



# The Judicial Process in the Area of Domestic Violence:

## The Female Victims Experience



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# WHERE WE START



- There is already some **research** about the judicial process created by the Organic Law 1/2004 on protection against gender-based violence that had shown **the circumstances of its application**
- The **experiences** of the women have prove to be **inadequate** in a grate number of occasions due to the experiences of secondary victimization

# WHERE WE GO



- It's necessary to **go deeper and know more details** about the encounters between the female victims and the legal agencies
- The research must show where they present the major difficulties and where the system is working well



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# The Female Victims' Experience

# OBJECTIVES

- **To explore and describe the experiences of fifteen women during the process of the criminal justice system**
- To explain the particularities of the institutional treatment dispensed to the victims through the encounter with different legal agencies
- Make suggestions to address domestic violence through the criminal justice system

# METHOD

- **Semi-structured interviews on the different steps within the judicial process carried out in the first months of 2016**
- Fifteen women between 30 and 63 years old
- Three of them were foreigners
- They were contacted through two NGOs that work in Málaga and Almería (Andalusia, Spain)

# RESULTS



## **Police interactions:** the initiation of the judicial process

- Legal and institutional barriers
  - Police treatment

## **Court interactions:** secondary victimization

- Information about the process
  - Elements of the process
- Misunderstanding of the process and its results

# Initiation of the process: Legal and institutional barriers

## Fear of further violence and mistrust of the criminal justice system

*(W.12): now I know what's happening with the police reports, the judges, the restraining orders... It's terrible!. I think that I'm one of the few who hasn't gone to the police. There is a huge lack of legal protection*





# Initiation of the process: Legal and institutional barriers

## Discouraging messages

### ■ The police

(W.8): *with the first policeman I felt ridiculous I wanted to give up because when I told him my story he said that they were the relationship problems that we all have, because my husband had't battered me or the children*

### ■ The lawyers

(W.1): *the lawyer told me: he hasn't battered you so I don't know if it's possible to do anything, I really don't think so*

### ■ The judges

(W.5): *The judge was a former university colleague and she said to me: think carefully about it because of your daughter*

## Previous refusal of protection

(W.13): *I can't face him so the only way I have is the penal process, although they didn't listen to me last time, I'm going to report to the police again and again because I can't do anything else*



# Initiation of the process: Police treatment

## Accounts of being listened to and feeling protected

- (W.13): *I think that the police has been the only institution that I would give an "A"*
- (W.14): *it was ok.... I told them that I was going to report a DV crime, and they cleared a room to be alone with me and asked me about what had happened. I had to fill in a form and they asked me several questions. And they told me, you're going to a women's shelter, aren't you? Because you're not going back... And I said no, I'm not going back*
- (W.5): *when the police came, one of them went with my little girl to another room and reassured her*

# Court interactions: Secondary victimization

**The women lack information about the judicial process.** The advice of some lawyers isn't good enough

- (W.11): *after the trial the case was closed. I don't know why, nobody has told me anything, my lawyer isn't interested*
- (W.12): *the lawyer didn't appear at the trial, he didn't say me anything and I went alone*
- (W.13): *she took some decisions without asking me. For example, I reported to the police a cybercrime because he entered my facebook and that went to trial, but she removed it*
- (W.15): *the first lawyer told me that I wasn't a DV victim, what had happened was that, on the lawyer's opinion, my husband was a rude person; then I thought: my lawyer doesn't believe me*



# Court interactions: Secondary victimization

## The inadequacy of the structure of the judicial process

### ❖ The complexity of the suffered violence is not taken into account

*(W.5): he came back home some months after and it all became worse, he has continued his abuse, not battering me, but my daughter instead (...). It's important that this is assessed by judges, gender violence through the children (...) he beat the girl a lot, he knows that he can't do it to me*

### ❖ Nor its habitual nature

*(W.3): at first I reported the psychological abuse, but at the same time he reports me and my complaints were never followed up (...) later he battered me, he broke my hand*



# Court interactions: Secondary victimization

## The inadequacy of the structure of the judicial process

### ❖ Protection orders

*(W.5): no, now I haven't any protection order and I'm scared of him*

*(W.13): yes, he broke it, but I didn't report it to the police and I should have done it. It was the first time and I didn't go because of ignorance and fear; you think, the violation of the order I report his fault and the police arrest him...*



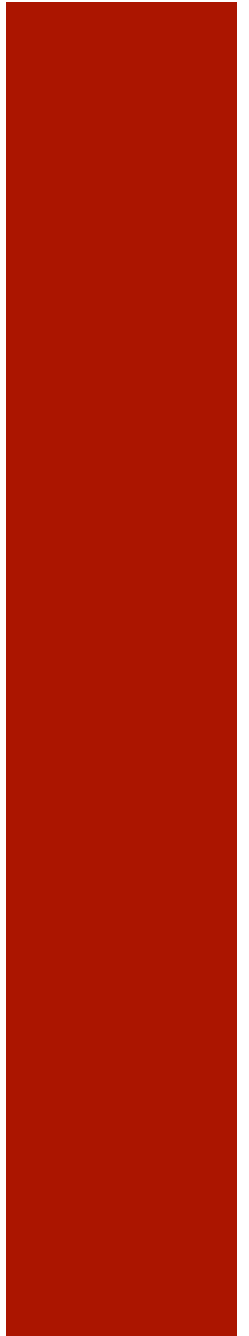
# Court interactions: Secondary victimization

## Misunderstanding of the judicial process and its results

- ❑ **The evidence** (W.5): *that's other problem of the judicial process, some evidence is admitted and some isn't. There is evidence that is crucial to the judge's decision and they should take it into account*
- ❑ **Visits of the children to their parents** (W.7): *first you say: he's not going to take the girl with him, but afterwards you think that they are going to be in a meeting point and they will be protected and under surveillance (...) but she had to be dragged there and if she was wearing a pullover it ended up ragged because they had to drag the girl in there*
- ❑ **Acquittal** (W.12): *during the trial they asked him if it was true that he had been insulting and had given me degrading treatment. He said it was true and then he was acquitted*



# Interactions and misunderstandings



- ✓ The organic law 1/2004 has been a positive **step forward** for the women victims of gender base violence protection
- ✓ But there is a need for **further clarification** of the experiences of these women with the judicial proceeding to be aware of the details about **secondary victimisation**
- ✓ We still see that in a great number of occasions **women suffer** because of the treatment that they receive during the **judicial process** or because it isn't properly design to facilitate their protection







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