges reported. During 2019-20, there were 206 convictions for the new crime of domestic abuse under the DASA. Of the total number of people convicted under the new offence, 204 (98%) were male and 4 (2%) were female. At time of writing, conviction statistics for 2020-21 were not available.



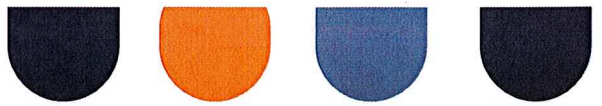
THE RESEARCH CONTEXT

The criminal justice system has been at the heart of initiatives to tackle domestic abuse with new legislation designed to sanction perpetrators of previously non-criminalised behaviours and improved processes to support victims, as outlined above. At its best, engagement with the criminal justice system can offer an opportunity for empowerment and will be, for some women, an empowering experience (Hoyle & Sanders, 2000; Lewis, 2004; Bell, 2007).

Nonetheless, the criminal justice system is not inherently designed to tend to a victim's wellbeing nor her empowerment. Research suggests that communication is not aligned to victims' needs and women express that they do not feel listened to, and things are not clearly explained to them (Hawkins & Laxton, 2014; Anderson, 2015; Holder, 2015; Murphy-Oikonen et al, 2020; Forbes, 2021). Indeed, many victims have reported feeling re-victimised by their engagement with the criminal justice system (Thomson, 2015). Recent Scottish research (Forbes, 2021) has also identified the notion of 'tertiary victimisation' whereby waiting for and at court generates compounding trauma; we are yet to find out the full extent to which the COVID-19 pandemic has impacted on waiting times (Bussey, 2021). Feeling out of control induces further anxiety about court attendance which in turn impacts upon victims' ability to be heard (Forbes, 2021). While many women will have proactively initiated engagement with the criminal justice system, many

will not and will find themselves there regardless. It is estimated by Brooks-Hay (2018) that about one third of incidents reported to the police in Scotland are reported by a third party. For all women the adversarial approach to justice may turn the court into a 'theatre of shame' where indignities and degradations are reported on and contested (Herman, 2005).

Some women have also reported that engagement with the criminal justice system provides the perpetrator with another area in which to abuse through counter allegations of abuse, engaging in litigation against her, including child contact claims through civil processes, or elongating court action (Hester, 2009; Morrison et al 2013; Kelly et al., 2014). This has variously been described as legal systems abuse (Douglas, 2018), 'paper abuse' (Miller and Smolter, 2011) or 'procedural stalking' (Neilson, 2004). There is evidence to suggest that some of these issues have been exacerbated by the COVID-19 pandemic, with perpetrators exploiting restrictions and changes to criminal justice service delivery to continue their abuse (Scottish Government, 2020a; 2020b; 2020c). With the implementation of the progressive Domestic Abuse Scotland (2018) Act, Scotland continues to lead the way in striving to provide a survivor centred approach to address some of the challenges described in the wider academic literature. It is in that context that this report evaluates women's experiences of the criminal justice system as the progress under the DASA.



AIMS AND RESEARCH QUESTIONS

The reporting requirement of the Domestic Abuse (Scotland) Act 2018 Section 14 (2f), asks for “information about the experience of witnesses (including witnesses who are children) at court” (Section 14 2(f) of the DASA legislation). This relates to women, 18 years and over, whose cases related to both DASA Section 1 offences and/or aggravated domestic abuse offences as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. This new legislation, has the potential for an enhanced understanding and awareness of the nuances and dynamics of domestic abuse throughout the criminal justice system. The DASA provides enhanced powers to challenge coercive control as well as physical violence within the context of domestic abuse, therefore, the impact of the DASA should be visible throughout the criminal justice system, enhancing accessibility and number of women experiencing justice. Therefore, the research sought to understand women’s experiences, throughout the criminal justice system, in relation to the following themes:

- sense of inclusion in the criminal justice processes.
- respectful, dignified, meaningful engagement and treatment.
- provision of adequate information.
- provision of support throughout the process and after.
- sense of unbiased, fair performance of justice processes.
- belief that outcomes are fair and correct.

These themes map onto key paradigms of justice (see SCCJR, 2019), namely:

- Distributive justice, where outcomes are felt to be fair

- Procedural justice, where processes are felt to be fair, meaningful, and respectful
- Effective justice, where the process is efficient, legal, and accurate
- Therapeutic justice where the process supports longer term healing and empowerment.

Consequently, the aims of the research were;

1. Explore the individual experiences of women, age 18+, who progressed through the criminal justice system (from initial reports to the police through to court proceedings) as victims/survivors of domestic abuse since the Domestic Abuse (Scotland Act) 2018 was implemented.
2. Consider their experiences through the lens of procedural, distributive, effective and therapeutic justice.
3. Explore participant reflections on the effectiveness of Non-Harassment Orders (NHO), the impact of COVID, and suggested improvements to the justice system that could improve female victim/survivor experiences.

To meet these aims, the following research questions were asked⁵:

Since the introduction of the Domestic Abuse (Scotland) Act in April 2019:

1. How do victims of domestic abuse experience the justice system, including (if applicable), going to court?

- a. What are victims’ experiences of ‘procedural justice’?
- b. What are victims’ experiences of ‘distributive justice’?
- c. What are victims’ experiences of ‘effective justice’?
- d. What are victims’ experiences of ‘therapeutic justice’?

5. Due to limitations within the data, it was not possible to answer all of these questions. The limitations of the data are explained in detail throughout the report. The findings with respect to each of the research questions are addressed in the report conclusion.

- e. Are there any points in the criminal justice process that victims find particularly difficult? And conversely, which aspects work well?
- f. What impact, if any, do the various stages of criminal justice processes have on victims' reports of abuse?
- i. What do the findings tell us, if anything, about the impact and/or effectiveness of DASA in relation to specific changes in the law including experiences of victims of coercive control, enhanced protection of children and consideration and use of non-harassment orders?
- ii. What, if anything, would improve victim experiences?
 - iii. What has the impact of COVID-19 been on victim experiences of being involved in a domestic abuse court case? What are victim experiences of remote courts and how do they vary in relation to those that attend in person?
- 2. What do the findings tell us, if anything, about any differences in experiences by victim characteristics (e.g. age, ethnicity, disability)?**
- 3. Do victim experiences vary by local authority in any way, and, in particular are there any differences between local authority areas that have specialist domestic abuse courts and those that do not?**
- 4. Are there any factors which are associated with particularly negative or positive experiences of the criminal justice system? (e.g. court outcome, court delays, high/low levels of procedural/distributional/therapeutic/effective justice)**
- 5. Are there any differences in victim experiences before and after the implementation of the Domestic Abuse (Scotland) Act 2018?**



METHODOLOGY

An online survey was designed to collect data. The data from which this analysis was drawn was part of a survey funded as part of a wider Justice Analytical Services Grant programme on improving the evidence base around the experiences of users of the justice system and in particular, women's experiences of the criminal justice system having reported coercive control, stalking and related crimes⁶. Due to the sensitive nature of the research and the potential to re-traumatise participants, the survey was designed to be as accessible, easy to complete, and engaging as possible. For example, a short video was made and embedded at the start of the survey which allowed the researchers to introduce themselves, explain why this research was important, and to thank the participants for their contributions⁷.

As the DASA research and the wider grant research were taking place over a similar time period (due to research delays because of Covid-19 lockdowns in 2020) it was decided to incorporate questions evaluating women's experiences since the implementation of DASA (albeit including those with a statutory domestic abuse aggravator after this date) within the existing grant survey to minimise responder fatigue and avoid over-sampling a potentially vulnerable population. The researchers collating the larger study (Lombard, Proctor and Whiting) therefore also carried out the DASA women's survey research. A separate study (adapting this survey) was devised by the Scottish Government Justice Analytical Services to explore the experiences of male victim/survivors.

The DASA specific data was separated from the main data set based on answers given to filter questions about when initial contact with the criminal justice system was made. It was recognised that some of the participants may not have seen their case progress far enough to be charged with a crime. Consequently, our primary filter question was asked at the end of the survey section 'Your experiences with the police' and separated participants depending on their response to the following statement and question;

“A new law – ‘The Domestic Abuse (Scotland) Act 2018’ – was brought in on 1st April 2019. This meant that a perpetrator could be charged with the crime of ‘Domestic Abuse’ instead of other related charges like ‘breach of the peace’, ‘assault’, etc. We would like to find out if this new law made any different to people’s experiences of the criminal justice system. Did your contact with the police start before or after the new law came in to effect?”

The responses to other questions were also used to filter and confirm cases could have met the criteria of a DASA crime e.g. 'How would you describe your relationship with the perpetrator?'. As the law specifies, the accused and accuser are partners or ex-partners, had the participants indicated the perpetrator was a stranger or a family member they were excluded from the sample. In this way, we were able to minimise errors in the data due to inaccurate recall or confusion regarding the legislation.

SURVEY DISSEMINATION AND PARTICIPANT RECRUITMENT

The survey was distributed, via e-mail and social media, through criminal justice networks and organisations including the Scottish Women's Rights Centre, ASSIST, the Scottish Women's Aid Network, and the Crown Office and Procurator Fiscal Service (COPFS). Details of how to take part in the research were included in Victim Information and Advice letters sent from COPFS. The survey gathered quantitative data as well as qualitative data with a mix of closed and open questions. Only women who were aged 18 or over and had made their initial contact with the criminal justice system since the inception of DASA (1 April 2019) were included in this analysis⁸. The survey was open from May 27th until September 1st, 2021. Twenty-nine women who fit the criteria (that their initial contact with the criminal justice system was made after 1st April 2019) are included in the report.

6. The original study was Scottish wide and did not have a focus on specific legislation.

7. For a full description of the grant programme methodology see Proctor, K., Lombard, N. and Whiting, N. 2022.

8. Initial criminal justice system contact post 1 April 2019 does not automatically indicate charges or prosecution under DASA.

DATA ANALYSIS

Due to the small number of participants, it was not possible to conduct statistical tests of association to explore patterns and relationships in the data. Consequently, quantitative data analysis was limited to frequency calculations only. Participants, however, shared a significant amount of qualitative data giving further detail about their experiences. These accounts were thematically analysed and combined with the quantitative data.

SCOPE AND LIMITATIONS

As the criteria for inclusion within this report was that initial contact with the criminal justice system was made after 1st April 2019, there was a limited pool of potential participants. For example, there were only 246 people proceeded against under the DASA legislation in 2019-20 (Scottish Government, 2021). Furthermore, it became apparent that some individuals felt unable to participate without a period of time to recover from the stress and emotional trauma caused by their abuse and the administrative processes of the criminal justice system. We received feedback indicating that despite a desire to participate in principle, some women felt unable, emotionally, to reflect on their experiences so soon after their case concluded. The following quote was taken (with permission) from an e-mail sent to the researchers by the mother of a woman who was recently involved with the criminal justice system. Both women had become aware of the research and wanted to acknowledge their support of the project despite feeling unable to take part.

“It went to court in April, fortunately he admitted all the charges. She is still so traumatised by it. She isn’t up for talking about her experience” (victim/survivor’s mother, [e-mail] personal communication 28th July 2021)

In addition, it is likely that procedural delays caused by the COVID –19 pandemic, such as court case delays, placed further limitations on the number of women who were able to take part. These issues meant there were several limitations to the research findings;

- The low sample size means that correlational statistical analysis was not possible and findings cannot be generalised without further research.
- As with the quantitative data, the low sample size meant identification of themes or patterns with the qualitative data was similarly limited.
- The survey was open to anyone who had contact with any part of the criminal justice system, therefore, not all respondents had progressed as far as the courts. The variation in experiences means response numbers decrease with chronological progression through the system.
- In designing an accessible and victim-centred survey, the majority of questions asked were not compulsory. This allowed participants to answer only the questions they felt comfortable with. However, this also meant it was not possible to collect consistent quantitative data throughout the survey. For example, some participants chose to respond with only qualitative data.
- Individuals chose whether to take part after seeing general information available in the public domain about the research and so participants were self-selected. Consequently, it is not possible to explain the lack of diversity in the sample (see Figure 2). This could be a reflection on survey accessibility or other factors such as the diversity of those who have had contact with the criminal justice system since 2019.
- Where participants are self-selecting there can be bias. Participants can be more likely to engage with this type of research if they have had an experience of an ‘extreme’ i.e. a very bad or a very good experience. This means the data is less likely to reflect experiences that felt unremarkable to the participant.

Despite these limitations, however, the data has highlighted some pertinent issues regarding women’s experiences of the criminal justice system after reporting domestic abuse since the implementation of the DASA. These findings are discussed in the following chapter.

RESULTS AND DISCUSSION

Twenty-nine survey respondents met the sampling criteria as their initial contact with the criminal justice system was after 1st April 2019. It was, therefore, possible for their cases to be amongst the first prosecutions for the crime of Domestic Abuse under DASA or for other charges to have a 'Domestic Abuse aggravator' attached. Furthermore, those whose abuse was in the form of coercive control (with or without the presence of physical violence) also had the potential for convictions of Domestic Abuse.

Approximately half of the participant cohort did not see an arrest or charges made against the perpetrator. Furthermore, where charges were made, many women did not know what they were. With those limitations in mind, it is not possible to draw substantive conclusions about the direct effect and impact of the DASA legislation. However, as their contact with the criminal justice system started after the DASA legislation was live, they have been included in the analysis as their experiences are considered relevant to the overall aims of the study. The introduction of such heralded and publicised legislation had the potential to inform greater recognition and understanding of the nuances of domestic abuse and coercive control throughout the Scottish Criminal Justice System. It is reasonable to argue that an increased understanding amongst professionals should translate in to a more empathetic and considerate experience for those victimised.

Section 5 presents data representing women's experiences of each part of the criminal justice system starting with reporting to the police, then referrals to the procurator fiscal, the court process and sentencing⁹.

PARTICIPANT DEMOGRAPHICS

The age groups of the participants ranged from 18-24 to 55-64 (see Figure 1.)

Figure 1: Age Range of Participants

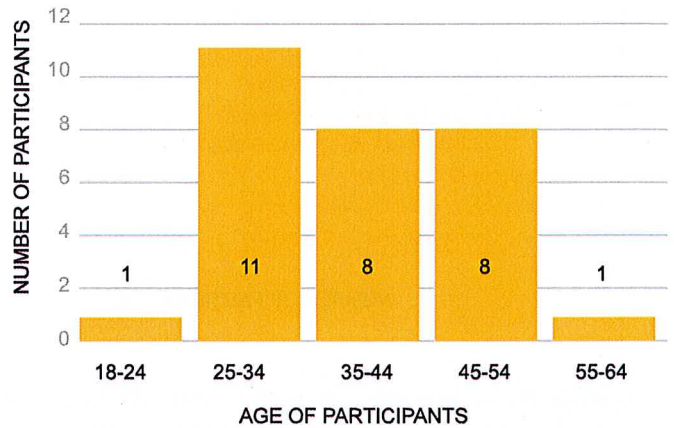
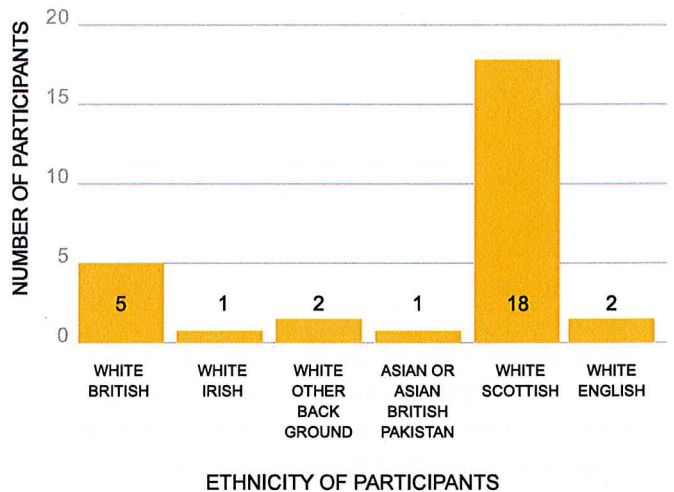


Figure 2: Ethnicity of Participants



9. The quantitative data presented includes all the responses received for each question.

Figure 3: Participant location by Local Authority Area



Despite the small number of women who took part, they came from 17 local authority areas and included both rural and urban parts of Scotland. (Figure 3.)

WOMEN'S PROGRESSION THROUGH THE CRIMINAL JUSTICE SYSTEM

Despite all participants having made first contact with the criminal justice system after the implementation of DASA, of those who chose to respond, only a minority progressed throughout the criminal justice system to have their cases reach court.

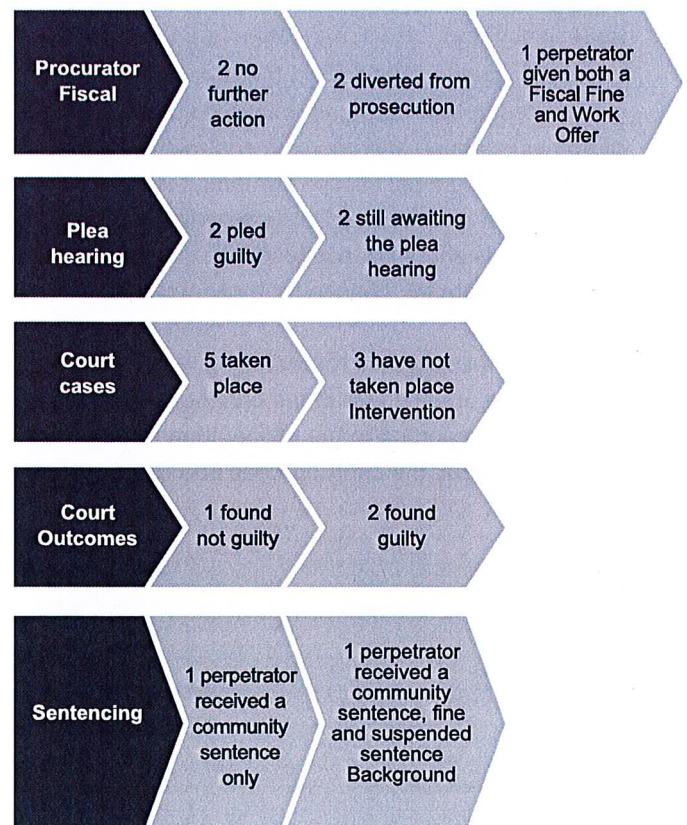
The majority of participants (n=16) were still involved in the criminal justice system processes at the time of completing the survey. Of the 29 who made reports to the police, 13 no longer had open cases. Of these, seven had their cases closed in 2021 and for six, their cases had concluded in 2020. Figure 4 shows a summary of the number of participants whose reports progressed to the Procurator Fiscal, Court, Plea Hearing and Trial respectively.

Figure 4: The number of participants whose reports progressed to the procurator fiscal, court, plea hearing and trial respectively.



Figure 5 provides more detail on the outcome the cases at each stage of the process.

Figure 5: A summary of case outcomes at different stages of the Criminal Justice System.



Neither of the perpetrators who pled guilty, nor the perpetrators who were found guilty in court were convicted of the new crime of Domestic Abuse (as specified in the DASA). Of these four cases, only one participant indicated the perpetrator had been charged the new crime of Domestic Abuse (as specified in the DASA)¹⁰.

EXPERIENCES WITH THE POLICE

This section starts with a summary of the overall outcomes of women’s contact with the police as it provides the context in which women were recalling how they felt about their experiences. For 23 of the women, their initial contact with the criminal justice system was made after they contacted the police directly to report an incident of domestic abuse. Five indicated that ‘someone else reported an incident’¹¹ and three said the perpetrator had made the initial report (two of which were malicious reports and one report was made for ‘something the woman did in self-defence’).

Figure 6 summarises the outcomes experienced by women after the police were contacted. Just under half (n=13) stated that the perpetrator ‘had never been arrested’ indicating there were no significant repercussions for the perpetrator after police involvement. (The implications with respect to women’s feelings about their experiences are discussed later in this section.)

Figure 6: Summary of the outcomes women experienced after reporting incidents of abuse to the police.

OUTCOME OF REPORTS TO POLICE

- 6 women said ‘the initial contact [with the police] put them off contacting them again’
- 13 women said the perpetrator had ‘never been arrested’
- 15 women saw the perpetrator arrested
- 14 women saw the perpetrator charged

Of the 15 who saw the perpetrator arrested, 12 said the arrest was made after the first report. Of the remaining three, two indicated the arrest was made after multiple reports and one said the perpetrator was arrested ‘every time a report was made’ (how many times is unknown).

The crimes that were reported during the initial contact with the police included ‘stalking,’ ‘physical violence/abuse,’ ‘emotional/psychological violence/abuse,’ ‘coercive control,’ ‘sexual violence/abuse,’ ‘threats that were made against them’ or ‘threats that were made against someone important to the participant’. However, coercive control and emotional abuse were the most frequently reported crimes within this cohort (Table 1).

Table 1: Crimes reported by participants during their initial contact with the criminal justice system

Course of Conduct or Incidents Reported	Number of participants reporting
Emotional/psychological violence/abuse	25
Coercive control	23
Physical violence/abuse	15
Sexual violence/abuse	14
Stalking	10
Threats that were made against them	7
Threats that were made against someone important to the participant	6
Other	4

Only four reported a single type of crime, all others reported from two - seven types of criminal behaviour.

HOW WOMEN FELT ABOUT THEIR EXPERIENCES WITH THE POLICE

Participants had a variety of experiences with police officers and mixed feelings (both positive and negative)

10. It is unknown whether the trials took place in summary or solemn courts.

11. Two of these five said the initial contact was made by both themselves and someone else. No further explanation was offered.



about their interactions were expressed. This suggested that good and bad experiences with the police depend on the practice of individual officers rather than the police force as a whole.

There were several positive responses from participants. (Table 2 shows each of the survey options and the number of women who chose each.) Of those who responded to the question 'When the police arrived to talk to you, how did you feel?', the option most commonly chosen was 'I felt the Police Officers dealt with the situation respectfully' (n=16). Six women stated both that they felt the 'Police Officers were disrespectful' and that 'I felt the police officers treated the perpetrator with more respect than me'.

Table 2: Women's responses to how they felt about their experiences when the police arrived to talk to them.

Participant Feelings about their Experiences when the Police arrived to talk to them	Number of Women
I felt the Police Officers dealt with the situation respectfully	16
I felt frightened	15
The Police Officers made me feel like they listened	14
I felt out of control of the situation	12
The Police officers made me feel like they cared	12
The police officers made me feel like there was no point calling them again	10
It was reassuring to know someone was looking out for me	8
The police officers made me feel safer	7
I felt the police officers didn't listen to me	7
I felt the Police Officers didn't do anything	7
I felt the Police Officers were disrespectful	6
I felt the police officers treated the perpetrator with more respect than me	6
The Police officers made me feel like they didn't care	6
I felt the Police Officers made the situation worse	5
I felt the police officers treated me like the criminal	4

Both positive and negative experiences were reflected in the additional narratives women chose to share and illustrate how differently individuals can be treated.

***"They listened to my side, and made sure I was safe."
"Chief Inspector said 'if your father had skelpt your***

arse your husband wouldn't have to do it now."

One woman's experience had consequences beyond the encounter, impacting significantly on her access to any form of justice.

"The doctor wanted to charge my husband. [...] I refused after the Chief Inspector's words the night before."

Another participant described how she experienced positive and negative responses from the police. The positive experiences encouraged her to keep going with the process, however, she felt the negative incidents actively prevented her from accessing justice.

"I have a very variable experience with the police. While the initial responding officers were incredibly respectful and empathetic, they were obviously out of their depth a little, in terms of the abuse charge and creating a case (and honest about it). However, the domestic abuse/ SOLO team was led by a male DI that was so dismissive and patronizing, he actually blocked his team dealing with me and meant that only support I got was from two DC that didn't know what they were doing, beyond the initial arrest. It also meant that the statement that was submitted to the PF was awful and undermined the whole case. It was no surprise it got dropped, which was so, so disappointing."

Although in the minority, approximately a fifth of the women felt 'the police officers treated the perpetrator with more respect than me' (n=6), 'the police officers treated me like the criminal' (n=4), and the 'police officers made the situation worse' (n=5). For a third of the women (n=10), 'the police officers made them feel like there was no point calling them again'. As the gatekeepers to the rest of the criminal justice system, this is of particular concern as a negative experience

at the initial stages of trying to access help and justice could prevent women from persevering.

The participants were asked to indicate whether they felt the police were acting in their best interests and whether the officers, when deciding what course of action to take, took what the women wanted into

consideration. The questions were applied to distinct parts of the process to explore any patterns

between the points of action and how the women felt (e.g. when the report was made, when the perpetrator was arrested/charged etc.). The complete responses to these questions are shown in Tables 3 and 4, however, the numbers must be interpreted with caution as each of the points of action did not apply to every individual and given the sample size it is not feasible to test these findings in any more detail. However, there are a few points of interest to note.

Table 3: During your contact with the police, did you feel that they were acting in your best interest?

	No	Yes	Don't know	N/A
After someone else made the report	2	0	0	14
After I made a report	11	16	0	0
After the perpetrator reported me	1	4	0	16
After the perpetrator was arrested	0	13	0	10
After the perpetrator was charged	1	11	0	11
When the charges were dropped	4	0	0	17
After the perpetrator was cautioned	1	0	1	17
After the police removed the perpetrator from the house	0	4	0	17
After the charges were dropped	3	0	0	17
When the perpetrator was detained on remand	0	1	0	19
When the perpetrator was released on bail	3	8	1	10

Table 4: During your contact with the police, did you feel that they took what you wanted to happen into consideration?

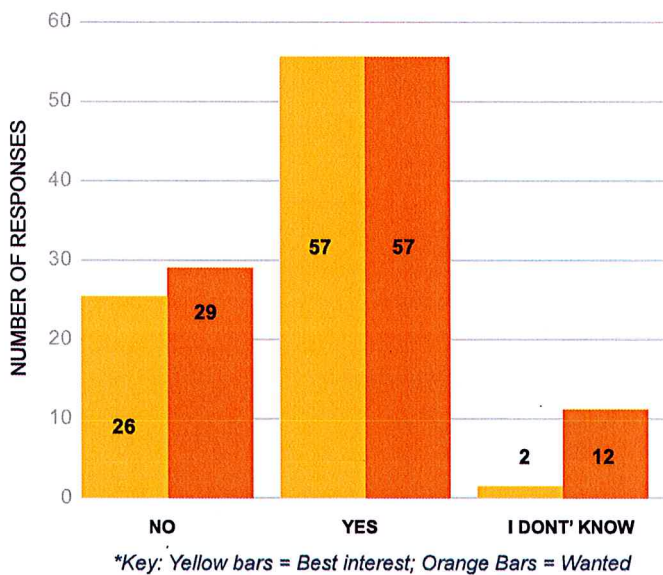
	No	Yes	Don't know	N/A
After someone else made the report	2	6	0	14
After I made a report	8	17	1	1
After the perpetrator reported me	0	0	0	0
After the perpetrator was arrested	2	11	0	10
After the perpetrator was charged	4	8	3	8
When the charges were dropped	4	0	2	14
After the perpetrator was cautioned	0	2	1	15
After the police removed the perpetrator from the house	0	4	1	15
After the charges were dropped	3	0	2	14
When the perpetrator was detained on remand	1	2	0	15
When the perpetrator was released on bail	5	7	2	9

Figure 7 shows the cumulative proportions of 'No', 'Yes', and 'Don't know' responses to the questions; 'During your contact with the police, did you feel that they were acting in your best interest?' and 'During your contact with the police, did you feel that they took what you wanted to happen into consideration?'



Figure 7: The proportion of participants who answered 'No', 'Yes', and 'Don't know' when asked if they felt the police officers were acting in the women's best interests and if the police officers took what the women wanted in to account when deciding how to proceed. *

Figure 7: The proportion of participants who answered 'No', 'Yes', and 'Don't know' when asked if they felt the police officers were acting in the women's best interests and if the police officers took what the women wanted in to account when deciding how to proceed. *



Approximately two thirds (67%, n=57) of the responses women gave indicated they felt the police were acting in their best interest. However, of those who indicated whether the police took what they wanted into consideration, a smaller proportion (58%, n=57), albeit still the majority, answered 'Yes'. The additional comments that women made alluded to their positive experiences were due to the time that was taken to talk, listen, and explain things with honesty. This is illustrated in the quotes below.

"The police officers on both visits took everything into account. Both times, I didn't want him to be arrested. The first time, it became about his welfare. The second time, I just wanted it to stop so he got a warning and thus far that's all I've needed"

"They made it clear to me that I should only make a report for my benefit, not just to help others. They made sure I understood that it was very difficult to get a rape case to court and I should be aware of this."

"I was asked where they should release my ex to. [...] The arresting officers let me decided where I wanted to be, to determine where he would be bailed to and what addressed he wouldn't be allowed to approach, as part of his bail conditions. This was really useful for me. I was too ill to be on my own, so I was able to make a choice to stay with my parents, in safety."

Conversely, experiences that were considered negative appeared to most often allude to a lack of time taken with the women, the responses being rushed or poor communication.

"They told me I would receive phone calls from DV dept. I didn't receive one phone call."

"The cops who attended were dismissive and said they could not do anything even if the perpetrator was standing at my window whilst they were in attendance."

"Everything happened very quickly after social work got involved. Spoke to the police regarding abuse of children but quickly became a domestic abuse investigation. Before I knew it couldn't go home. In hindsight they grabbed at one charge rather than building a bigger case."

"My initial report was really bad, it was confused and vague and missed out so many essential and relevant pieces of information. I was desperate to make a larger, fuller report and get other people to make supporting statements, as I was so sure that the initial statement would not be enough, yet it was blocked and they would not do it. The abuse unit saw me twice and refused to take a real statement either time. The case was dropped before anyone would do another statement and the only person who would do this, was the original arresting PC, who was very open about the fact that she did not have experience of this (and I had already read her first submission - which was really bad!)"

The most substantive difference between the responses to the two sets of questions appeared in the 'don't know' responses. The women were more likely to answer 'don't know' when asked if they felt the police took into consideration what they wanted than if they thought the police were acting in their best interests (12% and 2% respectively). For example, two participants gave the following accounts;

“Police have been great but both police and I have been let down by judicial system.”

“I feel that the police were trying to do their job at the time, regardless of the danger it was putting me and my son in.”

Such answers reflect the women's acknowledgement that the police were trying to help but were working within the restrictions of the greater system.

WOMEN'S FEELINGS OF SAFETY AND CONTROL DURING THE POLICE PROCESS

Participants were asked how the police responses impacted on their feelings of safety and control. Again, such questions explored these feelings at various stages of the police processes. The complete responses are available in Tables 5 and 6, however, the numbers must be interpreted with caution as each of the points of action did not apply to every individual and given the sample size it is not feasible to test these findings in any more detail.

Table 5: Women's Feelings of Safety During their Experiences with the Police

	Not applicable	I felt less safe	Nothing changed - in general, I felt unsafe throughout the process	Nothing changed - in general I felt safe throughout the process	More safe	Don't know
After someone else made the report	15	4	2	0	1	0
After I made a report	0	6	13	1	7	0
After the perpetrator reported me	16	0	3	0	2	0
After the perpetrator was arrested	10	0	6	1	5	1
After the perpetrator was charged	11	0	5	1	4	1
After the perpetrator was cautioned	18	0	0	1	1	0
After the police removed the perpetrator from the house	18	0	2	1	0	0
After the charges were dropped	18	2	1	0	0	0
When the perpetrator was detained on remand	19	0	0	1	0	0
When the perpetrator was released on bail	10	2	6	2	4	0

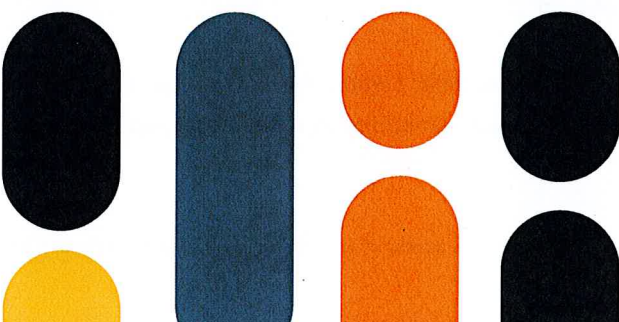
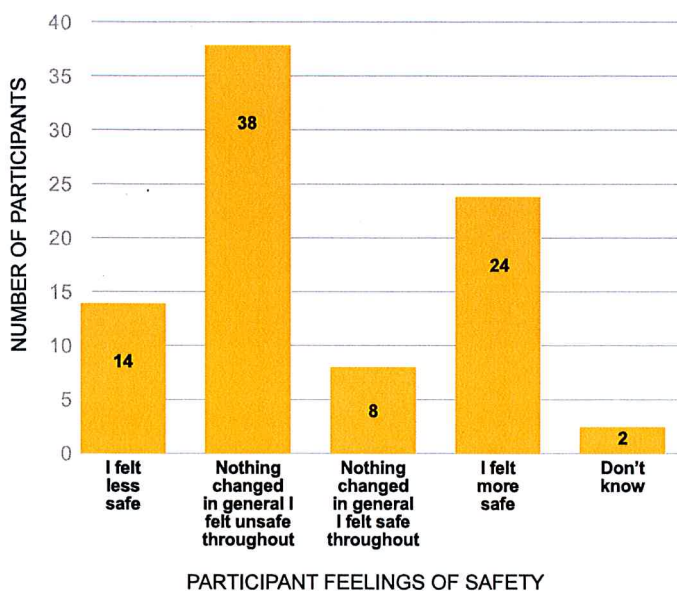


Table 6: Women's Feelings of Control During their Experiences with the Police

	Not applicable	I felt less in control	Nothing changed - in general, I felt out of control throughout the process	Nothing changed - in general I felt in control throughout the process	More in control	Don't know
After someone else made the report	13	3	3	0	1	0
After I made a report	0	10	10	2	3	3
After the perpetrator reported me	16	2	1	0	2	0
After the perpetrator was arrested	10	2	5	1	2	3
After the perpetrator was charged	11	2	5	1	2	2
After the perpetrator was cautioned	15	0	1	1	1	1
After the police removed the perpetrator from the house	16	1	1	1	1	0
After the charges were dropped	16	2	2	0	0	0
When the perpetrator was detained on remand	18	0	0	1	0	0
When the perpetrator was released on bail	10	6	5	1	1	2

When asked about their feelings of safety during the responding processes of the police, over half of responses indicated that police involvement did not change their feelings of safety (53%, n=46); 44% (n=38) of the responses specified that they felt unsafe throughout. More worryingly 16% (of the responses pointed to women feeling less safe because of police responses. (Figure 8 represents the cumulative responses of all the interactions and their impact on women's feelings of safety. The breakdown of the police interactions that were asked about is given in Table 6.)

Figure 8: Women's cumulative responses to the question 'Did any of the police responses make you more or less safe?' when asked about different the stages of their interactions with officers.



The accompanying narratives highlighted the women's feelings of being unsafe were due to a variety of reasons. Some were specific criticisms of the police;

"It felt a waste of time reporting anything to the police as they made me feel it was trivial."

"I have been terrified in my own home, to leave my house and to know he is potentially monitoring me via social media is horrific. With no support from those who are meant to protect."

"I felt slightly safer knowing that the police had the backstory should the situation has escalated. However, I did not feel safe with the police or safe in general. I felt less safe when there was a possibility that they were going to try to force me to disclose more details about the abuse."

Furthermore, despite the DASA's explicit recognition of coercive control, after reporting to the police one women was left feeling she would need to evidence physical violence to get the intervention she needed to feel safe;

"[I felt] less safe: I would have to wait until my ex hit me or broke something to file another report"

Another substantive theme was that of being unsafe due to systemic limitations within the criminal justice system and the unrelenting, long-term danger that the perpetrator posed. It is salient to note that women held deep fears knowing that when the criminal justice processes ended the perpetrator would still pose a significant threat to their safety.

“My husband was not allowed in my street but could have access to me anywhere else making me feel like I couldn’t leave home even with bail conditions in place with a non-harassment order it didn’t make it any safer.”

“I have police alarms on my house but I am absolutely scared what’s going to happen after court if he gets off with it as he is dangerous, he shouldn’t be in the public, I’m scared for my own safety and it’s terrifying.”

“Once my ex was arrested and charged, he had bail conditions imposed on him and it seemed pretty clear that he wasn’t going to breach them, so I did feel safer while these were in place. When the case was dropped (and the conditions), I felt really unsafe and the interactions with the children (and solicitor’s letters) showed that he was becoming more confident again. It has made me feel less safe. I have had to take steps (like moving, not sharing my address and getting CCTV), in order to make myself feel more secure.”

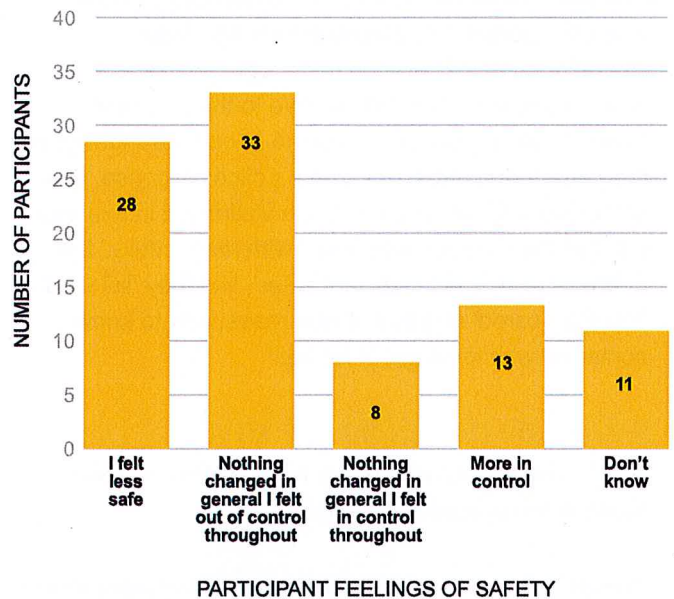
However, as Figure 8 shows, almost a third of the responses indicated women felt safer after their contact with the police. Again, the comments intimated that taking time to talk, listen and explain things to women influenced feelings of a positive experience.

“The police took their time with me to fully understand what was happening, and did what they could to make sure I was safe.”

Police involvement appeared to have a more negative impact on women’s feelings of control than safety.

The findings indicate that police involvement either made no difference to the levels of control the women felt (35%) or made them feel they had less control (30%) (Figure 9). For another 9% police involvement did not make any difference to their feelings of control, however, they felt in control throughout. Only 14% of the responses showed women felt more in control.

Figure 9: Women’s cumulative responses to the question ‘Did any of the police responses make you feel more or less in control?’ when asked about different stages of their interactions with the police



The comments from the participants highlighted two reasons for their feelings of loss of control: continued abuse from the perpetrator (often in the form of manipulation of police procedures) and the institutional prioritisation of procedure.

CONTINUED ABUSE FROM THE PERPETRATOR

The narratives below describe women’s accounts of how the perpetrator manipulated police procedures to extend the reach of their abuse which contributed to women feeling out of control.

“My ex abusive partner still is controlling me and using his behaviour against me by proxy; via the cops.”

“I felt that my husband was using the police and manipulating the reality of what was going on to make himself look and sound innocent and playing psychological games with me at the same time due to having different officers come in and out of my home for crazy accusations that are hard to believe, while I have to constantly prove my innocence and tell every officer that I am the victim here and how my husband won’t allow me to live in any kind of peace.”

However, it was heartening to find that even where women reported that perpetrators made false allegations against women there were still aspects of the experience that felt positive to the participant. Despite being accused of a crime (albeit maliciously) by the perpetrator which required a police response, one of the two women who had been victimised in this way felt that the situation was ‘dealt with respectfully,’ the police officers ‘made her feel safer’, like they ‘listened’, ‘like they cared’ and that ‘it was reassuring to know someone was looking out for her.’

PRIORITISATION OF PROCEDURE

The following quotes indicate the situations women faced when procedure was prioritised;

“I didn’t choose any of it. The whole thing went ahead because there was a child involved.”

“After my 3rd and most recent report it was made clear to me what happens next is out of my control. If they can charge they will regardless what I feel or my worries around what happens if they do charge him.”

“Police are largely powerless - not their fault.”

When women felt they had no control in the process, this in turn, contributed to feelings of a lack of safety.

“I felt I was just going to have to put up with any incidents that were targeted for me and nothing would be taken seriously unless something more sinister happened to me.”

“They told me I had no choice in the matter and they were going to charge my husband even though I explained that he would be enraged at me and would want some kind of payback for telling on him.”

Although professionals are bound by policy and procedures these feelings signify the need for advance explanation; informing women the point at which relevant services would need to take control. It is acknowledged that definitive information is not possible and individual circumstances will vary, however, more support and communication before, during, and after points where procedure must take over may help to alleviate the emotional consequences of the situations. The data does not tell us explicitly if support and communication are directly linked to feeling in control. However, the statements quoted earlier suggest the time taken to talk with the women left them feeling positive about the police responses.

Furthermore, the findings suggest that the women’s experiences of being kept informed and having things explained in a way they understood easily was inconsistent (see Table 7).

Table 7: The number of women who felt that the police kept them informed about what was happening and if the police explained everything in a way they could easily understand.

	Yes	No	Sometimes	N/A
Police kept you informed	10	9	10	14
Police explained everything clearly	13	5	11	1

With only a third (n=10) of the women in this cohort feeling like they were kept informed about what was happening and less than half (n=13) thinking things were explained in a way that was easily understood illustrates that improvements could be made in this area.

PROCEDURAL OUTCOMES OF REPORTING TO THE POLICE

Twenty-three of the women said that the perpetrator had been charged by the police. Sixteen of the perpetrators were charged with more than one offence. Figure 10 gives a breakdown of the charges as described by the women.¹²

Figure 10: The charges made against the perpetrators of abuse against 23 research participants.¹³

- 11 Domestic Abuse
- 5 Stalking
- 5 Incidents related to Domestic Abuse
- 8 Unknown
- 6 'Other' including 1 of Breach of Ball

Five of the women said the perpetrator was never charged, one expressing frustration that the perpetrator was not charged even when they breached their interdicts.

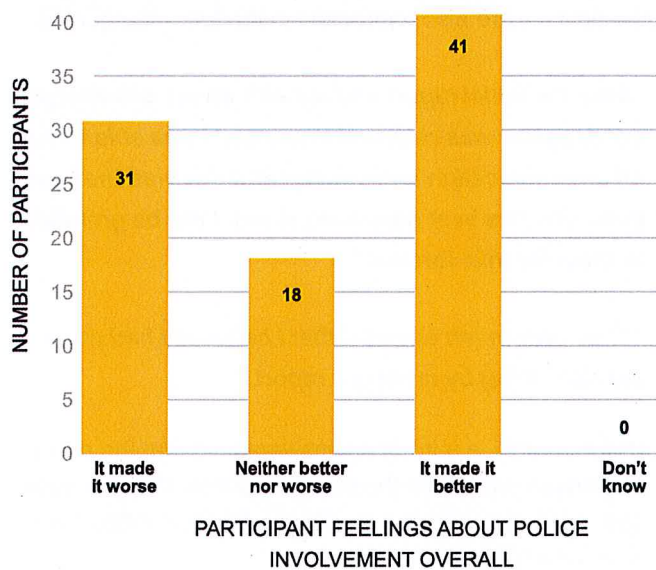
HOW WOMEN FELT OVERALL ABOUT THEIR EXPERIENCES WITH THE POLICE

The findings show that within this cohort of women there was considerable variation in their experiences. The majority of comments, positive and negative, referred mostly to the practice of individual officers

rather than the police as a force alluding to the significant difference one professional can make. However, the participants referred also to systemic issues that contributed to them feeling unsafe and out of control. In particular, where perpetrators manipulated the system to continue the abuse.

Overall, however, despite the challenges and difficulties that the women faced, almost half of the responses indicated that the police had made the situation better for them (Figure 11). (This bar chart represents the cumulative responses of all the interactions and whether the police interactions made things worse or better for women, a breakdown of the responses is provided in Table 8.)

Figure 11: Women's cumulative responses to the question 'In general, did the police responses make the situation worse or better for you?' when asked about different stages of their interactions with officers



12. No other detail was provided regarding charges at this stage in the survey, however, in answers to later questions reference was made to 'rape' charges.

13. It was not possible to ascertain whether any of the charges had a domestic abuse aggravator attached to them.

Table 8: How Women Felt Overall about their Experiences with the Police

	Not applicable	They made it worse	Neither better nor worse	They made it better	Don't know
After someone else made the report	14	3	2	2	0
After I made a report	0	7	8	12	0
After the perpetrator reported me	17	2	2	2	0
After the perpetrator was arrested	10	3	1	9	0
After the perpetrator was charged	11	4	1	7	0
After the perpetrator was cautioned	17	0	0	2	0
After the police removed the perpetrator from the house	16	0	1	3	0
After the charges were dropped	16	5	0	0	0
When the perpetrator was detained on remand	18	0	0	1	0
When the perpetrator was released on bail	11	7	3	3	0

The feelings that the situation had been improved by the police were also expressed in the following quotes;

“After the initial report and my ex’s arrest and charge, my daughter was returned to me and I was able to cut off communication and contact and this was the best thing that has ever happened to me. I will be grateful to them for this, forever.”

“They very much ensured that I believed I had done the right thing by making a report.”

Unfortunately, a third of all answers said that the police responses had made the situation worse. Women gave examples of negative experiences that had influenced their view of the police.

“I asked the male police officer a question ‘if a woman is too drunk to consent to sex would you still have sex with her?’ The police officer was 50/50 on whether he would or not.”

“They were incompetent and did not adhere to Scottish Legislation, their own standard operating procedures and colluded with the perpetrator.”

“Didn’t stick to bail conditions. I feel no point in having them they are more like guidelines and it

makes no odds if the perpetrator breaks these numerous times.”

One woman described abusive incidents that were not caused directly by the police but were triggered because she had contacted them for help. The limitations on the interventions the police could action meant the perpetrator was able to manipulate the procedures of other services to continue his abuse.

“Every time anything happened with the police, I am punished through another avenue. They [the perpetrator and his family] have run up huge legal bills for me, taken my belongings, harass me through other agencies (such as health visitors, GPs and the nursery) and continue to pursue me through the courts. Once the charges were dropped, the abuse of my parents (who handle to child access pick up drop offs) has escalated, as has the legal situation, as they claim that he is innocent and that he is the victim of my bad behaviour.”

In situations of domestic abuse where police have been involved, full responsibility for the emotional impact on women cannot be placed on the officers. However, each time an officer speaks with a woman there is a valuable opportunity for her to be listened to and supported. Consequently, the impact of

missed opportunities or bad practice, cannot be underestimated.

“I felt I had nowhere to turn and nobody believed the extent of what I was experiencing and that I would just need to live with it or take my own life to get away from it.”

“Some of the dealings I had with the abuse unit were so damaging to my recovery. To be undermined and basically victim-blamed, by a senior officer, was hugely difficult and made me doubt my actions and weakened my resolve for the case.”

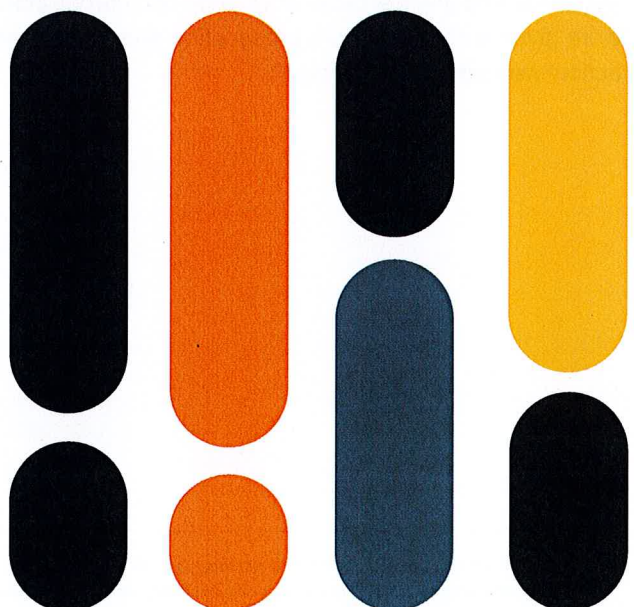
These results cannot claim to be proportionally representative of all women who have contact with the police. Furthermore, it is possible that women who had negative experiences felt more compelled than others to respond to the survey. However, it is clear that improvements can be made.

THE ROLE OF THE CROWN OFFICE AND PROCURATOR FISCAL SERVICE

The responsibilities of the Crown Office and Procurator Fiscal Service (COPFS) is very different to that of the police when dealing with victims and perpetrators. As the next step in the criminal justice system, they assess the cases referred to them by the police and decide what action should be taken next. As such, their role is not to deal with incidents as they happen or respond directly to reports of criminal offences. In that respect, they do not work closely with victim/survivors of domestic abuse, nor are they involved with a case long term. Consequently, they have less of a supportive role than the police and so it is to be expected that women’s experiences would differ with this organisation. That being said, as stated on their website, their values are ‘Being professional’ and ‘Showing respect’ and some of their key objectives are;

- ‘to secure the confidence of our diverse communities by improving the delivery of justice through the timely, efficient and effective prosecution of crime’
- ‘to give priority to the prosecution of serious crime including [...] repeat offenders’
- ‘to provide services that meet the information needs of victims, witnesses and next of kin, in cooperation with other agencies’

Therefore, the Procurator Fiscal has the potential to impact positively or negatively on a woman’s experience of the criminal justice system and her feelings of justice. During the assessment period of a case, women who have reported domestic abuse, should expect good communication and respect (according to the above stated organisational objectives) and should also feel reassured that coercive control within the context of domestic abuse is considered a serious crime (with or without the presence of physical violence). To ensure this happens, COPFS have an (optional) Victim and Information and Advice (VIA) service to which victims/survivors are referred. Within this cohort, of the 17 women who had their case assessed by the Procurator Fiscal, 14 were referred to VIA, two said they were not and one did not know. The two who said they had not been referred did not indicate whether this was an omission by COPFS or their choice.



WOMEN'S EXPERIENCES WITH THE PROCURATOR FISCAL

Seventeen¹⁴ participants indicated that their cases were referred to the Procurator Fiscal, nine were not (reason unknown). The remaining three participants either did not respond or said they did not know if this had happened. Twelve cases were referred to court (Figure 12).

Figure 12: Summary of the outcomes of the cases referred to the Procurator Fiscal

OUTCOME OF REPORTS TO POLICE

- 12 women saw the perpetrators referred to court
- 5 women gave a statement to the Procurator Fiscal
- 0 women gave a statement to the Defence Solicitor
- 2 saw no further action taken
- 2 saw the perpetrators diverted from prosecution
- 1 saw the perpetrator given a Fiscal fine and Work Offer

The five other cases that were seen by the Procurator Fiscal concluded in the following ways; one perpetrator was fined and given a fiscal work offer, two perpetrators were given a diversion from prosecution and 'no further action' was taken against two¹⁵.

HOW WOMEN FELT ABOUT THEIR EXPERIENCES WITH THE CROWN OFFICE AND PROCURATOR FISCAL SERVICE

This research found that, as with the police, women had mixed experiences of COPFS. This was reflected in both the quantitative data and the additional information women gave.

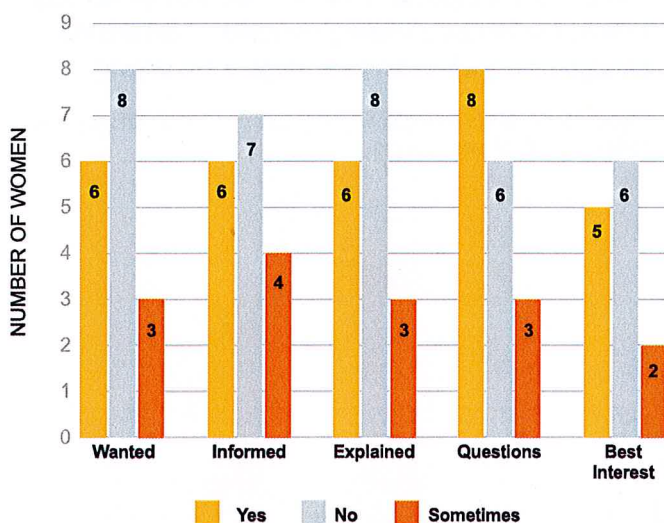
The women were asked to indicate whether they felt the Procurator Fiscal took what they wanted into consideration and were acting in their best interest, kept them informed, explained things in a way they could understand easily and made them feel welcome to ask questions¹⁶. Their responses are shown in Figure 13. The majority of the responses in each of the questions except 'did you feel welcome to ask questions when you needed to?', showed the women felt these things had not happened.

14. It is assumed that the counter-intuitive discrepancy between the number of women who said they saw the perpetrator charged (n=14) and the number referred to the procurator fiscal (n=17) is due to women choosing not to answer whether the perpetrator had been charged.

15. The Procurator Fiscal has the power to implement 'direct measures' should they decide action is required against the accused but feel prosecution in the courts is not appropriate. Therefore, the Procurator Fiscal has the power to give warnings, impose fines or take other direct measures.

16. The questions are given in full below Figure 12.

Figure 13: How women felt during the time their case was with the Procurator Fiscal. *



* The full questions that were asked are listed below in the order in which they appear in Figure 11 (from left to right);

- During the investigation by the Procurator Fiscal, did you feel that they took in to consideration what you wanted to happen?
- Did you feel that you were kept informed about what was happening with the Procurator Fiscal?
- Whilst the case was with the Procurator Fiscal, did you feel everything was explained to you in a way you could easily understand?
- Whilst the case was with the Procurator Fiscal, did you feel welcome to ask questions when you needed to?
- Did you feel that the Procurator Fiscal was acting in your best interest?

The lack of communication was a strong theme in the individual accounts women gave.

“I was never contacted by the PF [Procurator Fiscal], my first contact was in court.”

“Pf [Procurator Fiscal] decided to drop rape charges at this point but continued with attempted rape charges however no one told me about the dropped charges until a week before the court case. Communication with VIA very poor.”

As the role of the Procurator Fiscal is to assess a case objectively and based on the evidence, it is anticipated that individuals will not always feel that what they wanted was taken in to account or that their own best interests were at the heart of the case outcome.

However, given the values and objectives of COPFS it is unexpected that seven of the women felt they were not kept informed at all and four only ‘sometimes’. The following quote describes how significant ‘being heard’ was for women.

“Even if the case wasn’t going to get to court I think I just needed to be heard more. I felt so dismissed and unimportant in the whole process that it was really difficult to deal with. In these cases, the person who has literally tortured you, has just been vindicated (in their mind) and ultimately given more power and confidence to continue to abuse you or their next victim.”

Even when the women had an opportunity to tell the Procurator Fiscal what they had been through whilst giving a statement the women indicated the experience was not a positive one, although two of the five who gave a statement did reflect that ‘It felt like it confirmed that I was doing the right thing’ (see Table 9).

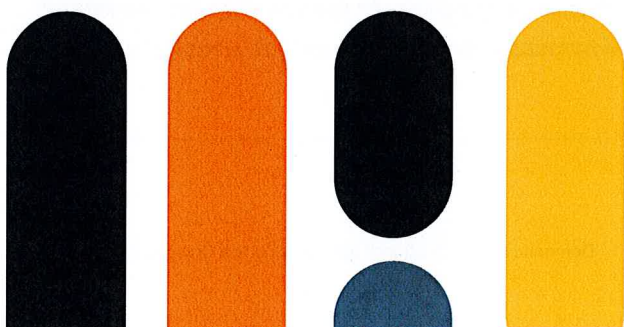
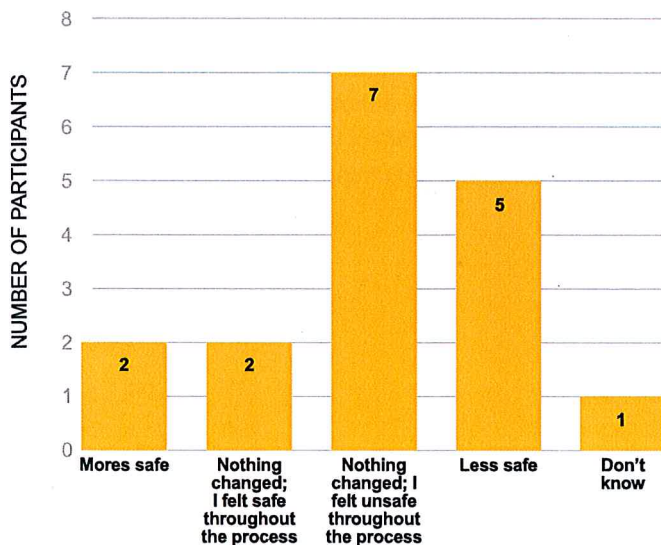


Table 9: How it felt for women to give a statement to the Procurator Fiscal

	Number of women ¹⁷
It felt good to tell them what happened	0
It felt like a waste of time	2
It made me feel like a criminal	1
It felt traumatic to have to say what happened again	3
I felt like they didn't care about me	0
I felt like they cared about me	0
It made me feel vulnerable	3
I felt like I had no control of the situation	3
I felt like I had control of the situation	1
It made me wish I had never become involved with the criminal justice system	3
It felt like it confirmed that I was doing the right thing	2

The negative feelings were reflected also when women were asked to indicate how safe they felt and how 'in control' they felt during the period in which the Procurator Fiscal was involved (Figures 14 and 15).

Figure 14: Women's feelings of safety during the period in which the Procurator Fiscal was involved.



17. Women could select as many options as they felt applied.

Two women said they felt 'more safe' at this time and another two felt 'nothing changed – they felt safe throughout the process'. However, five women felt less safe and seven said 'nothing changed – I felt unsafe throughout the whole process' (Figure 14, above).

Figure 15: Women's feelings of control during the period in which the Procurator Fiscal was involved.

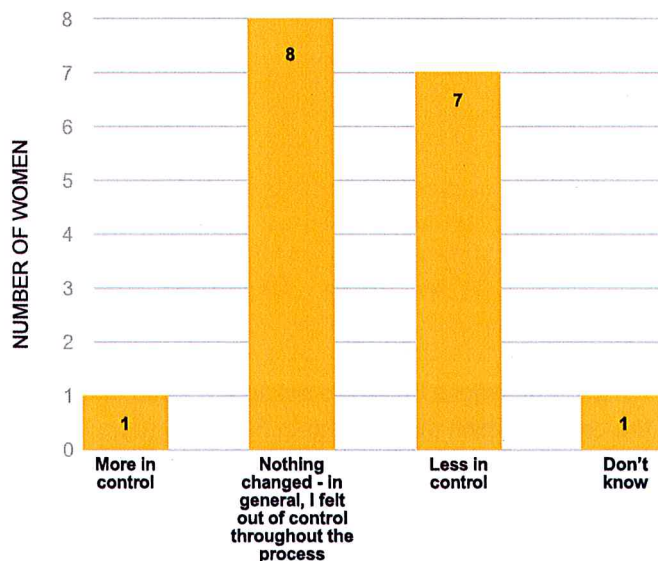


Figure 15 illustrates that most of the women felt they did not have any control at this time with only one saying they felt they had more control and one other who said they did not know how they felt. Fifteen women felt they had no control – seven of whom felt they had less control during the period their case was being assessed by the Procurator Fiscal.

One woman felt particularly let down in light of the DASA and its recognition of coercive control. Despite the new legislation she felt it was not applied effectively to her case.

"I was really disappointed in my experience of the Procurator Fiscal. It was almost impossible to speak to anyone. They were not interested in hearing from me, any additional information I could provide and I felt that they had made their mind up, very early that they were not going to pursue the case, no matter what was submitted. My ex was arrested under the

new law for domestic abuse - coercive control and I did submit supporting evidence and statements (which the law said you don't need to have as much of - due to the nature of the crime) and the final decision was very clear that I had not provided any supporting evidence, and this was why they were not going ahead. It is upsetting, as the new law was supposed to help in these exact cases. Not only this, but I feel, that if they had worked with me, I probably could have provided more. I was in an abusive relationship for 10 years, there was so much that happened (and I had no control over my life, my body, my children by this point), it was hard to contain it all and tell the story, people like me need guidance on what they are looking for (I know they cannot put words in your mouth) but it is so big that a little help fishing through it all is needed."

As indicated in Figure 11, the cases of five of the women ended with the Procurator Fiscal. Three of the perpetrators in these cases had been charged with the crime of Domestic Abuse under DASA, one with stalking and one with domestic abuse related charges. Figure 16 summarises the cases individually outlining the charges that had been made against the perpetrator, the Procurator Fiscal decision and whether the abuse continued. The abuse stopped for only one woman and for three, it became worse. All five felt the perpetrator was let off lightly and the mental health of all five women suffered. One of the women stated she was relieved it was over.

Figure 16: The five cases that ended with the Procurator Fiscal, the charges that had been made, the Procurator Fiscal decision and whether the abuse stopped for each of the women.

Case 1	Domestic abuse related charges	No further action	Abuse became worse
Case 2	Domestic Abuse charge	No further action	Abuse became worse
Case 3	Domestic Abuse charge	Deferral from Prosecution	Abuse stopped
Case 4	Domestic Abuse charge	Deferral from Prosecution	Abuse continued
Case 5	Stalking charge	Fiscal Fine and Work Offer	Abuse became worse

For the two women whose cases resulted in 'no further action', the decision had significant impacts. Both were angry and upset with the decision and felt less safe and that they had even less control. For both the women, the abuse became worse after the decision. Neither had any other statutory agency involvement¹⁸ and so received no further help from the authorities.

EXPERIENCES OF GOING TO COURT – BEFORE, DURING, AND AFTER

Twelve cases were referred to court. Figure 17 summarises the outcomes of these cases at the time of completing the survey.

Figure 17: Summary of court outcomes for 12 women

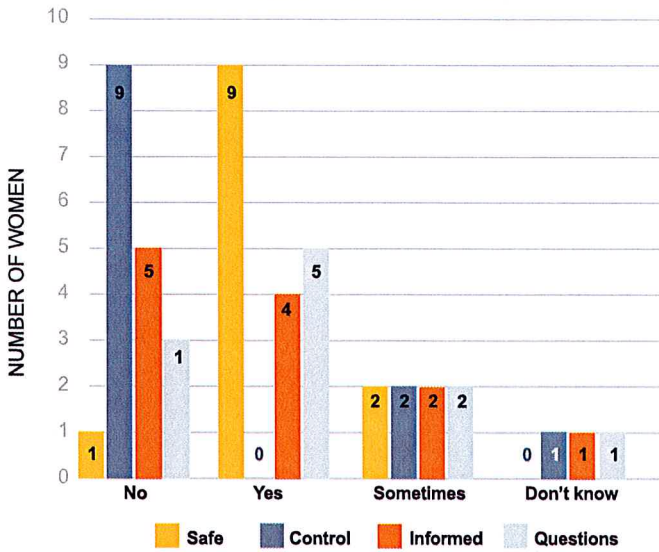
- 12 Referred to court
- 10 Plea hearing taken place
- 8 Pled not guilty
- 2 Pled guilty (1 to DA related charges and 1 unknown)
- 6 of 8 court dates delayed
- 5 of 8 Court cases complete (2 found guilty, 1 found not guilty, 2 unknown)

BEFORE COURT

During the period between the Procurator Fiscal referring the cases to court and the court case starting, appeared to be the time that the greatest proportion of women felt safe. Only one of the 12 did not feel safe, nine said they felt safe and two indicated they felt safe sometimes (Figure 18). This is potentially a reflection of the perpetrators' behaviour improving to protect themselves from being convicted. However, this period before the court case also saw a high proportion of women feeling that they had no control (n=9) and only two felt they had control sometimes. This may be because at this point in the criminal justice processes there is a significant period of waiting until the court case starts (Figure 18).

18. The survey did not ask about women's involvement with support organisations.

Figure 18: How women felt during the time between the end of the Procurator Fiscal's investigation and the start of court. *



*The full questions that were asked are listed below in the order in which they appear in Figure 16;

- During this time before the court date, did you feel safe from the perpetrator?
- During this time before the court date, did you feel in control of what was happening?
- During this time before the court date, did you feel you were kept well informed about what was happening?
- During this time before the court date, did you feel welcome to ask questions about what was happening?

At the time of completing the survey, of the 12 cases that were referred to court, two cases had not yet had a plea hearing. However, for those that had taken place, eight pled not guilty and two pled guilty (it was not possible to ascertain to what charges the accused had pled guilty).

Only two of the eight who pled 'not guilty' were taken forward on the original date given. Six were delayed. The participants indicated that their court date had been delayed on up to six occasions and the delays added months to their wait for the trial. Some of these delays were due to COVID, however, others said they were because of 'awaiting further evidence/reports', 'no judge', lack of court space, issues with lawyers or evidence,' or a 'clash of diaries'. One participant said they had not been told why there was a delay.

As a consequence, five said that their mental health

suffered as a result of the delays. Four of the six said they felt;

- Angry
- Upset
- The perpetrator had control
- They had less control in the process than before
- They felt less safe than before

This is a clear indication that the impact of the postponements was significant.

SPECIAL MEASURES

The survey asked women about their use or lack thereof special measures. Due to the small number of participants, it is not possible to draw any definitive conclusions, however, a summary of the responses is presented here for information.

Six women said they applied for special measures prior to the trial, one did not and one gave no response. The process of applying for special measures had a variety of impacts on the six participants. Three felt it made them feel 'in control' but one felt 'out of control' as a consequence. One woman felt more vulnerable going through the process and one less so. No further comments were made about why they had felt this way.

During the trial, four of the women were given screens around the witness box and one gave her evidence through a TV link. As with applying for the special measures, the women had mixed feelings about their use. One felt that they did not make any difference but another said she could not have given her evidence without them. An additional comment was left by one woman who did not want her screen, alluding to the fact she felt disempowered by it.

"Having a screen made me feel like I had done something wrong when I hadn't. I wanted/needed to show him I wasn't scared of him by hiding behind a screen. I wanted him to hear everything & observe the distress he caused."

Due to the differing views in these few experiences, an argument could be made for choices to be offered to women, so the process is determined by their own needs and feelings.

DURING COURT

Three cases went to court during the COVID-19 pandemic and one before. All four, however, took place in a court building. Only 3 women responded to any of the questions about their experiences in court during the trial and gave very little detail. Their responses in full follow.

- **Two out of three;**
 - Felt they were kept informed of what was happening during the trial.
 - Felt things were explained to them in a way they could understand.
 - Felt welcome to ask questions when they needed.
- **One felt safe, one did not, and one felt safe 'sometimes'.**

Two women provided some additional narrative and are quoted below;

"This was the worst experience ever! No one met me at the start, wasn't introduced to anyone in the court. No one came to see me when I had finished giving my evidence even though it was about to be lunchtime and there was a high chance of me coming into contact with the perpetrator."

"I felt I was on trial, not him. He didn't have to give his side of the story. He just sat there. I had to defend myself against his solicitor. Surely he should have undergone questioning?"

Again, as above, it is difficult to present a unified summary based upon so few and differing experiences but would urge the acknowledgement of the lived experiences detailed here to be noted.

AFTER COURT

Two of the cases that went to court resulted in guilty verdicts, the other 'not guilty'. One perpetrator was found guilty of incidents related to Domestic Abuse; one participant did not know what the perpetrator was convicted of. It was not possible to ascertain information about sentencing.

NON-HARASSMENT ORDERS (NHO)

The DASA specifies that Non-Harassment Orders must be considered by the court on conviction. None of the women responded directly to the questions regarding NHOs so it is not possible to provide any quantitative data about their use. Some of the participants, however, referred to NHOs in their additional comments elsewhere in the survey. As these comments were given in a different context they have not been included here but appear elsewhere in the report, reflecting the context in which they were given. It is therefore, not possible to provide comment or analysis specifically on this provision within DASA.

CONTACT WITH STATUTORY SERVICES

A small number of participants (from the total sample of 29), indicated that they had had contact with statutory agencies or departments. Table 10 provides details of these agencies and how many participants were involved with each, with most contact being with child and family social work.

Table 10: Participant contact with other agencies during their experience with the criminal justice system.

Agency	Number of Participants
Criminal Justice Social Work	2
Child and Family Social Work	6
The Children's Reporter	1
Child Contact Centres	2
The Children's Panel	1

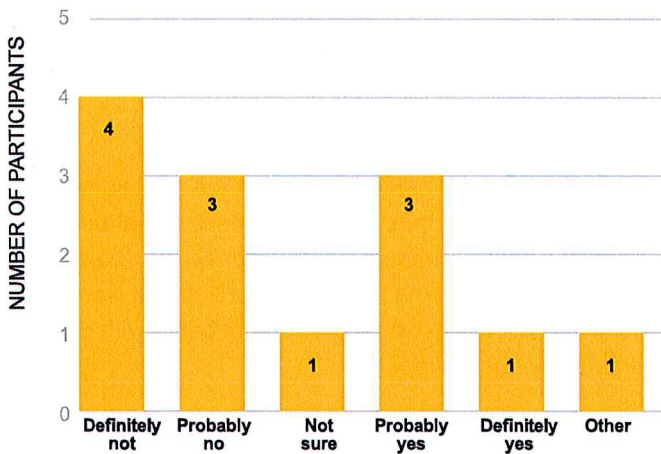
Few details were given about the interactions with these agencies, however, the responses indicated experiences were mixed. There were positive and negative experiences throughout. Without clarifying information from the women, it is not possible to comment further. Instead, for information, Appendix 2 provides nine bar charts with the complete responses from participants.



WOMEN'S FINAL REFLECTIONS

In their final reflections, participants indicated a mix of opinions. Figure 19 shows their responses to the question 'Reflecting on your general experience of the Scottish Criminal Justice System to date, if you had known what it would be like, would you have chosen to become involved with the process?'. Only 13 people answered this question so definitive conclusions cannot be drawn; however, their responses overall paint a negative picture.

Figure 19: Participant opinions on whether they would have chosen to involve the Scottish Criminal Justice System now they knew what it would be like.



Four said, had they known what it would be like, they definitely would not have chosen to involve the criminal justice system and another three said 'probably not'. Only one felt 'definitely yes' and 3 'probably yes'. Additional comments expressed a mix of reflections on the experience. Some saying it was not worth it for the outcome, other suggesting it was awful but they would do it again to protect themselves or others.

"I have no control and I hate it but I'd do it again to protect my child."

"Felt like it was a waste of time as he got off with most charges."

Others felt there were parts of the experience were positive and parts negative.

"The Police have been amazing and so well trained. However, my case is with the PF and has been for over a year which considering I was made to come back to Scotland and told by the courts I had to live in my abuser's house is shocking!"

One participant expressed that her own experience had been positive, specifying that she had felt listened to, but that she was aware other women did not experience the same validation.

"From my own experience, I felt valid and listened to. I felt the system was successful. However, my friend having gone through the same thing but worse, although great relationships were built with the officers in her case, the offender got off lightly and is still out."

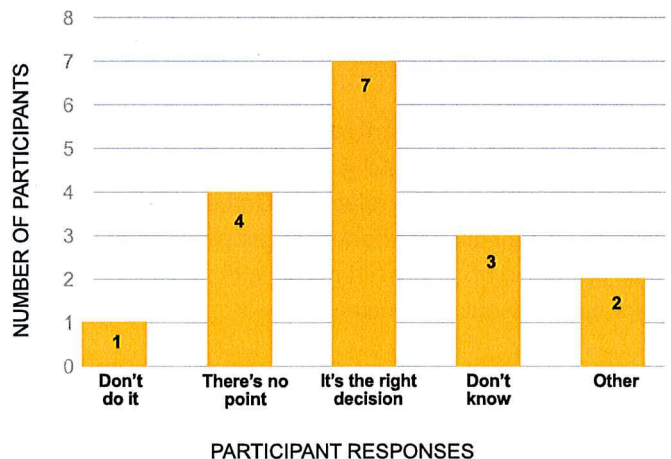
Participants gave a mix of responses when asked what they would advise a friend to do if they were in a similar position. Two additional comments were added regarding the advice the women would give a friend and these were as follows;

"Good luck with that. I am far from hopeful for them."

"I would advise them to keep pursuing the matter and find good cops."

However, Figure 20 indicates that women's feelings were not as polarised as the quotes suggest.

Figure 20: Participant opinions on the advice they would give, based on their own experiences, to a friend who was considering approaching the Scottish Criminal Justice System to report domestic abuse.



Despite the negative reflections and experiences with the Scottish Criminal Justice System, only one woman said she would tell a friend not to do it. The largest proportion said they would tell a friend that 'it was the right decision'.

EXPERIENCES OF JUSTICE?

Although the discussion that follows is structured to comment on procedural, distributive, effective, and therapeutic justice it should be noted that in the lived experiences of the victim/survivors these issues are not so neatly divided. Many of the issues raised are relevant to multiple if not all types of justice discussed, and all the issues contribute to the umbrella category of procedural justice. Similarly, many of the issues already described in the report apply to the different types of justice considered. As such, the following discussion provides a summary of the findings with respect to the concepts of justice and draws attention to the key themes.

PROCEDURAL JUSTICE

Procedural justice is described as processes that are perceived as fair, meaningful, and respectful (Armstrong et al., 2020; SCCJR, 2019). SCCJR (2019) suggest that 'interactional justice' is a related model 'which focuses on interactions between victim/witnesses and other actors' (p.3). For the purposes of this report, both types of justice are discussed as 'procedural justice' in the following section.

Key points:

1. **Many of the women spoke of a positive or negative experiences with professionals within each of the agencies of the criminal justice system. These experiences reflected the practice of individuals rather than the organisation as a whole.**
2. **When communication was poor the lack of control woman felt at all levels of the CJS was exacerbated. When communication was 'done properly' it appeared to have a profound effect on women's experiences regardless of the outcome.**
3. **Women felt that the CJS was another tool used by their abusers to further control them and often described themselves as feeling less safe.**

Women reported that at times they felt correct procedures were not always followed.

"Didn't stick to bail conditions. I feel no point in having them they are more like guidelines and it makes no odds if the perpetrator breaks these numerous times."

"Nothing robust in place to protect victims."

"[No charges] even after he breached his two interdicts."

Furthermore, participants identified areas of procedure within the criminal justice system, that the perpetrator was able to exploit to continue their abuse, either directly 'by proxy' or by utilising loopholes.

"Even though he follows his bail conditions he finds ways around it for instance he isn't allowed to come anywhere near my stepdad but sent a friend down to threaten him instead but because it can't be proved that he was the one to send him down there was nothing the police could do, also his family constantly watch and video me and my family and say things to us, they are horrible people and try their best to find ways to bend the rules so there is nothing we can do and we feel powerless."

Of particular concern, perpetrators were able to exploit the system even when non-harassment orders were in place despite the significance given to them in the DASA. Women explained that the NHO was ignored by the perpetrator, or the perpetrator continued the abuse by exploiting loopholes.

"My husband was not allowed in my street but could have access to me anywhere else making me feel like I couldn't leave home even with bail conditions in place with a non- harassment order it didn't make it any safer."

"Ex-partner was arrested and charged with stalking October 2019 and brought to justice March 2020 where he was convicted. Ex continued to stalk me indirectly March 2020 - September 2020 while NHO in

place. Once NHO lifted in October 2020 he then made direct contact by sending emails.”

“I spoke with the police regarding perpetrator making false accusations about me to show me he can use the police to harass me a few times a month every month because he couldn’t himself due to non-harassment order against him. Police told me due to the nature of accusations they would have to check it out. Having a look around my home every time they visited, making me feel like a criminal when he is the actual criminal. The police would always apologise for the visit.”

The findings suggest that although, on paper the DASA has the potential to excel with regards to procedural justice, despite there being examples of a better understanding of domestic abuse and trauma-informed practice, the evidence suggests that for some women, there are actors and processes within the criminal justice system that undermine its effectiveness for victim/survivors.

EFFECTIVE JUSTICE

Effective justice deals with the efficiency of the process, the technical and procedural elements (SCCJR, 2019).

Key Points:

1. Procedural failings impacted upon the progression of cases.
2. There is a disjoint between the criminal courts and the civil courts.
3. Women felt failed by the system both when due processes had been followed or had been done incorrectly.
4. Very few women felt the system worked for them.

As already discussed, many of the women spoke about how long the process takes and having to wait often

without information. This can be compounded by a lack of support. The participant accounts also referred to procedural failings which they felt had a significant impact on their cases.

“Police didn’t give the crown details of his previous convictions [elsewhere] for domestic violence even though they knew about them and blamed human error for this. This meant he was sentenced without the sheriff knowing he had them. Court clerk told police he was on standard bail when he was actually ordered by sheriff to have special bail conditions (again human clerical error) so when he contacted me the police didn’t have it on record that he wasn’t allowed to.”

“He got off lightly as his lawyer lied and said we were friends (no one asked me) and lied saying he had a good relationship with his child’s mum when in fact she had a restraining order on him but nobody checked this information.”

Others, believed the procedures and processes were ineffective even when they were followed correctly.

“My perpetrator was found guilty on 2 rape charges and a sexual assault charge but walked free because the police used Moorov¹⁹ and because the other woman’s was not proven there was absolutely no consequences for a sexual offender found guilty by a jury!”

“They stated even if he was standing at the window and they were present there was nothing they could do! Completely leaving me at risk from a man with history of domestic abuse!!”

Many referred to the disjoint between the criminal courts and the civil courts and how the perpetrator can manipulate the civil courts to continue their abuse.

19. Moorov doctrine: in the law of evidence of the law of Scotland, the doctrine that corroboration can be found in cases, especially sexual cases, from the proof of two uncorroborated incidents related closely in time and in their nature. Thus, a man can be convicted on the uncorroborated evidence of two rape victims providing the interval between the two attacks is not excessive: Moorov v. HMA 1930 JC 68.

“No-one is paying any attention to the civil court. The survivors who get out are freely and legally harassed through the civil court system. I am in an ever increasing mound of debt due to court and solicitor fees, as he can take me to court as much as he wants, lock me out of a property I own, read my mail, close my email accounts and many other things and there is no repercussions. Yet, it is just another open avenue for abuse that I cannot respond to because I must not appear as one of those women who say they were abused, just to get the children.”

In these examples women felt that due process had not been followed or had been done incorrectly. In some cases, this led to women feeling that not only had they been failed by the system but that the system also helped the perpetrator to continue with the abuse.

DISTRIBUTIVE JUSTICE

Distributive justice is reflected in the fairness and correctness of the outcome of a proceeding (Armstrong et al., 2020; SCCJR, 2019).

Key points:

- 1. Women were left feeling that their experiences with the criminal justice were ‘a waste a time’ and that their experiences of abuse were minimised.**
- 2. Women were left feeling unsafe regardless of the outcome.**
- 3. Being listened to was key for all the women; validation of their experiences was key to their positive encounters with the criminal justice system.**

The implementation of a new law naming Domestic Abuse as a crime, gave some women hope that the system would be more likely to recognise all forms of abuse and lead to a satisfactory outcome for the victim/survivor. Unfortunately, despite this assumption, at times, the survey findings show that DASA made it even more disappointing when justice was not achieved.

“If I am honest, I do not feel that the new law has changed anything. It was good to see that he was arrested and charged for domestic abuse but it is kind of meaningless if there is no action taken. I have looked at the stats on domestic abuse crimes and there doesn’t seem to be much action taken without evidence of domestic violence or some sort of witness of a domestic incident e.g. neighbours witnessing a fight. This doesn’t feel like a step forwards. The point in the new law (especially the coercive control law), is to take action in the many, many cases where there are no witnesses and no violence but I don’t feel like I am seeing anything ... It is really, really sad.”

A common theme from respondents who provided comments was that the case outcome left them feeling like it had been a waste of time, that the sentences (where applicable) were too lenient, their experiences of abuse were minimised, and that they were not valued within the criminal justice system.

“The perpetrator got off with the severe charges that have affected me very badly.”

“I feel our system is a form of sharia law. [...] my word as a woman is worth less than a man who I am trying to jail. This has been my experience in criminal and civil courts. My daughter and I suffered immense financial and physiological abuse by her father and although reported to social services and medical professionals we were ignored. He abused her up to her death last year. Waste of time reporting this to the police. He rich and we scum.”

Some women referred to being left feeling unsafe regardless of the outcome and that the perpetrator was able to continue their abuse.

“I feel perpetrator sentence 2020 was far too lenient and therefore he continued to pursue me by other means.”



“Would have preferred if he had been kept in jail we would all feel safer and then I wouldn’t be forced to bring my kids to a contact center to see him but understand that’s not always how it goes.”

More specifically, the feeling of the perpetrator being empowered by the criminal justice system contributed to victims’ feelings of frustration, disempowerment, and hopelessness.

***“Ultimately still going nowhere other than for child abuse and he is crowing that it validates he did nothing domestic abuse wise!
“Dragged on 3 years and sentences were too lenient. Perpetrator had control the full time.”***

The duration of the criminal justice process was another common theme, with respondents indicating that they had endured the stress of the system for, sometimes, years and still they did not feel that they had received justice.

“I felt my case was dismissed and all the two years of incidents was not dealt with and dismissed by the Sherriff so the child could be focused on.”

“The perpetrator pled guilty after dragging the case on for 2 years saying not guilty the whole time, making out I had lost my mind and how I was making it all up and he doesn’t know why.”

Others spoke of having mixed opinions about the process.

“It truly has been a roller-coaster of emotions and would think that the justice system is supposed to protect the people from abusers but feel that they are only failing the people by handing out almost invisible sentences that the public don’t even hear about so no one knows the true nature of those abusers who are put on a list that only officials have access to.”

Women also expressed that there should be greater protection put in place whilst the case is progressing as they were often left feeling unsafe and vulnerable.

“Anyone charged with dv to be remanded. When they are on bail they all worm their way back into victims lives leading to [a lack of cooperation] and dropped charges. Victims need the right intervention after arrest to ensure they don’t go back.”

This theme was reflected in comments stating harsher penalties should be utilised on conviction, as women were again left feeling unsafe and vulnerable as well as alone.

“Woman beaters should be punished and having on a police record alone is just not good enough to keep the women safe.”

“He pled guilty and still he was given a deferred sentence of 6 month to see good behaviour??? To be honest I still don’t understand why the judge or sheriff would be so lenient on him at the same time lifting the restrictions of the non-harassment order that made me feel like the justice system does not care for the safety of women and children even with all the evidence staring at them they just don’t care!”

“When the perpetrator is found guilty that they receive the relevant punishment instead of for a stupid reason being allowed to walk free. Innocent until proven guilty I had things in place to keep me safe he’s found guilty and there is nothing in place now. I feel like it was case closed figure the rest out for yourself and now I have to find £350 for an interdict that I don’t have! Seems totally unjust and completely unfair. It sends the wrong message to my teenage sons that it’s ok to rape and abuse or if you’re a victim there’s no point coming forward.”

Although some experiences of the police were positive, there were far fewer responses indicating the same in subsequent stages of the CJS and it is therefore not possible to make comparisons. However, as said before, some had good experiences of the justice system after the implementation of the DASA.

“From my own experience, I felt valid and listened to. I felt the system was successful.”

For many of the women in this survey, DASA promised much, but a lack of action by key actors including a minimisation of their experiences by some within the system left women feeling let down by the system.

THERAPEUTIC JUSTICE

The concept of therapeutic justice deals with the notion that the criminal justice process supports longer term healing and social empowerment (SCCJR, 2019).

Key point:

1. **There was little evidence to suggest that women experienced healing or empowerment through the criminal justice process, however, it was clear that kind and empathetic treatment could make a significant difference.**

Overall, the experiences of the women suggested that criminal justice involvement did not provide any therapeutic justice. Some women indicated the criminal justice process had led to less abuse from the perpetrator or indeed, the abuse had stopped. However, many women did not find their engagement with the system as therapeutic. Even when they recognised the process had ended with the desired outcome, arriving at that outcome was traumatic and the process often triggered or facilitated further abuse.

“I feel physiologically abused by it and left in a state of fear and alarm.”

“It’s long and horrendous.”

“I have very mixed feelings about the justice system and my choice to go to the police. In some ways it was exactly what I needed to do (to get my daughter back, for one thing) but it is really emotionally draining experience, full of disappointment (when the case got dropped - twice - after appeal as well). While the initial charge was a very strong move against my

ex, he and his family (who are so part of the abuse) are using it a motivation to punish me, particularly as they feel so vindicated with the charges being dropped. However, if I had not made the report, I would still be in a very tricky situation, trying to get away from an abusive partner and there would probably be as much doubt in the accusation, if I had not gone to the police...?”

Even where individuals perceived the outcome of the case to have aided their safety, the process was often felt to be damaging and traumatic. However, women’s accounts alluded to the fact that had they felt listened to or validated in some way, this would have made a big difference to them.

“Even if the case wasn’t going to get to court I think I just needed to be heard more. I felt so dismissed and unimportant in the whole process that it was really difficult to deal with. In these cases, the person who has literally tortured you, has just been vindicated (in their mind) and ultimately given more power and confidence to continue to abuse you or their next victim.”

Women who indicated they had a positive experience explained how communication, listening and validation provided this regardless of the process outcome.

“The initial police officers believed me and didn’t question anything I said (make it seem like they doubted it). Nothing was minimised and nothing was dismissed. It was the most empowering thing that they could have done.”

“The fact the officer’s listened to me, spent time with me and chose the best course of action, while making sure that was okay with me and what I wanted.”

These responses suggest that therapeutic justice would be relatively simple to facilitate requiring as little as empathic listening and validation.

AREAS FOR IMPROVEMENT

When asked if they could change one thing about the criminal justice system two subjects in particular became apparent – training and communication. Women expressed they felt there was a need for training throughout the criminal justice system. “Sheriffs need to be fully trained and a new modern sweep is needed as the few I have dealt with during this ordeal have been older, set in their ways and in my opinion have no clue about the struggles that are real out there.”

“I strongly believe that anyone dealing with a victim of domestic abuse should be trained in the subject. My own solicitor has told me to drop the issue of domestic abuse in the family court and the Sheriff told me to live in the abuser’s house! The abuser raped his other ex-wife and if I had moved back in the consequences are unthinkable considering why left.”

In particular, there was a call for trauma informed training for professionals.

“I think that people within the system need to be better trained and made to understand the state of the person that they are dealing with. The nature of abuse means that an abuse victim is a terrible witness. They will have memory problems, they are likely to shut down when questioned about something (even if it is not meant to be aggressive), they will minimise everything and they will normalise horrific events (so not disclose them). They will often (especially in the case of coercive control) not have had any clear cut moments of saying no (e.g. to sex) or will have agreed to things that they didn’t want to happen - because that’s how it works. In the end, you are willing to do and say anything, to be left alone or

not deprived or more sleep, help, food etc. Those taking statements and creating the cases need to work with the victims with this in mind. So many crimes are being dismissed, passed over, because the victims (survivors) are not given a real chance to get their story across. The people who come forward have just made the bravest step in their lives and it will take so little to knock them down or even send them back to their abuser. It needs to be handled so much better. They will also be punished for this step [by the perpetrator] and are acutely aware (and dreading it) of it. People need to take this into account to.”

Calls for improved communication and quicker processes were repeated here too. A lack of communication left women feeling unclear as to what was happening and when. Again, this appeared to be an issue at times with all agencies.

“Improve communication - felt I always had to contact them to find out what was happening.”

These responses reinforce the notion that relatively small changes in improved communication, empathetic treatment and more training for professionals would make a significant difference to women’s experiences of justice.

CONCLUSIONS

As has been explained the small number of participants in this study meant there were significant limitations in the conclusions that can be drawn from the findings. In general, the criminal justice processes did not facilitate feelings of justice nor empowerment for women who had experienced domestic abuse. Whether justice is defined as procedural, effective, distributional, or therapeutic does not appear to make a difference to women's experiences. On the whole it appears to be disempowering, frustrating and frightening and has a significant impact on the mental health of those victimised. There were positive experiences where women felt listened to, validated, and safe but these were down to the responses of individual professionals and not the services as a whole. Positive experiences appeared to be the exception and women expressed feelings of feeling a lack of control throughout.

Where additional supports were put in place such as special measures in court, interdicts and non-harassment orders women did experience periods of respite and hope. However, more often than not this was short lived as the perpetrator found ways of continuing their abuse with no repercussions, through exploiting loopholes, manipulating procedure or in open defiance of any restrictions placed on them. Consequently, women often felt the perpetrator maintained their control and were actively empowered by the system even when convicted, despite the additional powers that the DASA has implemented within the system.

The time taken for cases to make their way through the criminal justice system is a significant barrier to justice. Delays have a significant emotional impact of victims and their ability to heal and rebuild their lives. This has and will be particularly pertinent in terms of COVID19. Unfortunately, the limitations of the data mean comment cannot be made with respect to this question. Due to the time it takes for cases to progress through the justice system, which has been exacerbated by the COVID-19 pandemic, it is too early to assess this. However, the initial evidence suggests that despite the new legislation perpetrators were able to continue the abuse and often, the perpetrators were able to manipulate criminal justice procedures to extend their abuse.

Being listened to and feeling heard is vital to women's sense of justice. When the system gets this right, women feel more confident in the criminal justice system. When this does not happen, women can feel uninvolved, unheard, voiceless, and demeaned by the process. Ongoing communication to keep women informed of what is happening (even if that is to let them know there has been no progress and why) is vital. Women often feel like they are left in the dark and therefore left with their lives on pause while they await justice.



REFLECTIONS/ LEARNING

On completion of this research it became clear that a longer period between inception of DASA and its evaluation is required to fulfil the aims of the reporting requirement more fully. Some women contacted the researchers expressing that they were not yet ready to share their experience, potentially needing time to process it themselves before sharing with a research team. Furthermore, for DASA to achieve its potential in facilitating justice significant changes need to be made throughout the Scottish Criminal Justice System. All cases within the criminal justice system, regardless of how far they progress, are a product of an accumulation of responses and actions of multiple actors within multiple agencies. Consequently, an evaluation of the DASA must take into consideration the full journey through the criminal justice system from initial reports to the police, to conviction and sentencing. This study addressed women’s experiences in the first two and a half years of the DASA being implemented (within a three year reporting period). With the numerous challenges that this type of research inevitably encounters combined with those posed by the COVID 19 pandemic and the length of time for some cases to reach their conclusion further research is needed to be able to draw definitive conclusions regarding how effective DASA legislation is. This report, therefore, discusses only the emerging findings of women’s lived experiences of the Scottish Criminal Justice System having reported incidents related to domestic abuse.



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APPENDIX 1: THE DOMESTIC ABUSE (SCOTLAND) ACT 2018

The Offence of Domestic Abuse as defined in the
Domestic Abuse (Scotland) Act 2018 [Accessed 6th
January 2022]



DOMESTIC ABUSE (SCOTLAND) ACT 2018

2018 asp 5

PART 1

OFFENCE AS TO DOMESTIC ABUSE

Engaging in course of abusive behaviour

1. ABUSIVE BEHAVIOUR TOWARDS PARTNER OR EX-PARTNER

- (1) A person commits an offence if—
- (a) the person (“A”) engages in a course of behaviour which is abusive of A’s partner or ex-partner (“B”), and
 - (b) both of the further conditions are met.
- (2) The further conditions are—
- (a) that a reasonable person would consider the course of behaviour to be likely to cause B to suffer physical or psychological harm,
 - (b) that either—
 - (i) uA intends by the course of behaviour to cause B to suffer physical or psychological harm, or

- (ii) A is reckless as to whether the course of behaviour causes B to suffer physical or psychological harm.

(3) In the further conditions, the references to psychological harm include fear, alarm and distress.

2. WHAT CONSTITUTES ABUSIVE BEHAVIOUR

(4) Subsections (2) to (4) elaborate on section 1(1) as to A’s behaviour.

(5) Behaviour which is abusive of B includes (in particular)—

- (a) behaviour directed at B that is violent, threatening or intimidating,

- (b) behaviour directed at B, at a child of B or at another person that either—

- (i) has as its purpose (or among its purposes) one or more of the relevant effects set out in subsection (3), or

- (ii) would be considered by a reasonable person to be likely to have one or more of the relevant effects set out in subsection (3).

(6) The relevant effects are of—

- (a) making B dependent on, or subordinate to, A,

- (b) isolating B from friends, relatives or other sources of support,

- (c) controlling, regulating or monitoring B’s day-to-day activities,

- (d) depriving B of, or restricting B’s, freedom of action,

- (e) frightening, humiliating, degrading or punishing B.

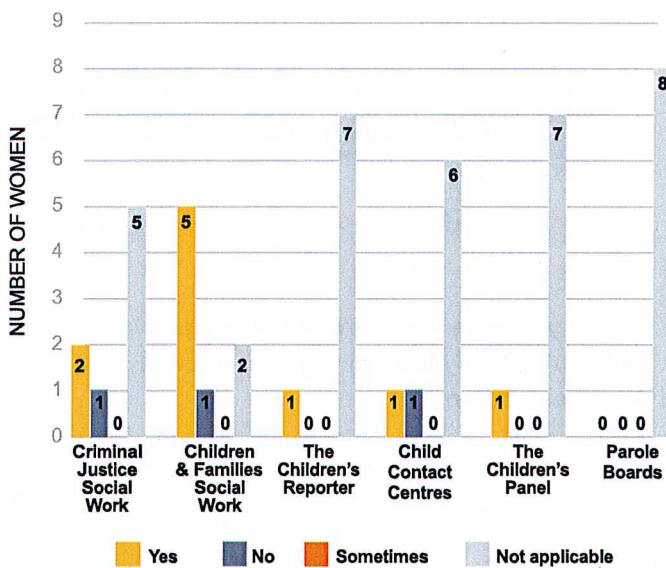
(7) In subsection (2)—

- (a) in paragraph (a), the reference to violent behaviour includes sexual violence as well as physical violence,

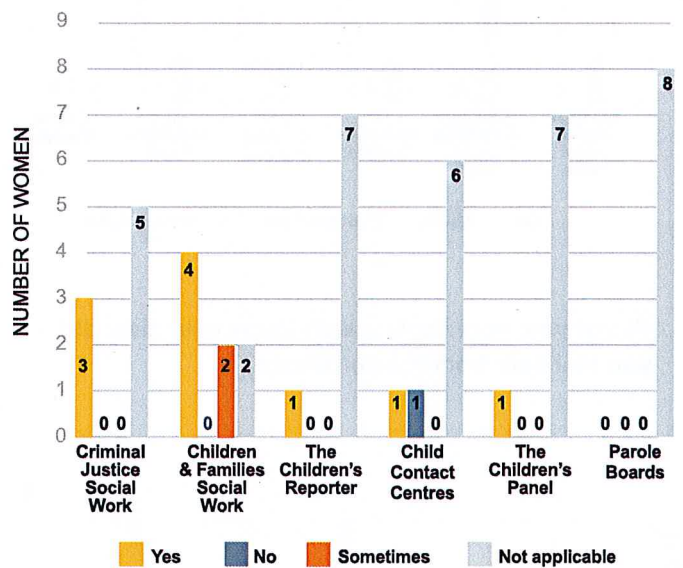
- (b) in paragraph (b), the reference to a child is to a person who is under 18 years of age.

APPENDIX 2: WOMEN'S EXPERIENCES OF OTHER AGENCIES DURING THEIR INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM

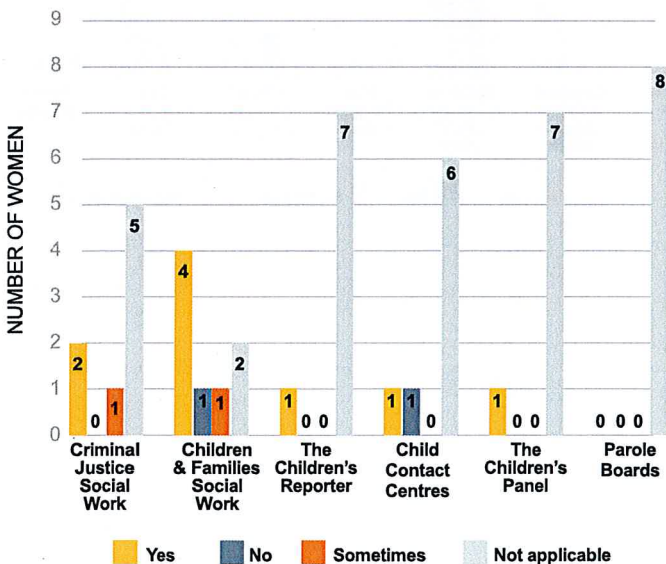
Whilst you were dealing with these agencies, did you feel they kept you informed about what was happening?



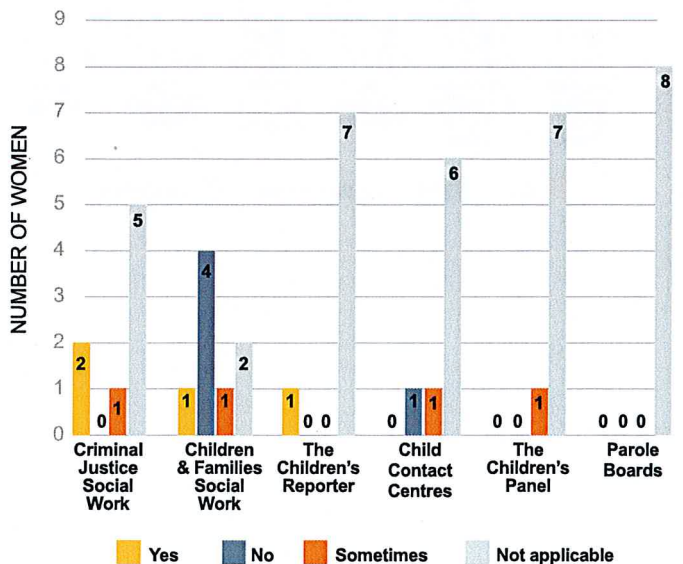
Whilst you were dealing with these agencies, did you feel welcome to ask questions when you needed?



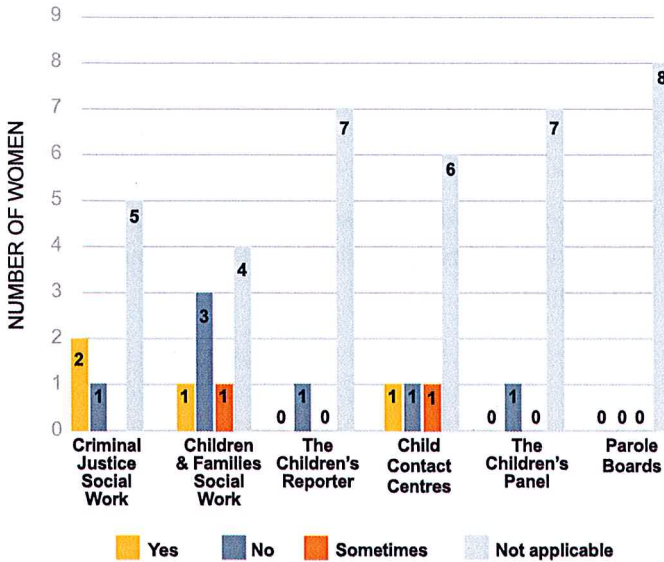
Whilst you were dealing with these agencies, did you feel they were acting in your/your children's best interests?



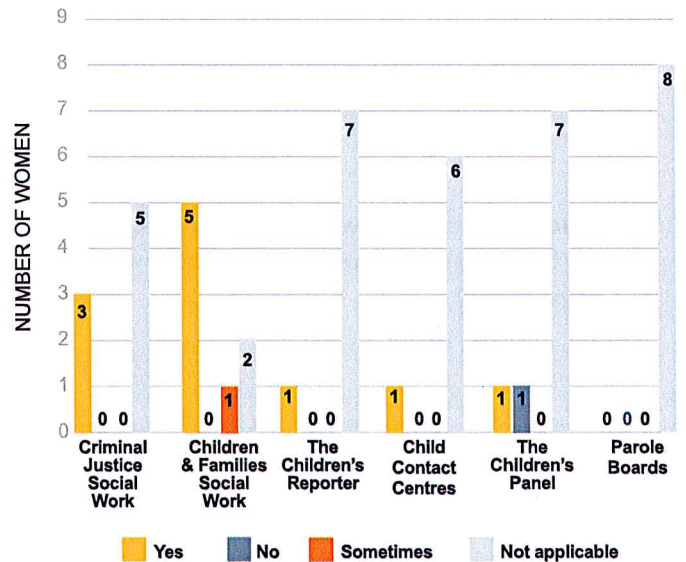
Whilst you were dealing with these agencies, did you feel like you had control over what was happening?



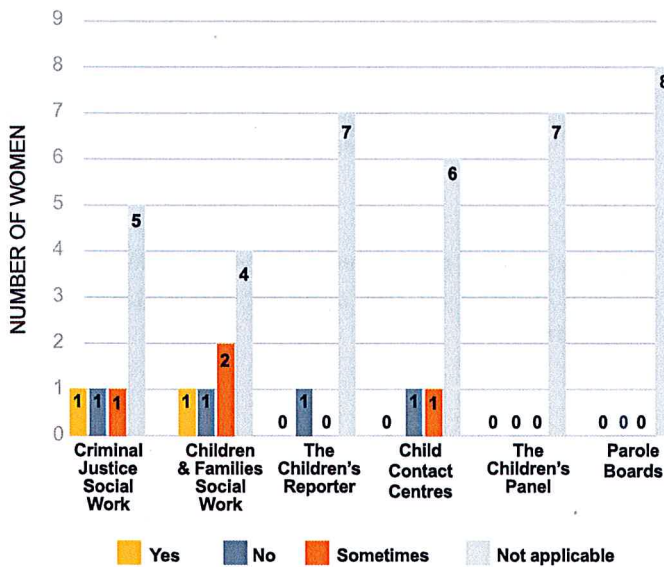
Whilst you were dealing with these agencies, did you feel the perpetrator had control over what was happening?



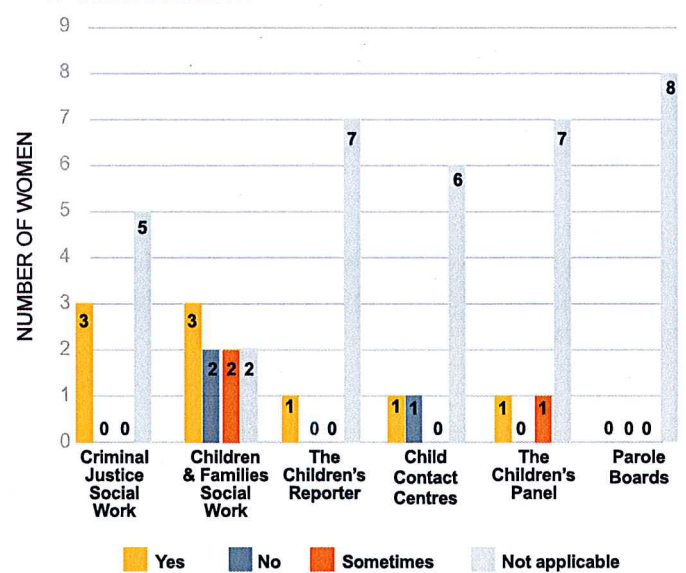
Whilst you were dealing with these agencies, did you feel they explained things in a way you could understand?



Whilst you were dealing with these agencies, did you feel safe from the perpetrator?



Whilst you were dealing with these agencies, did you feel they took what you wanted in to consideration?



Whilst you were dealing with these agencies, did you feel they listened to you?

