

Written evidence from Centre for Women's Justice

About the Centre for Women's Justice (CWJ)

CWJ is a lawyer-led charity focused on challenging discrimination against women in the criminal justice system. We carry out strategic litigation and work with frontline women's sector organisations to challenge police and prosecution failings concerning violence against women and girls. Our evidence base is built on the experience of frontline women's sector support workers discussed during our training sessions with them, and the requests for legal advice they send to us. In 2020 we provided pro bono advice in 468 legal enquiries.

Over the past thirty years CWJ's director, Harriet Wistrich, has been at the forefront of challenging convictions of women who have killed their abusive partner while subject to domestic abuse. Through our legal advice and casework service, we regularly receive referrals from women facing prosecution for a wide range of alleged offending resulting from their experience of domestic abuse and other forms of violence against women and girls (VAWG) and exploitation.

CWJ recently undertook a major piece of [research](#) considering the barriers to justice for women who kill their abuser.¹ Although this focuses on the small number of women who kill, it also sheds light on the criminal justice system's ability to deliver justice more widely for those who offend due to their experience of abuse.

About this submission

Our submission relates primarily to sections 1 and 2 of the call for evidence regarding progress made in reducing women's imprisonment, as well as implementation of the whole system approach. The evidence and recommendations in our recent [research](#) form part of our submission. Also of relevance is our detailed [response](#) to the government's call for evidence on its new VAWG strategy for 2021-2024. We endorse the charity Women in Prison's submission to this inquiry.

Summary

There has been some progress in reducing women's imprisonment, but this has been slow and unevenly spread. We now face a crisis of leadership, with the government projecting a devastating 'temporary' increase in women's imprisonment due to the planned recruitment of over 20,000 police officers, while continuing to advocate that custody should be a last resort. The government's decision to invest £150m in 500 new women's prison places compares unfavourably to its spending of approximately £7m on community services under the Female Offender Strategy, from 2018 to January 2021.²

VAWG, and the lack of effective protection from it, lies at the heart of offending and alleged offending by many women and girls. While the government pays lip service to this link, it

¹ [Centre for Women's Justice \(2021\) Women who kill: how the state criminalises women we might otherwise be burying](#)

² [Ministry of Justice press release, 'Extra funding for organisations that steer women away from crime' 23 January 2021](#)

has failed to introduce the reforms in law, policy and practice that are needed to prevent women and girls being criminalised and imprisoned as a result of their victimisation.

There are welcome initiatives underway and on the horizon, including planned women's problem solving courts. However the government must show greater courage and adopt a relentless focus on reforms to law and practice, if we are to prevent the projected increase in women's imprisonment becoming a reality and instead drive down the harmful use of prison. This must include:

- Investment in a transformation of the police response to women and girls.
- Reforms in the use of remand and custodial sentencing for women.
- Increased investment in early intervention, prevention, diversion and community solutions.
- Meaningful action to tackle the unequal treatment faced by Black and minoritised women³ and migrant women⁴.
- Reforms to law and practice to prevent women and girls being criminalised as a result of their experience of abuse⁵, including reforms around the use of joint enterprise laws⁶.
- Reforms to criminal justice practices and sentencing law, to ensure that the children of women involved in the criminal justice system are carefully considered and supported throughout⁷, including through implementation of the recommendations of the Farmer Review⁸ and the Joint Committee on Human Rights⁹.

Our submission is organised into the following sections:

- Failure to protect women and girls from VAWG (p. 3)
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³ [Prison Reform Trust \(2017\) Counted Out: Black, Asian and minority ethnic women in the criminal justice system; Agenda and Women in Prison \(2017\) Double Disadvantage: the experiences of Black, Asian and minority ethnic women in the criminal justice system](#)

⁴ [Prison Reform Trust \(2018\) Still No Way Out: Foreign national women and trafficked women in the criminal justice system; Benedict, S. \(2020\) Just no future at the moment: examining the barriers to community resettlement for foreign national women](#)

⁵ [Prison Reform Trust \(2017\) There's a reason we're in trouble: Domestic abuse as a driver to women's offending](#)

⁶ [Clarke, B. and Chadwick, K. \(2020\) Stories of Injustice: the criminalisation of women convicted under joint enterprise laws](#)

⁷ [Prison Reform Trust \(2018\) What About Me? The impact on children when mothers are involved in the criminal justice system; see also: Advance \(2020\) A Place To Go Like This: breaking the cycle of harm for mothers involved in offending who are survivors of domestic abuse, and their children](#)

⁸ [Ministry of Justice \(2019\) The importance of strengthening female offenders' family and other relationships to prevent reoffending and reduce intergenerational crime](#)

⁹ [Joint Committee on Human Rights \(2019\) Twenty-Second Report of Session 2017–19, The right to family life: children whose mothers are in prison, HC 1610 / HL Paper 411; JCHR \(2020\) Sixth Report of Session 2019–2021, Human rights and the government's response to COVID-19: children whose mothers are in prison, HC 158 / HL 90; JCHR \(2021\) First Report of Session 2021–2022, Children of mothers in prison and the right to family life: the Police, Crime, Sentencing and Courts Bill, HC 90 / HL Paper 5](#)

- Recommended aims and actions (p. 9)

Failure to protect women and girls from VAWG

Our [research](#) and casework experience confirm that failures to protect women and girls from VAWG can lead them into alleged offending, including as a result of use of force against their abuser and coerced offending. These failings can leave women and girls feeling unprotected and lacking any confidence in the police or other state authorities. Information about current failures to protect women and girls from VAWG is available in [section 1 of our response](#) to the government's call for evidence for its new VAWG strategy.

Progress in reducing women's imprisonment

There has been a 21% reduction in the use of immediate prison sentences for women in England and Wales since 2014¹⁰, and a 24% reduction in the use of immediate prison sentences of under six months¹¹, but this is not evenly spread:

- Greater Manchester has seen the largest reduction in the use of immediate prison sentences for women of under six months, at 60%. A whole system approach for women has been in place in Greater Manchester since 2014, including a problem solving court.¹²
- Surrey (which has the lowest rate of women's imprisonment in the country¹³) has seen the second largest reduction in the use of sentences of under six months for women in the same period, at 59%. Surrey Police attributes its success to two schemes rolled out across the county over the last five years – the Women's Justice Intervention scheme, introduced in 2016, and Surrey Checkpoint, launched in 2019.¹⁴

These results show that investment in an effective local strategy to divert women from the criminal justice system and from custody can reduce the number of women imprisoned, particularly on short sentences. However government investment in frontline services and specialist community support is widely thought to be inadequate to deliver the necessary change and ensure it is sustainable.¹⁵ The Prison Reform Trust estimates that under half of the strategy's commitments have been implemented¹⁶, and a progress report on implementation of the Farmer Review is long overdue.

Planned new prison places for women

¹⁰ [Prison Reform Trust press release, 'New figures reveal significant north-south divide in rates of women's imprisonment, 10 December 2020](#)

¹¹ [Prison Reform Trust \(2020\) Number of women sentenced to immediate custody for less than 6 months in England and Wales by Police Force Area, 2014-2019](#)

¹² [Lowthian, J. et al \(2019\) Greater Manchester Women's Support Alliance Evaluation Report, Manchester: Manchester Metropolitan University](#)

¹³ [Prison Reform Trust press release, 'New figures reveal significant north-south divide in rates of women's imprisonment, 10 December 2020](#)

¹⁴ [Surrey Police \(2021\) Press release, 'Surrey has lowest rate of imprisoning women thanks to rehabilitation scheme', 16 February 2021](#)

¹⁵ Women's Budget Group (2020) [The Case for Sustainable Funding for Women's Centres](#)

¹⁶ [Prison Reform Trust \(2021\) Female Offender Strategy Implementation Matrix](#)

Having projected in 2018 and 2019 that the women's prison population would remain constant, in November 2020 the Ministry of Justice projected that it would rise to 4,500 by September 2025.¹⁷ This was due to the planned recruitment of 20,000 more police officers by 2023, announced in September 2019.¹⁸ The bulletin states that this is likely to increase charge volumes and therefore increase the future prison population, while noting that there is considerable uncertainty around this central projection.

Hardly any information has been published regarding the analysis undertaken. The bulletin states that it does not take account of the Female Offender Strategy because its possible outcomes are not 'robustly quantifiable'. This contrasts with the approach previously taken by HM Prisons and Probation Service in the Prison Estate Transformation Programme, which apparently took account of the strategy when deciding not to increase women's prison places.¹⁹

Government [plans](#) for 500 new women's prison places, which ministers have sought to justify partly on the basis of the projected prison population rise and partly on the need for improved prison conditions, have shaken public confidence in the government's commitment to reducing women's imprisonment. It seems questionable to assume that increasing numbers of police officers should necessarily result in increases in women's imprisonment, without also considering the potential impact of local whole system approaches and other measures.

Instead, government leadership is required to ensure that the expansion of police numbers is used as an opportunity to facilitate a sea change in the police response to women and girls, whether as victims or as alleged offenders. This must include significantly increased investment in improved responses to VAWG and diversion from the criminal justice system, using a specialist, gender responsive approach.

Whole system approach

A whole system approach for women in contact with the criminal justice system, and those at risk of such contact, is a central element in the government's Female Offender Strategy.²⁰ However following years of limited investment in public services, and with significant further challenges posed by the COVID-19 pandemic on communities and the organisations serving them, developing a successful whole system approach is a daunting prospect for local agencies already under strain. A successful whole system approach also requires more meaningful joint working by the Ministry of Justice with other central government departments, including for example the Department for Education (regarding mothers and children) and the Home Office (regarding foreign national women). The Chief Social Worker's review of cases involving children going into care as a result of maternal imprisonment is a good development, and the government must ensure the wider review of the care system carefully considers the children of mothers involved in the criminal justice system.

The Women's Budget Group recently made a detailed case for better funding of women's specialist services,²¹ illustrating that government expenditure on community services to

¹⁷ [Ministry of Justice \(2020\) Prison Population Projections 2020 to 2026, England and Wales](#)

¹⁸ [Government press release \(2019\) '10,000 extra prison places to keep the public safe', 11 August 2019](#)

¹⁹ [National Audit Office \(2020\) Improving the prison estate, Figure 9, page 31](#)

²⁰ Ministry of Justice (2018) [A Whole System Approach for Female Offenders: Emerging evidence](#)

deliver the whole system approach has been minimal particularly when viewed against the Female Offender Strategy's own estimate of the cost to the government of women's offending (£1.7 billion per year). Investment in early intervention is scarce and this has been identified as a key gap in breaking the cycle of offending by women and girls.^{22 23}

The reunification of probation services in June 2021 should ultimately help to achieve positive change, but will inevitably lead to flux in the short term. This must be kept to a minimum to avoid disruption to already overstretched, essential services. There are welcome plans to pilot problem solving courts for women, and to expand the use of Community Sentence Treatment Requirements. Pilots are underway to improve the quality and consistency of pre-sentence reports for women. However significant risks remain that the strain on the economy, together with a renewed political focus on 'cracking down' on crime, prove to be a hostile environment for an effective focus on reducing women's imprisonment. Preventing this requires strong leadership and significant investment.

Unjust criminalisation of survivors of VAWG

In 2017 the then Home Office Minister for Crime, Safeguarding and Vulnerability [said](#) that there needed to be '*a root and branch review of how women are treated in the criminal justice system when they themselves are victims of abuse*'.²⁴ Yet criminal law and practice still fail to protect those whose experience of abuse drives them to offend.

At least 57% of women in prison and under community supervision in England and Wales are victims of domestic abuse.²⁵ Research has shown how women's offending is often directly linked to their own experience of domestic abuse.²⁶ Our own casework reveals how survivors can also be criminalised as a result of their experience of other forms of VAWG.

Sally Challen's successful appeal against her murder conviction in 2019 highlighted the devastating impact of coercive relationships and the lack of legal protection for survivors of domestic abuse who are driven to offend.²⁷ However, while there is some public recognition of the links between domestic abuse and women's offending, this has not yet translated into changes in practice on the ground, and true understanding of these links remains limited.

Our case work has made us aware of disturbing inconsistencies in practice by the Police and CPS when deciding whether to arrest or pursue charges against survivors alleged to have offended in the context of VAWG. Based on referrals received by CWJ for legal advice in the last two years, we have identified the following types of case in which survivors have been accused of offences resulting from their experience of VAWG. Further details and case

²¹ Women's Budget Group (2020) [The Case for Sustainable Funding for Women's Centres](#)

²² Advance (2020) [A Place To Go Like This: breaking the cycle of harm for mothers involved in offending who are survivors of domestic abuse, and their children](#)

²³ [Agenda and Alliance for Youth Justice \(2021\) Falling through the gaps: young women transitioning to the adult justice system](#)

²⁴ [Prison Reform Trust \(2017\) There's a reason we're in trouble: Domestic abuse as a driver to women's offending](#)

²⁵ Ministry of Justice (2018) Female Offender Strategy, London: MoJ. This is likely to be an underestimate because many women fear disclosing abuse. (Gelsthorpe, L., Sharpe, G., and Roberts, J. (2007) Provision for Women offenders in the community London: Fawcett Society)

²⁶ [Prison Reform Trust \(2017\) There's a reason we're in trouble: Domestic abuse as a driver to women's offending, London: PRT](#)

²⁷ Challen, D. (2019) 'My mother, Sally Challen, was branded a cold-blooded killer. At last, she has justice', The Guardian, available at <http://bit.ly/SallyChallen>

examples are included in section 4 of our [submission](#) to the government's VAWG strategy call for evidence:

- (a) **Counter-allegations/self-defence:** A number of our referrals involve survivors being accused of an assault offence where they were in fact acting in self-defence against their abuser and/or in reaction to abuse. Arrests and prosecutions of victims routinely occur despite the existence of CPS guidance, and police guidance in some areas, advocating the need for a careful and nuanced approach. The common law defence of self-defence is ill-fitting to the context of domestic abuse and requires reform.²⁸

Case study - Ioanna²⁹

Ioanna was convicted for attacking her abusive partner with a knife, having been subject to long-term coercion and control by him. When he became threatening during an argument at home, she grabbed a knife lying nearby in the kitchen and raised it towards him. He tried to catch the knife and in the process received a small cut on his finger. He contacted the police. Ioanna received a community order.

- (b) **Offending under coercion/duress:** We have received a number of referrals concerning survivors whose alleged offence took place under duress/coercion from their abuser. The common law defence of duress is out-dated and ineffective in these circumstances, and should be replaced with an effective statutory defence.³⁰ Nonetheless, under the current law in many cases public interest considerations could properly lead to a decision not to prosecute or to divert from the criminal justice system. In practice, all too often, this does not occur.

Case study - YS³¹

YS was charged with driving whilst disqualified, driving with excess alcohol, driving without insurance and dangerous driving. An officer noticed a vehicle with its brake lights permanently illuminated and swerving from side to side. He activated the siren, indicating for the vehicle to stop. The vehicle did not stop, and a chase continued for five minutes. In the driving seat was a woman, YS.

YS explained she had been dragged from her home partially dressed by her partner, forced to drive, and that he threatened to kill her if she did not drive on. The partner was screaming at her throughout, punching her in the ribs and trying to grab the steering wheel.

The police stop this vehicle and YS is prosecuted. Despite running duress, and despite her being viewed as credible, she is convicted (R v YS [2017] EWHC 2839). Her conviction was upheld on appeal to the High Court.

²⁸ [Centre for Women's Justice \(2021\) Domestic Abuse Bill - legal protection for survivors who offend due to abuse](#)

²⁹ Case study provided by Women in Prison. Ioanna is not her real name.

³⁰ See for example: [Prison Reform Trust \(2017\) There's a reason we're in trouble: Domestic abuse as a driver to women's offending](#), London: PRT and Criminal Bar Association of England and Wales (2017) [Defences available for women defendants who are victims/survivors of domestic abuse](#), London: CBA; [Centre for Women's Justice \(2021\) Domestic Abuse Bill - legal protection for survivors who offend due to abuse](#)

³¹ Case study provided by Paramjit Ahluwalia of Lamb Building, taken from factual matrix within R v YS [2017] EWHC 2839

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- (c) **Allegedly false allegations:** CPS guidance is available for cases in which prosecution is being considered in relation to apparently false allegations of rape and other sexual offences. The guidance states, ‘*Prosecutions for these offences in the situations above will be extremely rare and by their very nature they will be complex and require sensitive handling.*’³² However referrals we have received suggest this guidance is not consistently followed in practice.
- (d) **Police officer perpetrators of domestic abuse:** We continue to be made aware of cases in which a police officer perpetrator appears to have abused his powers or contacts within the police in order to criminalise the survivor. These cases should be seen in the wider context of failures by forces to properly investigate allegations made against their officers. This is the subject of a super-complaint by CWJ, submitted in March 2020 and currently under consideration.³³

International law

The Bangkok Rules require the government to ensure that women in the criminal justice system who have experienced violence are identified, treated appropriately and receive the right support, and that they have their experience taken into account in sentencing decisions.³⁴ The Rules require sufficient resources to be available for suitable community alternatives to custody, and the UN Special Rapporteur on Violence Against Women recommended in 2015 that the UK government should “ensure that women’s histories of victimization and abuse are taken into consideration when making decisions about incarceration, especially for non-violent crimes”.³⁵ Also of relevance are the provisions of Convention on the Elimination of all forms of Discrimination against Women³⁶ and the Istanbul Convention³⁷.

Despite these legal safeguards, it nonetheless remains common practice for limited, if any, consideration to be given to women suspects’ and defendants’ experiences of VAWG in criminal justice proceedings. In many cases, the abuse will not even be disclosed until late on in proceedings, or indeed until after women have been convicted and sentenced.^{38 39}

Government response

³² Available at: <https://www.cps.gov.uk/legal-guidance/false-allegations-rape-and-or-domestic-abuse-see-guidance-charging-perverting-course>

³³ [HM Inspectorate of Police and Fire & Rescue Services \(2020\) Police super-complaints: force response to police perpetrated domestic abuse](#)

³⁴ [The United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders \(the Bangkok Rules\)](#)

³⁵ Office of the High Commissioner for Human Rights (Manjoo, R. (2014) Special Rapporteur on Violence Against Women country mission

³⁶ See the recommendations of the CEDAW committee’s March 2019 Concluding Observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland relating to resourcing of the Female Offender Strategy and protection of women from gender-based violence. ([CEDAW/C/GBR/CO/8](#))

³⁷ [The Council of Europe Convention on preventing and combating violence against women and domestic violence](#)

³⁸ Sakande, N. (2019) [Righting Wrongs: What Are the Barriers Faced by Women Seeking to Overturn Unsafe Convictions or Unfair Sentences in the Court of Appeal](#) (Criminal Division)

³⁹ Centre for Women’s Justice (2021) [Women who kill: how the state criminalises women we might otherwise be burying](#)

The government recognises the links between domestic abuse and women’s offending and wishes ‘to help female offenders and women at risk of offending to identify their abuse earlier and receive the support that they need to reduce their chances of reoffending’.⁴⁰ In response to research showing that of 173 women screened at HMP Drake Hall, 64% reported a history indicative of brain injury and for most this was caused by domestic violence,⁴¹ the Lord Chancellor stated that he wants ‘to do more’.⁴²

The Female Offender Strategy⁴³ and accompanying guidance⁴⁴, the cross-government concordat on women in the criminal justice system⁴⁵ and the Victims’ Strategy⁴⁶ all refer to the links between women’s offending and their experience of domestic abuse and the need for survivors involved in offending to be identified as survivors and to receive support. The government’s 2019 domestic abuse consultation response acknowledges coercive control as a cause of women’s offending.⁴⁷ Successive police inspectorate reports and police and CPS guidance all acknowledge the ongoing challenge faced by the police and prosecutors in dealing with counter-allegations and identifying the primary aggressor.

The government has made some limited investment in services aimed at women involved in offending who are survivors of domestic abuse. However significantly greater investment is needed to make sure adequate services are available throughout the country.⁴⁸ Further, the government has not yet addressed the risk of unjust criminalisation that is faced by survivors of all forms of VAWG, and the responsibility of public service agencies to ensure they are protected from this risk. This contrasts with the government’s recognition – quite rightly - that victims of trafficking should not be penalised for alleged offending that results from their exploitation (subject to some exceptions), and the introduction of legislation and a surrounding policy framework to achieve this.

The government has so far rejected the need for any legislative reform to provide effective defences for survivors of domestic abuse who are driven to offend. We welcome the Lord Chancellor and Secretary of State’s planned review of sentencing (which resulted from interventions by the Victims’ Commissioner and Domestic Abuse Commissioner following the [sentencing of Anthony Williams](#), and which accords with recommendations in CWJ’s [Women who kill](#) report). We understand this will include consideration of the impact of existing defences on sentencing of defendants who are victims of domestic abuse. However the terms of reference and intended process for the review have not been published. In any event, what has been proposed falls far short of our request for the government to establish an independent review of the effectiveness of existing defences and the need for legislative reform. We urge the committee to probe the government on these matters.

Improvements needed in policy and practice

⁴⁰ HM Government (2019) Transforming the response to domestic abuse: Consultation response and draft Bill. See also: Ministry of Justice (2018) Female Offender Strategy, London: Ministry of Justice

⁴¹ [The Disabilities Trust \(2019\) Making the link: Female offending and brain injury](#), London: The Disabilities Trust

⁴² Full debate available at: <https://hansard.parliament.uk/commons/2019-10-02/debates/C3488538-CFEC-4670-9299-732672E2BE67/DomesticAbuseBill>

⁴³ [Ministry of Justice \(2018\) Female Offender Strategy](#)

⁴⁴ Ministry of Justice (2018) Managing vulnerability: Women – Fact Pack, London: MoJ; Ministry of Justice (2018) A Whole System Approach for Female Offenders: Emerging evidence, London: MoJ. Both available at: <https://www.gov.uk/government/publications/female-offender-strategy>

⁴⁵ [Ministry of Justice \(2021\) Concordat on Women in or at risk of contact with the Criminal Justice System](#)

⁴⁶ [HM Government \(2018\) Victims Strategy](#)

⁴⁷ [HM Government \(2019\) Transforming the Response to Domestic Abuse Consultation Response and Draft Bill](#)

⁴⁸ [UK Women’s Budget Group \(2020\) The Case for Sustainable Funding for Women’s Centres](#)

Recent research highlights the prevalence of arrests of women for violent offences committed in the context of domestic abuse, only for them later to be released without charge (in other words, cases in which they should not have been arrested at all).⁴⁹ An earlier study by Professor Marianne Hester found that women were three times more likely to be arrested than their male partners in cases involving counter-allegations, often for violence used to protect themselves from further harm from their abuser.⁵⁰

Where police get it wrong and arrest the true victim this has significant long-term ramifications, even when the case against her is closed soon after. It means that in future she will not call the police and is left effectively unprotected. An arrest may also have far-reaching impacts on child custody decisions, housing and other aspects of a survivor's life following relationship breakdown.

Helpful Police and CPS guidance exists in relation to at least some of the case types referred to above. However, it is not followed consistently. The decision to proceed with a prosecution is often entirely inconsistent with CPS policy statements in respect of VAWG, but can be difficult to challenge within the criminal proceedings. Many criminal defence solicitors, working under pressure on fixed fees, do not make pre-trial representations on the application of the public interest test on behalf of their clients. There is often no consideration given to this aspect of the prosecution.

By contrast, in cases involving defendants who are victims of trafficking, Section 45 and the surrounding policy framework requires proactive, early case management and allows all agencies to become more adept at recognising and responding to circumstances which should indicate there is no public interest in prosecuting a case, or where the statutory defence should apply.

As highlighted in CWJ's recent [research](#), training and systemic reforms are needed to address the fact that it is extremely difficult for most survivors of VAWG to speak about their abuse. Even where the abuse is relevant to their alleged offending, disclosures may be limited initially, and survivors need to be given the space and opportunity to expand upon any abuse they mention. An approach modelled on the process followed in relation to potential victims of trafficking could address this.

Recommended aims and actions

We have called on the government to adopt the following aims:

⁴⁹ [APPG on Women in the Penal System \(2020\) Arresting the entry of women into the criminal justice system: Briefing Two](#); [APPG on Women in the Penal System \(2021\) Arresting the entry of women into the criminal justice system: Briefing Three](#)

⁵⁰ Hester, M. (2012) *Portrayal of Women as Intimate Partner Domestic Violence Perpetrators*, Bristol: University of Bristol in association with the Northern Rock Foundation. Professor Hester studied the following three sample groups: (1) All women recorded by the police as sole domestic violence perpetrator in a heterosexual relationship (N=32); (2) a random sample of sole male perpetrators; and (3) a random sample involving 32 cases where both partners were recorded at some time as perpetrator. These different sets of cases were then compared to assess differences and similarities in the rate of arrest where allegations were made. Analysis showed that an arrest was three times more likely to follow where the allegations were made against a woman, than where they were made against a man.

1. To end the unjust criminalisation of survivors involved in alleged offending resulting from their experience of VAWG by adopting necessary reforms in both law and practice.
2. To ensure that survivors involved in alleged offending are identified as survivors at the earliest possible stage in proceedings, and that they are protected from abuse and not stigmatised.
3. To ensure that decisions to arrest or prosecute survivors - and the conduct of all public services throughout criminal proceedings against survivors as suspects and defendants - uphold survivors' rights as victims, take full account of the abuse they have suffered and its relationship to any alleged offending, and serve the public interest.

We recommend the following actions to achieve the above aims:⁵¹

- (a) Reforms to services and systems that play a key role in preventing and tackling violence against women, including housing, health and social care, welfare, the family courts, and specialist community services.
- (b) A public education programme aimed at improving understanding of VAWG as a cause of women and girls ending up as suspects and defendants in the criminal justice system. This must include specialist training for practitioners in key services including the police, the Crown Prosecution Service (CPS), legal services, the judiciary, and social care.
- (c) Training and changes in the culture and practice of the criminal justice agencies that play a key role in responding to such cases, including the police, the CPS, the judiciary, and the Parole Board. This must include close work with community agencies with expertise in violence against women and girls, including organisations led by and for women in minority groups.
- (d) Reforms to the court process to support women defendants who are survivors of abuse, including: measures to support women to explore experiences of domestic abuse in court; measures to address memory issues, counter-allegations, and myths and stereotypes; and measures to support the effective use of expert witnesses.
- (e) Reforms to the appeal process, including the Criminal Cases Review Commission and the appeal courts.
- (f) Reform of sentencing tariffs and guidelines that recognise women's experiences of VAWG.
- (g) Legislative reform: extending the provisions of the 'householder defence' to women who use force against their abuser; and introducing a new statutory defence for survivors of domestic abuse compelled to offend, modelled on section 45 of the Modern Slavery Act 2015.⁵²

⁵¹ [Centre for Women's Justice \(2021\) Women who kill: how the state criminalises women we might otherwise be burying](#)

⁵² [Centre for Women's Justice \(2020\) Domestic Abuse Bill – legal protection for survivors who offend due to](#)

Further, as recommended by the Prison Reform Trust in 2018, we agree that:⁵³

- The police, prosecutors, probation services and the courts should adopt the practice of routine enquiry as to whether women's offending took place in the context of domestic abuse, at each stage of the criminal justice process, to ensure informed decision making. This work must be supported by training about barriers to disclosure. Resources must be provided to ensure a surrounding framework of available support is in place to protect survivors who make a disclosure.
- Police guidance and training must include a specific focus on the links between domestic abuse and some women's offending. Police forces should work with the CPS and local domestic abuse specialist services, and where possible enable co-location of domestic abuse specialists in police stations.
- Police triage and diversion schemes for women involved in low level offending should not automatically exclude women accused of domestic abuse offences, but instead should allow for a nuanced approach given the difficulties faced in identifying the primary aggressor.
- The CPS should work with specialist domestic abuse agencies to develop guidance, training and monitoring to ensure that women whose alleged offending may be driven by domestic abuse are identified, and that the public interest is applied appropriately when deciding whether to prosecute.

We are happy to provide further information as required and would welcome the opportunity to give oral evidence to the committee.

June 2021