1. Please outline your views on the overall efficiency and effectiveness of the COPFS in its core role of considering reports about crime from the police and bringing prosecutions. Are there ways in which the services provided by the COPFS could be improved – for instance, through increased use of technology, further reforms to criminal procedure, or better case management? If so, do those changes also bring risks, in terms of overall interests of justice or of access to justice (bearing in mind the differing needs of people across Scotland; urban and rural communities, economically disadvantaged people, vulnerable groups, etc)?

I do not believe that the timescales for decisions about whether cases will proceed to court are acceptable, particularly in prepetition cases where there is no time limit for these decisions. This is based on feedback from survivors where they have no communication from COPFS for months on end after the police have reported to the PF, and have no idea what is happening with their cases. This is particularly difficult for survivors where the case is prepetition, the accused has no bail conditions and most likely thinks the case is not proceeding.

Examples & feedback:
- “The whole court process dragged on and I hope they improve this for future victims.” – a survivor who’s case did not proceed to court.
- “It was a lot to do with the amount of time it took to get to the prosecution stage. But also I had come to terms with what happened and wasn't sure if it would do me more harm than good to go through it all in court and a fear of the outcome.” – a survivor who told the PF she did not feel able to go to court because of the impact on her mental health.

I think there are ways technology can be used more, particularly in terms of videoing police statements and being able to play this in court so that victims do not need to be in court giving evidence for so long, and so they are not relying on their memories of incidents that could have happened many years in the past over a long time period.

Examples & feedback:
- Survivor got to see her statement during court familiarisation visit within 2 weeks before start of trial, which she had not seen since she gave it to Police 2 years previously. There were inaccuracies around names, offences, and dates, which she felt would make her look like a liar on the stand and made her feel she had lost faith in the system and did not want to attend court. PF met with her 2 working days before the trial was due to start to go through and correct her statement.

2. Please outline how well you consider the COPFS works with other stakeholders in the criminal justice system, so as to provide a “joined up” and
complementary service that helps meet the ends of justice. Other stakeholders might, for instance, include the police, defence lawyers, the courts, the prison service, criminal justice social work, and third party organisations working with victims or offenders.

Other stakeholders such as defence lawyers and Sheriff’s do not always seem to have an understanding of the impacts of sexual violence on victims and victims do not seem to be respected or have dignity in the process.

Examples & feedback:
- A defence agent contacted a survivor to arrange precognition very soon after accused was charged, before any trial date was set, and before survivor had any meetings with COPFS to explain the process. The Defence agent was not accepting of the survivor’s reasons for not attending, despite the advice given by COPFS about the usual process & timescales involved, and despite this being voluntary.
- Sheriff Drummond’s decision & comments re Domestic Abuse case at Selkirk Sheriff Court, as reported in Southern Reporter in June 2016. A Dr was granted an absolute discharge after facing 6 charges of threatening & abusive behaviour dating back 3 years, and the Sheriff made negative comments about domestic abuse policies. A survivor commented this might put her off from reporting historical abuse, particularly if the accused was a professional. There seems to be no process for holding the independent judiciary accountable for their decisions.

It is quite difficult for us to get updates from COPFS about cases due to the way calls are dealt with and not always being able to speak to anyone directly involved with cases. This often puts victims off from contacting COPFS themselves.

3. Does the COPFS as presently constituted have the resources and skillsets it needs to carry out its core role effectively? And is it appropriately “future-proofed” – for instance to deal with new technologies available to criminals, changes in the overall profile of crime in 21st century Scotland, or withdrawal from the European Union? If not, what additional capacities does the COPFS need?

As evidenced in my other answers, I do not feel COPFS has the resources to deal with cases in a timely and efficient manner, with enough communication with survivors and stakeholders. This means survivors do not have enough confidence in the system to report crimes in the first place, let alone continue through the whole process without it having a huge impact on their lives, even if justice is done in the end.

4. How well does the COPFS respond to the needs of victims of crimes and to witnesses (especially vulnerable witnesses) in criminal cases and meet its legal obligations towards them?

I do not feel most people who speak to survivors have an awareness of the impacts of sexual violence. Communication with victims can be very bad, particularly in prepetition cases where many survivors are not informed that the accused has not
appeared in court or has been released without bail. In some cases victims think their case has been dropped when in fact they are still being considered.

Examples & feedback:
- A survivor was not informed charges had changed to Assault to Injury, by either Police or PF, after she reported rape. She found out when she got citation to appear in court. This meant the case went to Sherriff Court instead of High Court, which meant there were much shorter timescales and no precognition. The case was dropped on the day the trial was due to begin.
- During PF precognition a survivor was shown CCTV footage, which she hadn't seen before and couldn't remember happening, from the night of the incident (violent rape) where it was obvious she was drunk. The precognoser commented “looks like you had a good night”. Survivor still finds this comment extremely distressing and doesn’t feel able to give evidence in court.

5. The Inspectorate of Prosecution in Scotland is the independent, statutory inspectorate for the COPFS. What is your awareness of the existence and role of the IPS and of its effectiveness in carrying out that role? How effective has it been in carrying out its role? Does it appear to have the resource it needs?

I have no awareness of IPS.

Scottish Borders Rape Crisis Centre
18 October 2016