



Northern Ireland  
Assembly

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**COMMITTEE FOR JUSTICE**

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**OFFICIAL REPORT  
(Hansard)**

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**Criminal Justice Inspectorate Report on the  
Care of Victims and Witnesses in the  
Criminal Justice System: Briefing by the  
Chief Inspector, Dr Michael Maguire**

8 December 2011

**NORTHERN IRELAND ASSEMBLY**

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**Members present for all or part of the proceedings:**

Mr Paul Givan (Chairperson)  
Mr Raymond McCartney (Deputy Chairperson)  
Mr Sydney Anderson  
Mr Stewart Dickson  
Mr Seán Lynch  
Ms Jennifer McCann

**Witnesses:**

Dr Michael Maguire ) Criminal Justice Inspection  
Mr Derek Williamson )

**The Chairperson:**

I welcome Dr Maguire, the chief inspector, and Derek Williamson, who is an inspector. I hand over to you, Dr Maguire, to take us through your report.

**Dr Michael Maguire (Criminal Justice Inspection):**

Thank you, Chairman. I aim to cover the main points of my report relatively quickly and to use the time that we have for questions, if members have any, on our work.

The starting point for the report is that the effective and appropriate treatment of victims, witnesses and their families presents enormous challenges for the justice system; issues include the human cost of crime and its impact. The range of problems can be very broad; support is often required from outside the justice system and may involve health and other organisations. Victims and witnesses need support to make a contribution to the investigation and prosecution of cases.

There is, however, a tension at the heart of the justice system. Our system of justice means that once an offence is reported to the police and referred to the Public Prosecution Service, decision making and the pursuit of a prosecution is taken out of the hands of the victim and placed in the hands of independent prosecutors. The matter then becomes an issue between the state and the defendant. That can explain why many victims feel on the periphery of the justice system and excluded from the administration of justice. It can also help to explain why victims often feel that the system spends more time thinking about the needs of defendants rather than those of victims.

It is an uncomfortable message that victims and witnesses cannot be put at the heart of the justice system. I will begin the discussion with some of the constraints. However, that is not to say that justice organisations do not have a desire to meet the needs of victims or have policies and procedures that are aimed at meeting those needs; it means that justice organisations must make an extra effort to help and support victims and witnesses as they progress through the justice system.

The purpose of the inspection was to consider the treatment of victims and witnesses by criminal justice organisations and to make appropriate recommendations to deliver an improved experience for those who come into contact with it through no fault of their own. The inspection report takes the reader through different justice organisations, from police through to prosecution in the courts. It is based on extensive interviews with staff, survey data, our own discussions with, and surveys of, victims, criminal justice system (CJS) documentation, case files and group discussions. We pulled together a range of information in carrying out the inspection.

The first question is about the scale of the problem. About 105,000 crimes were recorded by

the PSNI, of which 32,000 were categorised as serious. Under-reporting of crime remains a problem, with an estimated 46% of crimes being reported to the police. The figures are unvalidated, but, from what we have seen, the court system deals with an estimated 10,000 witnesses per annum. The scale of the problem is quite big.

Measuring satisfaction with the justice system through surveys or responses to questions can be a blunt instrument. It can often depend on the outcome of individual cases: how you feel about the justice system can depend on whether you feel that justice was served according to the outcome. It can also vary between those who have been victims of volume crime and serious crime, and, indeed, even among different justice organisations. The view taken in the report is that a substantial minority — whether that is 25%, 30% or 40%, it is big — is dissatisfied with the service that they received from the criminal justice system.

The problems that we identified in the report are consistent; they have been raised as issues over several years across studies in diverse jurisdictions, including Northern Ireland. Victims say that they want a single point of contact and access to regular updates and information; they want speedy case progression, which means that the justice system needs to get to grips with the problems of avoidable delay; they want access, where required, to specialist support services; they want consistency of service across justice organisations and in the same organisation. They also want equal rights and status with others in the justice system. That is difficult.

In addition — we endorse these issues as important in the context of the work that we found — our inspection highlighted issues, including that the focus on victims and witnesses was often left to the determination of individuals and thus to significant variations. There was a greater need for emphasis on customer care and interpersonal skills across the justice bodies. Indeed, a more consistent approach was required. There were issues about lead responsibility for victims and witnesses between agencies. Communications with victims and witnesses often lacked empathy and was impersonal and clinical in approach. There was, at times, a lack of enthusiasm to communicate fully and openly.

The single and most unforgiving concern that inspectors heard was delay: the length of time that it took for a case to be heard in court had a major impact on victims, witnesses and their

families. Disposals in adult magistrates' courts generally take twice as long as elsewhere; cases involving young people take even longer. Therefore there is a major impact on victims' and witnesses' experiences of the justice system.

The Criminal Justice Inspection also heard concerns about the impact of late guilty pleas on victims and witnesses. In particular, there were concerns about such pleas being used by defendants to play a waiting game to see whether witnesses had the stamina and determination to appear in court. Northern Ireland has the same number of guilty pleas as elsewhere in the UK; however, they appear to come much later in the process rather than on first appearance. That adds to the significant cost of the system overall and to the impact on individuals.

At an institutional level, there were problems with the overall governance of the delivery of victim and witness services and cross-departmental collaboration. I will be happy to say more about that in questions.

We understand the operational pressures on front-line police officers, for example, who deal with many calls of an evening; we also understand the pressures on the courts and on those delivering prosecution services. However, it is only by changing front-line behaviour that many of the issues relating to how individuals engage with the justice system will be addressed.

What is the solution? There is no easy fix. As our report shows, the justice organisations have worked hard to address many of the recommendations in our previous reports. We saw many examples of excellent practice across the justice organisations, and feedback from victims and witnesses on much of that practice was positive. However, as we have seen, many of the issues that affect victims' experiences of the justice system are outside the control of justice organisations. The problems identified in the inspection remain and cannot be seen to be intractable. They are not going to go away; they have to be dealt with if we are to improve the experience of victims and witnesses and how they engage with the justice system.

The Criminal Justice Inspection report makes six strategic recommendations. The first is to address the speed with which cases progress through the justice system. The time is right to start thinking about statutory time limits and statutory case progression in order to focus minds on

reducing the amount of time it takes from charge through to disposal by a court. They need not be implemented immediately, but a date should be set. We should start preparing for such implementation, because that is about focus and preparing to make a difference.

Secondly, to facilitate improved communication and the targeting of resources, we recommend the establishment of witness care units for those who go to court. That would combine the resources of the police and PPS to deliver a more effective and focused service for witnesses. In effect, it would be a one-stop shop for those going to court to give evidence.

Thirdly, to ensure that the perspective of the victim and witness is heard in respective organisations, we recommend the creation of victims' champions who can bring a perspective to senior decision making. That group should report directly to the Minister on victims' and witnesses' issues. When decisions are being taken at a senior level in the justice organisations, it would be beneficial to have someone with a victims' perspective sitting at the table. That is what I mean by victims' champion.

Fourthly, we heard concerns about witness care units. There are weaknesses in what they do, but in order to broaden the range of support, we recommend that the Department of Justice further fund and develop victim advocacy services. That is particularly important for those who have difficulty in accessing criminal justice services or who need specialist assistance for reasons of vulnerability. At the minute, we are seeing a mixed bag. For example, some individuals engage their own legal counsel to engage with justice organisations. We are calling for a broader range of advocacy services, which can be supported through the voluntary community sector.

Finally, we recommend that all post-conviction information schemes under the supervision of the Probation Service be combined to avoid confusion and overlap between the work of prisons and probation and to provide economies of scale.

Those recommendations, along with other operational recommendations and suggestions for improvement, will not address entirely the issues and difficulties raised in the report. They are, however, an important step forward in improving performance. Victims and witnesses and their needs will not go away. Moving from a criminal justice system to a criminal justice service will

provide an important litmus test for the success of devolution. I am happy to take questions.

**The Chairperson:**

Thank you for your report; it is very well timed, considering our own inquiry. It gives an insight into the technical workings — or not — of the justice system that we would not be able to unearth otherwise. I have some questions, after which I will open the floor to members. You rank delay as the biggest issue and highest priority. Your report says that:

"The listing and management of cases is a judicial function and remains within the control of the Judiciary.

As the Judiciary are independent, CJI has no statutory inspectorate responsibility."

You may not be able to answer this question: have you ever been given a definition of judicial independence? What is its scope? As a layman, I struggle to understand how the administrative workings of the court system are something that you, as an inspector, have no role in.

**Dr Maguire:**

I have not been given a written definition of judicial independence. I come across it when our reports are circulated to all stakeholders, including the judiciary. We get feedback from the judiciary saying that such and such is a judicial function and that you cannot talk about it. An example is listing, which we talked about in the delay report; we are excluded from commenting on issues to do with listing.

From what I understand, the definition is a broad one; it is probably best left to the Lord Chief Justice to determine rather than to me. As to how we have dealt with it or come across it, we have been told that it is basically whatever the judges tell us is a part of their decision-making process, and we are not allowed to look at it.

**The Chairperson:**

How can listing and the pulling together of paperwork not be an area where you do not have a role? I was shocked to read in the report that:

"CJI has no statutory inspectorate responsibility."

You cannot check on courts' administrative operation and say, "Here is a failing, and here is how you fix it." That is regarded as a judicial matter.

**Dr Maguire:**

Our legislation prohibits us from looking at the judiciary. The administrative aspects of the courts are a grey area. We do look at the court system; at the moment we are working on the court estate. However, it is in aspects that cut across the judicial running of cases that we run up against judicial independence more acutely.

**Mr Derek Williamson (Criminal Justice Inspectorate):**

It may be helpful if I clarify that a little. Part of our function allows us to look at the administrative listing, by which I mean Court Service officials' initial listing of a case. Once it becomes a judicial function and a judge puts his or her stamp on it, it becomes judicial and outwith our remit.

**The Chairperson:**

We need a definition so that the Committee knows how to do its work. Delay is the big issue, and that is an important aspect of how courts function administratively. However, judges tell us that it is a challenge to their judicial independence. A definition would allow us to know what to do. If you do not have a remit in that, it is an issue that the Committee will want to look at. You may want to comment on introducing statutory time limits for various stages of the process, which is more specific than saying that a case needs to be dealt with within 12 months or two years. If the current definition of "judicial" is applied, you probably should not have recommended that there should be statutory time limits.

**Dr Maguire:**

Do you expect me to answer that, Chairman?

**The Chairperson:**

In the action plan, the Department states that this is an area that will be looked at, but it is more complex. Why have you recommended statutory limits in each of those phases?

**Dr Maguire:**

We can make recommendations on legislation. This is about developing a framework within which delay takes place. The reason that we are talking about it is that two substantive pieces of



work that we have done on delay in the justice system show that it is a significant issue in the administration of justice in Northern Ireland. This report shows that it has a major impact on victims and witnesses. One of the things that we can do to improve the experience, treatment and care of victims is to shorten the time that it takes for cases to progress through the system.

We have a choice. We can allow the system to deal with issues of delay organically in the hope that it will improve overall performance. Our experience, based on our last inspection in 2010, shows that performance improvement has not been substantial. Indeed, our 2010 report stated that there needed to be a step change on delay. I will give the Committee an update on that inspection in the next number of months so that we will be able to look at the current situation.

You are left with the question: if performance is not improving, what other options do we have? In our last two delay reports, we recommended the introduction of statutory time limits. The response was along the lines that we would see whether we improve performance before going down that route. We are now at a stage where we need to start thinking seriously about statutory time limits.

We have gone further on victims and witnesses. I will ask Derek to talk a bit more about statutory case progression because it is different and there is potential for confusion between the two. The reason that we have put this on the table now is that if we want to improve the experience of victims and witnesses and shorten the time, these are options that now need to be considered seriously.

I am not being critical, Chairman, but we run the risk of paralysis by analysis. I could give you a long list of reasons why something should not be done. We are now at a stage where we want to think seriously about putting that on the table as an option to work through the difficulties. If we are clear about where we want to go, we can help to address some of those issues as we move forward; that is the position that I have taken in the context of the report.

**Mr Williamson:**

I will add to what Dr Maguire has said in the context of judicial independence. Statutory case management or statutory time limits are not necessarily a criticism of, or commentary on, the

judicial function; it is more a commentary on how cases can be better prepared so that when they get to court they are ready for a judicial decision. The timescale can be shortened, and our discussions around case management can be directed towards that front-end process, which is before it gets to the court door.

There is a subtle difference between statutory time limits and statutory case management. It is sometimes hard even for me to assimilate what that actually means. As I see it, statutory case management is about the practical arrangements in a court. It means that the judge has, on a statutory basis, the backing of statute to tell the defence and the prosecution the issues at stake and what witnesses are required to ensure that a case is progressed without unnecessary delay. The time limits are more about the end-to-end process. If those two things are mutually supportive and go hand in hand, that can only be to the ultimate benefit of victims and witnesses and the entire criminal justice process in respect of delay.

**The Chairperson:**

Community liaison teams do not operate in the Crown Court. Does that need to be addressed and those teams introduced?

**Mr Williamson:**

Our report states that, on one hand, community liaison teams are a misnomer in that they perform in large measure the function that a witness care unit performs in England and Wales. We recommend that community liaison teams become the core of witness care units.

The fact that community liaison teams do not operate in the Crown Court is a significant impediment. There is a difference in that there are two process streams running, one in the magistrates' court, involving a community liaison team, and one in the Crown Court, where no team is involved. In the Crown Court it falls, in effect, to the Police Service to deliver witness care, updates and so on. The difficulty that I found in respect of inspection work here is that there is no structured process for that. Gaps were appearing in the system and in the process; hence we recommend witness care units, which should operate in both tiers — in the magistrates' court and in the Crown Court.

**The Chairperson:**

What proportion of the 36% of victims who were unsatisfied were the victims of serious crime and what proportion were victims of minor crime? Can you draw a distinction between the victims in that 36%?

**Mr Williamson:**

Unfortunately, we cannot say with any degree of certainty. The Northern Ireland victims and witnesses survey (NIVAWS) does not deal with serious crime; therefore it is difficult to make that distinction. That was why, in part, in our field and survey work we vigorously pursued victims of serious crime; we wanted to hear a different perspective on serious crime.

Even having heard all that evidence, it would be very difficult to put your finger on a percentage. In essence, it depends on several factors, not least of which are who the police officer is who deals with your case, who the prosecutor is, who the Crown counsel prosecuting your case is and who the other individuals in the criminal justice system who deal with your case are. That is what Dr Maguire referred to at the start: there is no consistency of process. Therefore, it would be very difficult to put a specific figure on that.

**The Chairperson:**

Finally, you highlighted the fact that there are gaps in responsibility and accountability in the Public Prosecution Service for victims and witnesses. Can you elaborate on where exactly those gaps are in the PPS? Who is the victims' champion in it?

**Mr Williamson:**

I will take the last part of your question first. During fieldwork, we found that the criminal justice system as a whole has only one victims' champion, who is designated by the Criminal Justice Board. At the time of the fieldwork, that happened to be a senior police officer, and none of the other justice organisations had a designated victims' champion. That is why we made that recommendation: so that the care and treatment of victims becomes embedded in each of the justice organisations and that, indeed, individual agency victims' champions, when appointed, can report to the Criminal Justice Board victims' champion. That will give greater consistency, and, as Dr Maguire said, this is about ensuring that the needs and concerns of victims and

witnesses are heard at senior level.

**The Chairperson:**

Now that you have done your report and the Department has responded to the detailed direction plan, I note there is one recommendation that it does not accept. Will the Department's response on how it will take this forward be the solution?

**Dr Maguire:**

There are criteria that we look for in an action plan to assess its completeness. My starting point is that action plans are a critical dimension in taking our reports to the next stage of implementation because they should set out clearly detail not only on the letter of what we are saying but on the spirit of what our recommendation is about and is trying to achieve. First, we ask whether the objectives are SMART — specific, measurable, achievable, realistic, timely. Secondly, are they intended, as they are articulated, to deliver the spirit of what our recommendations are about?

Looking at the Department's response, not all its objectives are SMART. For some of the recommendations, in some of the actions that the Department put forward, it seems to be evaluating and reviewing the recommendation, although it has already accepted it. Therefore, I query the extent to which some of the actions that have been put forward will deliver not only to the letter but to the spirit of what we intend in the various recommendations.

I do not want to come back in a year or 18 months with a follow-up review that details that we have not made the progress that we want. This is a critical issue for the justice system.

Getting a tight action plan that clearly sets out a response to the recommendations is important. That is why, in relation to statutory case management and time limits and so on, it is a complex issue. However, nothing in here gives me any sense of when that complexity will be worked through and when a decision will be taken. We want decisions to be taken, and, therefore, further work could be done on improving the focus of some of the responses to our recommendations.

**The Chairperson:**

Let me get this right: your view is that the Department's action plan has accepted almost everything that you said, and having accepted it you would expect to hear the detail of how the Department will implement it. Instead, you have had an analysis, review and evaluation of how you came to your recommendations.

**Dr Maguire:**

No. One of the operational recommendations is that the police engage in post-foundation training. The police will evaluate and discuss the recommendation, and I would have expected to see a suggestion that, by x date, they will have implemented a programme on post-foundation training. If you accept the recommendation, you accept the recommendation; if you do not, say so. However, do not accept it and say, "We will discuss the next stage." That is all I am saying. I am not saying that they will not do it; I am saying that it is not clear. I could not use that as a basis upon which to follow up as I want to with the implementation of the recommendations.

**The Chairperson:**

Will you challenge the action plan?

**Dr Maguire:**

I am happy to make my views known to the Department, yes.

**Mr McCartney:**

I want to follow on from the Chairman's question. Is the PSNI a member of the criminal justice board?

**Dr Maguire:**

Yes.

**Mr McCartney:**

Therefore it was part of accepting the lead responsibility in some of your recommendations. If the process breaks down at any point, that will possibly be someone's lasting impression of their journey through it. Some quotes from the PSNI level seem to be very favourable to the PSNI, but

as you get into the system more people become disgruntled, disaffected or disillusioned. How do we prevent that? How do we bring agencies together to understand that a negative impact somewhere along the line has a negative impact overall?

**Dr Maguire:**

That is a very good question. One of the key messages from our work with the police is the lack of consistency; too much is left to the determination of individual officers rather than there being consistency across the board. That is why we raise post-foundation training as a means of trying to standardise and make the service more consistent.

There are two issues there, the first of which is about how individuals progress from one organisation to another. That is why we recommend witness care units, which are about a single point of contact. Once you have decided to go to court, you look at where you can get assistance as you go through the process whether in a magistrates' court or in the Crown Court. There are those who are outside going to court who, nonetheless, may well have needs as part of the justice system; that is why we talk about the development of advocacy services to help individuals to engage with different justice organisations and, perhaps, get answers to their questions.

The second, broader, issue is: what governance framework exists on top of this to ensure overall implementation? As we say in the report and in the delay report, we have a fragmented system of governance and accountability across the justice system. The police are accountable to the Policing Board; the PPS is a non-ministerial department; the judiciary sits on its own; and the court system reports to the Minister of Justice. Therefore the role of the Criminal Justice Inspection in pulling that together can be more about persuasion than direction in a sense, and we have a difficulty with how to make that work effectively. We made comments about that before.

In order to shift the agenda slightly, we have tried to think about the concept of victims' champions. As senior people in the organisations, they are the right people for the role. Indeed, we have already had one nomination from an organisation. They would be part of the victims and witnesses steering group that is overseeing the implementation and who have operational responsibility and clout, and they could report directly to the Minister on some of the issues. That is one of the areas that the Department has not accepted, because it wants the steering group to go

through the Criminal Justice Board. That is the Department's choice. My view is that operational clout is the objective in trying to take any decisions that work their way back into the organisation.

There is a governance issue, which is difficult, given the framework that we have, and then there are practical issues, Raymond, about how people progress through the organisation. That is what is behind some of the recommendations that we have put forward.

**Mr McCartney:**

I am looking at paragraph 3.26 of your report, which deals with PPS consultations. It states that:

“Depending on the nature of the evidence to be given this may be on the day of the trial or at an earlier date.”

You can see the impracticalities and the downsides of speaking to a witness or a victim on the day of a trial. Even the physical layout of a court has an impact. Last week, we took evidence from witnesses who said that the physical layout of the new Laganside courts did not allow for consultations to be done in corridors. I was at an inquest the other day, and I saw three or four consultations taking place on benches that are there for the public to sit on. It would be difficult to brief any person on anything, never mind on the day of a trial.

You can understand that the prosecutor’s focus is on presenting the case, but if he has to talk to five or six witnesses whom he might view as not being key to what he has to do, those witnesses will go away feeling that they were not treated as they should have been. That should not happen on the day of a trial. Has that been part of your thinking?

**Mr Williamson:**

There are several issues around that. First, having conducted the fieldwork on this matter, I felt that the glue that holds all this together, and the only common thread throughout, is Victim Support. I will go back to your first question, which was about the gaps that appear in the various agencies as the baton is handed from the police to the Prosecution Service to the courts, and so forth. We have laid those gaps almost bare in our report. We talk about them and the difficulties around them. Victim Support does not do the legal consultations, but it provides continuity for a victim.

I need to be careful, and the Committee needs to be mindful, that many victims who go through the criminal justice process opt not to avail themselves of Victim Support. Nonetheless, it is the glue throughout the system. There are various ways of providing continuity for people. Victim Support is one; witness care units may be another. For those who do not enter that part of the criminal justice system, Victim Support is still there to offer the support that people need. It is not advocacy support, but it may be emotional support or signposting to another organisation that can help them.

**Ms J McCann:**

It is a good report, and you have highlighted some very important issues. You say that Victim Support is the glue throughout the system. I have limited knowledge of these matters, but I know that although people do report crime, a great deal of crime is not reported. There is still a sense that people are afraid to report crime — drug dealing, for example — because of the fear of reprisals. In addition, it is more difficult for people who have been the victims of rape or sexual abuse to go through the system.

Where can the gap be bridged between a person talking to a victim in confidence about a crime and bringing that victim to a point at which he or she feels confident enough to report the crime to the PSNI? At some stage in the process, the victim may decide that he or she does not want to go through with it. There needs to be some form of outreach to such people in the later stages. Victim Support told us last week that the offer of support just after a crime has been committed against a person is not always the time when that person wants to take up that offer. Is there a two-way process or some organisation that can offer help?

Victim Support is not very visible in the community. We all know that there is a Victim Support office in the centre of the town, but is there some sort of bridging or outreach mechanism that people might use whereby they are supported through the process but if they do not want to report the crime at that stage, that option is left open? Perhaps I am not explaining that very well, but I feel that there is a gap, and I wonder whether it could be filled by a community liaison officer, for example.

We talked earlier about the domestic violence officer who worked with the PSNI. There is



outreach work done there with victims to enable them, at whatever stage, to report the crime and go through the criminal justice system. I do not know whether you have any ideas on that.

**Dr Maguire:**

I am sure that Derek has some thoughts on that. We have done work on domestic violence, rape and sexual abuse. When dealing with specialist and difficult crimes, specialist units are established to get people into the process and to treat them sensitively as they go through it. That can be an important contribution to moving into the formal justice system and their reporting the crime. I am happy to share the reports with you.

The broader issue is about how advocacy services, to define it very broadly, can generate. We have not been prescriptive about who should deliver those advocacy services. We said that the Department should think about whether it wants a delivery partner. Definition and specification, for example — the kind of outreach for specialist areas that you are talking about — could be part of that. It is something to think about.

**Mr Williamson:**

I have many thoughts on the specifics. In a broad sense, I would answer your question in two ways. One is that this is about the confidence that people have in the entire criminal justice process to engage with it, whether that be through the initial report to the police, how they will be dealt with in court or how the cross-examination in court will go. Those are all factors in the attrition rate for people entering the justice system. There is a job of work to be done to create confidence in the entire criminal justice processing system, and that is recognised and being worked on.

The other element at the strategic level concerns the information that is publicly available to give people that confidence, and a knowledge and understanding of what it will mean to report, for example, an historical case of sexual abuse or a domestic violence incident. Those two things go hand in hand.

I am aware from the fieldwork that we conducted in this inspection of a number of ways in which the justice organisations, and the police in particular, provide outreach through helping and

supporting people who are in the difficult position of not being sure whether they want to go through the criminal justice system or report a crime. In addition, a number of voluntary and community sector organisations offer help and support. For sexual crime, the Nexus Institute, for example, offers help and support. If Victim Support cannot give the reassurance that people need, it can signpost other organisations that can help.

**Mr Dickson:**

The report is timely, given where the Committee is, and what you are saying is very welcome. It is disturbing to note how dysfunctional a justice system we seem to have inherited and how unjoined it all is.

We need a code of practice for victims. That is something that others have mentioned, and we need to have a list of who victims can go to and whom they should see. We also need clear and absolute victims' rights.

I want to quote from a document that details the 10 rights that victims should have. The first is:

"The right to be treated with fairness and respect throughout the criminal justice process".

The second right is:

"The right to timely disposition of the case following the arrest of the accused, provided that no right of the accused is abridged " .

That is equally important.

The third right is:

"The right to be reasonably protected from the accused throughout the criminal justice process."

That right particularly relates to domestic violence and to the many other circumstances in which people do not want to see each other in court until the appropriate time.

The fourth right is:

"The right to notification of court proceedings" .

You will note that every one of these rights is prefaced with the words "The right".

The fifth right is:

"The right to attend the trial and all other court proceedings the accused has the right to attend, unless such person is to testify and the court determines that such person's testimony would be materially affected" .

The sixth right is:

"The right to communicate with the prosecution" .

The seventh right is:

"The right to object to or support any plea agreement entered into by the accused and the prosecution".

I am abridging some of these. The eighth right is:

"The right to make a statement to the court at sentencing".

The ninth right is:

"The right to restitution which shall be enforceable in the same manner as any other cause of action".

The tenth right is:

"The right to information about the arrest, conviction, sentence, imprisonment and release of the accused."

The information about the release of the accused is the most important right. That is enshrined in state law in every state of the United States of America. Can we not, at the very least, have a code of practice that sets out those 10 rights for victims and witnesses in Northern Ireland? Why can we not have a victims' charter enshrined in legislation?

This is such a serious matter that it genuinely requires a robust response from the Department. It also requires us to give serious consideration to whether we require appropriate legislation to provide for rights for victims and witnesses.

**Mr Lynch:**

Thank you, Chairman. I thank Michael and Derek for their report. I have two points. You said that a fairly significant minority was dissatisfied with the service. Was that figure broken down into categories of crime?

Some of the people whom we met last week were involved in murder cases, and they told us the same things that you have set out in the report. The presentation that the Committee received last week was the best informed that it has ever had. Those involved were lay people who were particularly dissatisfied with the delays in the system. They cited the murder of Joanna Yates in England last Christmas, telling us that the person responsible had been brought through the system and convicted within 10 months. The murder case that the witnesses were involved in took almost three years to reach a conviction, and they described the major impact that that had had on them. I did not understand the impact of such cases before that, but the witnesses described how the case had affected their families and their careers, and that brings in the issue of criminal injury. That delay was a big issue for those witnesses, and you also mentioned that as a

major issue in your report.

Derek mentioned confidence, and one of the big factors in that is the ethos and culture of the courts, particularly when you get up to the judges. In the South of Ireland, they have looked at the use of gowns and wigs, because people feel intimidated by their use. The witnesses last week also told us that the structure of the court buildings does not suit or facilitate witnesses or the victims of crime.

**Dr Maguire:**

You raise a number of issues. Derek might pick up on special measures, but I will deal with the issue of disaggregation. We cannot give you disaggregated percentages in each of the crime categories. In the main, and as the result of the methodology that it uses, the Northern Ireland victim and witness survey (NIVAWS) does not deal with serious crimes. The figure of 66% of victims who are satisfied with the service comes from that survey, but that means that the remainder are not satisfied.

There is a range of issues. I am in no way complacent because the majority of people are satisfied; there is still a significant proportion who are not. Here is an example of the kind of evidence that we heard. An individual reported a racially motivated attack to the police. There had been several such instances, but he was having to explain himself each time to the police officer who came to see him. He felt that there should be more corporate knowledge as to how the police engaged and dealt with him. Even with such issues, there are still problems. We made a conscious effort to talk to people who had been subjected to serious crimes and many of the issues that you talk about are represented in that, so we hope that the report gives the overall balance of the messages that we are getting. However, we cannot break it down statistically into those kinds of category.

On wigs and gowns and special measures —

**Mr Williamson:**

The statute in Northern Ireland allows for the possibility that wigs and gowns can be removed in court, along with other issues that can be taken into account to accommodate the needs of

witnesses giving evidence in court. That ranges from the giving of evidence remotely, via video link, to the removal of wigs and gowns. That is something that we are considering at the moment and will probably report on early in the new year. That is already available.

**Dr Maguire:**

The other issue was the court estate. We have a very diverse court estate in Northern Ireland, some of which is quite old and does not get to grips with the issues of victims and how they engage with the justice system. All I can say at this stage is that that is another issue that we are looking at and will be reporting on next year, which is the state of the court estate in Northern Ireland.

**Mr Lynch:**

Raymond said that even the most modern court buildings in the centre of Belfast do not facilitate victims.

**Mr S Anderson:**

I am grateful for the report. I am reflecting on the last evening and the effects on families. The suffering of the Rankin family in Newry over three years is just one example of the horrendous pain that victims and their families go through. It can go on for some time; in that case, it was for three years. That was a very serious case, but it was only one of many. There are many, many cases out there. Michael talked of 32,000 serious crime cases, involving some 10,000 witnesses. Many people will be affected.

Under "operational recommendations" you say that

"Inspectors recommend that the broad demarcations of lead responsibility for victim and witness care in the criminal justice system are firmly established and followed as follows: Report to decision to prosecute — PSNI; Decision to prosecute for disposal — PPS"

It is OK to say that, but when a witness or victim is involved, it is good to build up the relationship between officers in the PSNI and victims and witnesses. The report discusses training and development. However, we may lose that relationship in the transfer to the PPS. The report says that training and development is "patchy", but goes on to say that

"there are examples of good practice".

Can we build on the examples of good practice that work so that when the move is made from

one lead responsibility to the other, there is a continuity to ensure that all is not lost? When responsibility moves from PSNI to PPS, can the care of victims and witnesses be further cemented and improved upon, because, at that stage, it becomes more and more difficult for victims and witnesses. As you say in the report, some people push things right to the limit before they will plead guilty to see how far witnesses will take it or whether they are prepared to stand up in court. How much good practice did you see? Was it just a small amount? Does a brave amount of work need to be done?

**Mr Williamson:**

We saw a great deal of good practice across all the justice agencies: police, Prosecution Service, Court Service or whatever it happens to be.

However, as far as the police were concerned, good practice was not centrally co-ordinated. At individual level — indeed, in individual cases — and at district level, there was good practice, but it was not replicated and lessons were not learned in all cases, although they might have been in some. That is the overarching picture.

In conducting the fieldwork it was apparent that, at an individual level, police officers, prosecutors and witness service staff did their level best to take victims' and witnesses' needs, concerns, fears and expectations on board. However, the problems occurred when a file was formally passed on, as one policy will say that responsibility for it lies with either the police or the PPS, or with whichever body takes it on. In practice, however, the operational people, whether a public prosecutor or a police officer, are not clear about who is responsible. That is why we stressed the importance of allocating lead responsibility. That good practice manifests itself in very serious cases, such as murder, when a police family liaison officer is appointed.

In saying that lead responsibility should be allocated, I am not saying that a police family liaison officer should not be the continuity person throughout a case. I am merely saying that the police have the lead responsibility until a file is passed to the Public Prosecution Service; thereafter, the Public Prosecution Service should have lead responsibility. However, the continuity person should be the police family liaison officer.

A family should have a single point of contact, and we said earlier in this session and in the report that there needs to be continuity and a single point of contact for victims and witnesses; a police family liaison officer could continue to fulfil that role.

In less serious cases —

**The Chairperson:**

Should it be a one-stop shop from the start of the process to the end?

**Mr Williamson:**

Yes.

**The Chairperson:**

Therefore there should be what your report calls a one-stop shop from the police through sentencing and prison to leaving prison.

**Mr Williamson:**

Yes. A police family liaison officer may not be available post-conviction because there may be another scheme or schemes to take care of that aspect of the process. However, we are trying to move towards a more seamless, one-stop shop service; towards continuity of care and treatment; and to a single point of contact for victims and witnesses. We are moving the system closer to that.

**Dr Maguire:**

At present, under post-conviction schemes, victims can receive information from the Probation Service and the Prison Service on an offender moving back into the community. That is why we talk about amalgamating post-information schemes: to get coherence and consistency on how victims are dealt with.

**Mr S Anderson:**

Coherence and consistency would give people confidence, from crime to sentencing; that needs to be carried through.

**The Chairperson:**

I have no more questions, but to make up for my absent colleagues, I want to clarify a few things in my own mind. You gave an example of the action plan with which you are not happy. Under "Operational Recommendations" in your report you say that:

"the PPS incorporate dedicated training on the care and treatment of victims and witnesses as part of its system"

That was accepted as a response. However, point 5 of the action plan states that:

"PPS produce a training plan each year to address changes in law, policy and practice. All courses are accredited under Law Society and Bar Council CPD schemes. The care and treatment of victims and witnesses is already included in the training plan. Barristers and solicitors are already subject to mandatory Continuing Professional Development."

Is that what you mean when you say that you have made a recommendation and it has been accepted? However, my understanding of the response is that the Department already does that. Is that what you were referring to earlier?

**Dr Maguire:**

Yes. There is another example in operational recommendation 2:

"On the matter of post foundation training Inspectors would recommend that PSNI examine how they can deliver appropriate... focussed... who are routinely engaged in public response".

The response was that the recommendation would be accepted and evaluated. You set the context of the recommendation into where it is in the report and what it is trying to achieve. I am sure that they will do that; all I am saying is that the document sets the framework upon which we can determine whether success has been achieved. At the minute, if I can come back and evaluate that, I will say that I evaluated it: there is nothing to say that I did so.

Should you ask the Department of Justice to report to the Committee, you would want its response to contain more concrete information on how it would implement those recommendations.

**The Chairperson:**

You said that the action plan was not SMART and, based on this, you could not do a follow-up inspection report.

**Dr Maguire:**

I could do a follow-up inspection report, but I am not sure whether it would tell me that the



situation had changed significantly.

**The Chairperson:**

Is that because of the flawed nature of the action plan?

**Dr Maguire:**

Yes.

**The Chairperson:**

Well, I have nothing further to add.

**Mr Dickson:**

You made a recommendation, and the Department said that it was carrying it out. That seems to be a shorthand way of saying that it is not taking your recommendation under consideration. I find that disturbing. We need to revisit that issue when we hear from the DOJ.

**The Chairperson:**

Thank you very much. I expect that we will come back to you as part of our inquiry; I am sure that you will facilitate us.