



## Joint briefing for House of Lords ahead of Report Stage of the Police, Crime, Sentencing and Courts Bill Serious Violence Duty and Serious Violence Reduction Orders

December 2021

The Police, Crime, Sentencing and Courts (PCSC) Bill is progressing to Report Stage in the House of Lords in December. As human rights organisations, migrant and expert organisations supporting survivors and working to end Violence Against Women and Girls (VAWG), we strongly reject any suggestion that this Bill will support women who have experienced abuse to secure safety and justice.

In this briefing, we highlight our concerns with the Serious Violence Duty in Part 2, Chapter 1; and Serious Violence Reduction Orders in Part 10, Chapter 1 of the Bill, for the ways that they will further the surveillance, criminalisation, and punishment of women and survivors, particularly Black and minoritised and migrant women. We echo the voices of opposition across the VAWG sector against the other provisions in the Bill, including those that will clamp down on protest, criminalise Gypsy, Roma, and Traveller communities' protected way of life, and increase custodial sentences for women, with long-lasting, devastating consequences.

We urge parliamentarians to heed the lessons learned from debates on the historic Domestic Abuse Act, the Domestic Abuse Commissioner's (DAC) *Safety Before Status* report in respect of the risks posed by data-sharing for migrant victims and survivors of abuse, as well as the wider national conversation on VAWG that has been ignited by the murder of Sarah Everard, on the importance of an approach to VAWG that genuinely engages and addresses the complex, underlying causes of VAWG, rather than one that would entrench harmful practices that threaten women's safety and oppressive structures.

### Serious violence duty

Part 2, Chapter 1 introduces a new legal duty under Part 2 Chapter 1 for specified authorities in a local area to work together to reduce serious violence. As VAWG organisations have noted in previous briefings,<sup>1</sup> we are concerned that this duty will lead to discriminatory and disproportionate targeting of Black and minoritised communities. We are also concerned about the potential for data-sharing under this duty to threaten individual privacy and place minoritised women and survivors, and particularly migrant women, at risk by preventing their access to vital services.<sup>2</sup>

During the Bill's second reading in the House of Lords, the DAC strongly recommended that the definition of serious violence be amended to explicitly include domestic homicide, domestic abuse, and sexual violence, which has now been accepted as a Government amendment.<sup>3</sup> We acknowledge that the aim of the DAC's recommendation is to ensure that tackling VAWG is part of the Government's approach to tackling serious violence and its root causes, in a

<sup>1</sup> See: <https://rightsofwomen.org.uk/wp-content/uploads/2021/09/Joint-briefing-on-the-Police-Crime-Sentencing-and-Courts-Bill-for-House-of-Lords-Second-Reading-September-2021.pdf>

<sup>2</sup> HMICFRS, IOPC & College of Policing (2020). Safe to share? Report on Liberty and Southall Black Sisters' super-complaint

on policing and immigration status. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/945314/safe-to-share-libertysouthall-black-sisters-super-complaint-policing-immigration-status.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945314/safe-to-share-libertysouthall-black-sisters-super-complaint-policing-immigration-status.pdf)

<sup>3</sup> Domestic Abuse Commissioner for England and Wales Briefing: Policing, Crime, Sentencing and Courts Bill House of Lords Second Reading, 14 September 2021, available at: <https://domesticabusecommissioner.uk/wp-content/uploads/2021/09/2109-Lords-2nd-Reading-Stage-PCSC-Bill-2021-FINAL-1-2.pdf>



context where domestic abuse has historically failed to attract sufficient and adequate funding, resources, and indeed prioritisation by the police and other public and statutory bodies (which is compounded for specialist services providing support to Black, migrant, and minoritised survivors and victims). However, we have numerous concerns about this proposal, and believe it risks expanding the surveillance and criminalisation of survivors and entrenching existing barriers to accessing support:

1. **The serious violence duty is fundamentally police- and enforcement-led, which is contrary to a public health approach which prioritises collaboration and multi-agency working. The duty will lead to the further criminalisation of marginalised communities.** In spite of the Government’s repeated assurances to the contrary, the serious violence duty is police-led: police will be given the power to monitor public bodies’ implementation of the duty (clause 13 (2)). Importantly, the police will also be given the power to demand information disclosure from other bodies (like local authorities, Clinical Commissioning Groups, education authorities, youth custody authorities, and prison authorities) even if this would undermine existing duties of confidentiality and restrictions on information disclosure – backed up by the Secretary of State’s power to make directions requiring compliance.
  
2. **Amidst a wider conversation that is happening about declining trust in policing, particularly in respect of VAWG, we believe that the enforcement-led duty – and its expansion of punitive surveillance – is fundamentally out of place and even counterproductive.** The End Violence Against Women Coalition commissioned nationwide YouGov research that shows 47% of women and 40% of men reported declining trust in the police following the case’s publication of details surrounding the rape and murder of Sarah Everard by serving Metropolitan Police officer Wayne Couzens.<sup>4</sup> The reality is that the majority of survivors of abuse do not report their cases to the police, with Black, Asian, Minority and Ethnic (BAME) victims even less likely to do so. To further entrench an enforcement-led approach to tackling serious violence will only exacerbate mistrust among already-overpoliced communities, including Black and minoritised survivors and victims. The DAC herself has noted her concerns that “policing measures disproportionately [fall] on communities who are already minoritised and marginalised.”<sup>5</sup> We believe that tackling violence against women and girls requires a more holistic approach which considers the experiences and needs of all survivors.
  
3. One of the key elements that make the duty enforcement-led is the powers and legal obligations of information disclosure – and the carve-outs from duties of confidentiality and other restrictions on disclosure – that will in some cases require public bodies to share information about individuals with the police, backed up by the power of the Secretary of State to make directions securing compliance. **We are concerned that these carve-outs from duties of confidentiality and other restrictions on disclosure of information will erode relationships of trust,<sup>6</sup> with a particularly**

<sup>4</sup> End Violence Against Women, *Almost half of women have less trust in police following Sarah Everard murder*, available at: <https://www.endviolenceagainstwomen.org.uk/almost-half-of-women-have-less-trust-in-police-following-sarah-everard-murder/>

<sup>5</sup> Domestic Abuse Commissioner for England and Wales Briefing: Policing, Crime, Sentencing and Courts Bill House of Lords Second Reading, 14 September 2021, available at: <https://domesticabusecommissioner.uk/wp-content/uploads/2021/09/2109-Lords-2nd-Reading-Stage-PCSC-Bill-2021-FINAL-1-2.pdf>

<sup>6</sup> Liberty, *Frontline workers warn Policing Bill puts young people at risk*, 13 September 2021, available at: <https://www.libertyhumanrights.org.uk/issue/frontline-workers-warn-policing-bill-puts-young-people-at-risk/>;

Modin, A., and Topping A., *Policing bill will deepen racial and gender disparities, say experts*, The Guardian, 13



detrimental impact on survivors' and victims' access to vital services and support and the identification of survivors and victims of domestic abuse. This will have a disproportionate impact on minoritised and migrant survivors. We echo the concerns voiced by the General Medical Council and the British Medical Association that the information disclosure provisions will severely erode patient-doctor confidentiality. This lack of trust in doctors will negatively impact victims and survivors of VAWG, considering that 80% of women experiencing abuse seek support from health services.<sup>7</sup> Furthermore, the qualifying language within the duty that require the data protection legislation to be read in line with the serious violence duty renders provisions under the duty unclear and may give rise to breaches of these safeguards.<sup>8</sup>

4. **In preventing people from accessing vital support, the serious violence duty might further prevent women from being identified as survivors and victims – especially minoritised and migrant survivors and victims.** It is already the case that even where abuse tragically escalates to domestic homicides, minoritised survivors are less likely to have been known to agencies and receiving formal support than 'white victims'.<sup>9</sup> As acknowledged by the Government in past strategies on VAWG, the statutory sector – particularly health services – play a crucial role in identifying and supporting victims and survivors of VAWG.<sup>10</sup> In the context of Part 7 of the PCSC Bill, Women in Prisons has warned that the bringing in of voluntary organisations to administer enforcement-related functions may have an impact on the perceived independence of such entities, with detrimental impacts on trust.<sup>11</sup> We are therefore concerned that the duty's police-led approach risks widening the existing inequalities that minoritised and migrant survivors already face, by introducing an additional barrier for groups that already disproportionately at risk of gender-based violence, with long-term implications for any meaningful strategies to combat VAWG.
  
5. **We are concerned that the serious violence duty – with its erosion of crucial safeguards for survivors' data rights and duties of confidentiality – will replicate the same harmful effects of the Government's 'hostile environment' policies.** The duty risks deterring survivors from accessing support due to the potential consequences of their data being shared with the police should they report to statutory services; trapping them in violent environments, with devastating consequences. Research by the Latin American Women's Rights Service found that in the context of data-sharing agreements between the police and Home Office, this had the effect of some survivors feeling more fearful of the police than those abusing them.<sup>12</sup> This also

September 2021, available at: <https://www.theguardian.com/uk-news/2021/sep/13/policing-bill-will-deepen-racial-and-gender-disparities-say-experts>; Shaman, J., *Policing bill 'will put young people at risk', hundreds of experts warn*, The Independent, 13 September 2021, available at: <https://www.independent.co.uk/news/uk/politics/policing-bill-2021-data-surveillance-b1918664.html>

<sup>7</sup> See IRISi Interventions: <https://irisi.org/>

<sup>8</sup> British Medical Association, *Police, Crime, Sentencing and Courts Bill House of Lords: Second Reading briefing, September 2021*, available at: <https://www.bma.org.uk/media/4568/bma-briefing-police-crime-sentencing-and-courts-bill-sept-2021.pdf>

<sup>9</sup> Home-Office [funded research](#) by the NPCC and the College of Policing into domestic homicides and suicides during the pandemic found that "BAME victims" were less likely to be previously known to other agencies (42% compared with 58% of White victims): <https://cdn.prgloo.com/media/02d412c416154010b5ceba8f8f8965030.pdf>

<sup>10</sup> "We know that abused women use health care services more than non-abused women and they identify health care workers as the professionals they would be most likely to speak to about their experience." Pg. 21, HM Government, *Ending violence against women and girls 2016-2020: Strategy refresh*, March 2019, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/783596/VAWG\\_Strategy\\_Refresh\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/783596/VAWG_Strategy_Refresh_Web_Accessible.pdf)

<sup>11</sup> Women in Prison's Briefing on the Police, Crime, Sentencing and Courts Bill, Second Reading Debate (HoC)

<sup>12</sup> <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-full-version-updated.pdf>





has wider implications for trust in public institutions. In response to a supercomplaint brought by Southall Black Sisters and Liberty on the impact of data-sharing on survivors of domestic abuse and crime, Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS), the College of Policing, and IOPC found that significant harm is being caused to the public interest because victims of crime with insecure immigration status are fearful that if they report to the police their data will be shared with the Home Office and/or the reported crimes will not be investigated.<sup>13</sup> We note that the PCSC Bill is undergoing its passage through Parliament prior to the publication of the Home Office’s review on data-sharing, which follows from the Government’s rejection of amendments to the then-Domestic Abuse Bill that would have secured safe reporting mechanisms for migrant victims and survivors. The DAC’s recently published *Safety before Status* report sets out that “information-sharing with immigration enforcement undermines trust in the police and public services and enables perpetrators to control and abuse survivors with impunity.” When public service workers share information with immigration enforcement – even with the perceived purpose of safeguarding a victim – they can put the survivor at risk of immigration enforcement and even where immigration enforcement does not take place, it can “compound the experience of immigration abuse, pushing victims and survivors further away from support”.<sup>14</sup> Peers should be alert to the risk that the serious violence duty is likely to have a similar effect.

6. **Practices of expansive data-sharing with minimal safeguards may give rise to violations of people’s data and privacy rights and result in individual risk-profiling and racially disproportionate targeting.** In spite of repeated assurances by Government ministers that powers to share personal data will only be used “infrequently”,<sup>15</sup> this is no guarantee. We are concerned that the serious violence duty risks putting on a statutory footing the same systemic failings of the London Metropolitan Police Service’s Gangs Matrix that were identified by the Information Commissioner’s Office (ICO) and The Mayor’s Office for Policing and Crime (MOPAC), including the failure to distinguish between victims of serious violence and perpetrators of serious violence, which resulted in chronic and widespread surveillance and criminalisation of individuals, their families and their communities.<sup>16</sup> Indeed, we note statistics from MOPAC in 2019 indicating that 12 of the 18 females on the Gangs Matrix (making up 0.6% of the total Matrix population) at the time had been recent victims of violence.<sup>17</sup>

<sup>13</sup> HMICFRS, *Safe to share? Report on Liberty and Southall Black Sisters’ super-complaint on policing and immigration status*, 17 December 2020, available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/945314/safe-to-share-liberty-southall-black-sisters-super-complaint-policing-immigration-status.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945314/safe-to-share-liberty-southall-black-sisters-super-complaint-policing-immigration-status.pdf)

<sup>14</sup> Pg. 6, Domestic Abuse Commissioner, *Safety Before Status*, October 2021, available at:

<https://domesticabusecommissioner.uk/wp-content/uploads/2021/10/Safety-Before-Status-Report-2021.pdf>

<sup>15</sup> Victoria Atkins, Police, Crime, Sentencing and Courts Bill (Sixth sitting) (Public Bill Committee), Hansard, 25 May 2021, Col. 259. The draft Statutory Guidance to the serious violence duty provides that “There may be instances where information pertaining to individuals (including personal data) needs to be shared.” See:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1027878/Draft\\_Guidance\\_-\\_Serious\\_Violence\\_Duty.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1027878/Draft_Guidance_-_Serious_Violence_Duty.pdf)

<sup>16</sup> Information Commissioner’s Office, *ICO finds Metropolitan Police Service’s Gangs Matrix breached data protection laws*, 16 November 2018, available at: <https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2018/11/ico-finds-metropolitan-police-service-s-gangs-matrix-breached-data-protection-laws/>

<sup>17</sup> MOPAC, *Women and Girls and the Gangs Violence Matrix*, 7 January 2019, available at: <https://www.london.gov.uk/questions/2018/5248>



7. Because the serious violence duty as currently drafted explicitly provides that victims of serious violence are to be included within the definition of people “involved in serious violence” and pursues an enforcement-led approach similar to that of the Gangs Matrix, **we are concerned that similar processes of criminalisation and surveillance may fall on those identified as victims via the duty.** This will have racially disproportionate effects: it is well-established that the policing of serious violence is heavily fuelled by racial stereotypes, many of which centre on the ill-defined and porous concept of the ‘gang’.<sup>18</sup> The stark statistics on the Gangs Matrix, revealed in a report published in 2018 by Amnesty International, lay bare the over-identification of people of colour, especially Black people, as gang affiliated – at the time of publication 72 per cent of individuals on the MPS’s Gangs Matrix were Black, yet the MPS’s own figures show that just 27 per cent of those ‘responsible for serious youth violence’ are Black.<sup>19</sup> **We are concerned about what implications the inclusion of domestic abuse and sexual violence into the serious violence duty will have on survivors, particularly Black and minoritised survivors.**
  
8. **We do not support the Government’s amendment to the Bill, which will include domestic abuse and sexual violence in the definition of ‘serious violence’ as we are highly concerned that the risks identified above regarding individualised data-sharing and risk-profiling will exacerbate the harms faced by survivors and victims. While we continue to oppose the serious violence duty as a whole, should the Government amendment pass, we emphasise the need – at minimum – for there to be robust safeguards for any data that is shared under the duty to mitigate its worst effects, for example through depersonalisation and through the reinstatement of existing protections under the data protection legislation.** Indeed, the DAC has already urged the Government to clarify that “the data of individuals is only shared on *an anonymous basis* to strategically inform prevention strategies”.<sup>20</sup> The British Medical Association has similarly noted that it should not be necessary to share identifiable health information about individuals for the purposes of designing a strategy to reduce and prevent serious violence.<sup>21</sup> **We reiterate however, that these measures are not enough to fully avert the harms we have outlined.**

### Serious Violence Reduction Orders

Part 10, Chapter 1 of the Bill provides for the creation of a new civil order, the Serious Violence Reduction Order (‘SVRO’), which would be imposed on an individual on the basis of a previous conviction. Such an order could potentially include a range of requirements and prohibitions, that the Secretary of State can specify by way of regulation. Part 10, Chapter 1 would further amend the Sentencing Code in order to confer a new power on the police to stop and search anyone subject to an SVRO whenever they are in a public place, without needing to form reasonable suspicion.

<sup>18</sup> Patrick Williams, ‘Being Matrixed: The (over)policing of gang suspects in London’, August 2018, [https://www.stop-watch.org/uploads/documents/Being\\_Matrixed.pdf](https://www.stop-watch.org/uploads/documents/Being_Matrixed.pdf)

<sup>19</sup> In the same set of MOPAC statistics published in 2019 referred to above, 13 of the 18 female on the Gangs Matrix were non-white. See: <https://www.london.gov.uk/questions/2018/5248>

<sup>20</sup> Domestic Abuse Commissioner for England and Wales Briefing: Policing, Crime, Sentencing and Courts Bill House of Lords Second Reading, 14 September 2021, available at: <https://domesticabusecommissioner.uk/wp-content/uploads/2021/09/2109-Lords-2nd-Reading-Stage-PCSC-Bill-2021-FINAL-1-2.pdf>

<sup>21</sup> British Medical Association, *Police, Crime, Sentencing and Courts Bill – House of Lords: Second Reading*, September 2021, available at: <https://www.bma.org.uk/media/4568/bma-briefing-police-crime-sentencing-and-courts-bill-sept-2021.pdf>



We echo the concerns of VAWG organisations that data collected via the serious violence duty will feed into the making of SVROs and the expansion of suspicionless stop and search powers – a measure that we consider profoundly disproportionate, and that might actually exacerbate and entrench the root causes of serious violence rather than addressing them.<sup>22</sup> The Home Office itself has acknowledged that SVROs are likely to have racially disproportionate effects – particularly in respect of Black men – both in terms of who they are applied to and who is stopped and searched under these powers.<sup>23</sup>

9. **We echo the concerns voiced by Agenda that the SVRO provisions will have a direct impact on young women experiencing criminal exploitation.** In particular, we are concerned about the provisions that allow for an SVRO to be made on a person on the basis that they “ought to have known” that someone who was in their company was in possession of a bladed article or offensive weapon. These are similar to joint enterprise laws which have brought women into the criminal justice system that had no involvement in the alleged offence, but were experiencing abuse from their co-defendants. As Agenda states, “The proposed terms of an SVRO *render invisible the impact of coercion in relationships experienced by many young women drawn into the criminal justice system, or at risk of criminal exploitation.*”<sup>24</sup> We are concerned that this provision negates the progress that was made in the course of debates around the Domestic Abuse Act, in respect of raising public awareness of the impact that coercive relationships – and the lack of legal protection – can have on survivors of domestic abuse who are driven to offend.<sup>25</sup>

**We urge parliamentarians to oppose the serious violence duty in Part 2, Chapter 1, and Serious Violence Reduction Orders in Part 10, Chapter 1, for the ways that they will further the punishment, criminalisation, and surveillance of survivors of VAWG and risk entrenching the inequalities already faced by Black, minoritised and migrant survivors.**

**The Government must recognise the gendered experience of violence that is exacerbated by racial, socio-economic and other forms of discrimination. Rather than focusing on criminal justice measures, the Government’s focus should be on addressing misogynistic and discriminatory assumptions in the law and its systems and the structural issues that reinforce these.**

**The underlying causes of VAWG are complex and it is therefore imperative the Government listens to expertise within the sector, including those supporting Black, minoritised, and migrant survivors. Any measures to address the issues require an intersectional approach and investment in education, addressing social-economic inequalities and better equipping of vulnerable communities to challenge VAWG.**

For more information, please contact:

<sup>22</sup> <https://rightsofwomen.org.uk/wp-content/uploads/2021/09/Joint-briefing-on-the-Police-Crime-Sentencing-and-Courts-Bill-for-House-of-Lords-Second-Reading-September-2021.pdf>

<sup>23</sup> <https://www.gov.uk/government/publications/police-crime-sentencing-and-courts-bill-2021-equality-statements/home-office-measures-in-the-police-crime-sentencing-and-courts-bill-equalities-impact-assessment>

<sup>24</sup> Agenda and Alliance for Youth Justice, “I wanted to be heard”: *Young women in the criminal justice system at risk of violence, abuse and exploitation*, September 2021, available at: <https://weareagenda.org/wp-content/uploads/2021/10/Young-Women%E2%80%99s-Justice-Project-briefing-paper-I-wanted-to-be-heard-October-2021-FINAL.pdf>

<sup>25</sup> Williams, K.S., *Defending Abuse Survivors Who Go On To Offend*, Russell Webster, 9 March 2021, available at: <https://www.russellwebster.com/defending-abuse-survivors-who-go-on-to-offend/>



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 Woman's Trust  
 Kurdish and Middle Eastern Women's Organisation  
 FiLiA  
 Southall Black Sisters  
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