



Sexual abuse. From surviving to living.

Only a Witness

The experiences of clients of One in Four
in the criminal justice system

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EXECUTIVE SUMMARY

Executive Summary

Chapter 1. Introduction

One in Four is a non-governmental organisation (NGO) providing professional counselling and advocacy services to adult survivors of child sexual abuse and to their families, as well as a sex offender treatment programme. We work with an average of 900 clients per year.

Our advocacy services provide practical information and support regarding the criminal and civil justice processes and child protection matters including court accompaniment. In 2016 25 clients were accompanied to criminal trials relating to historic allegations of child sexual abuse.

Through our experience of supporting clients through their criminal justice journeys, we have become aware of the risk of re-victimisation and re-traumatisation to victims in their engagement with the system, an observation that is borne out by both national and international research. However, there is a dearth of research based on in-depth interviews with adult victims of child sexual abuse in the research literature.

The low reporting rates and high attrition rates for sexual crimes are described.

The aim of this study is to bring to the forefront the voices of the victims, as co-researchers, in order to identify their experiences of the criminal justice system as complainant witnesses and to provide constructive analysis and recommendations to the criminal justice system through their voices. The majority of the study is comprised of direct quotations by victims.

Chapter 2 Context of victims' experiences of the criminal justice system

This chapter explores the context within which an adult victim of child sexual abuse encounters the criminal justice system.

It considers the dynamics of sexual abuse characterised by manipulation and the abuse of power and control. It also briefly explores the impact of child sexual abuse across the life span, including a discussion of post-traumatic stress disorder (PTSD).

Chapter 2 also includes a sketch of the criminal justice system, including the roles of the Gardai, the Director of Public Prosecutions (DPP) and the criminal trial.

It then explores the interplay of clients suffering from PTSD with the structures and processes of the criminal justice system. Quoting Professor of Psychiatry Judith Lewis Herman that

“if one set out to design a system for provoking symptoms of traumatic stress, it would look very much like a court of law” (2005 p.574), the high propensity for re-traumatisation is explored.

The chapter considers the issue of victims’ needs and rights and proposes the necessity for both attitudinal and legal change to ensure that these rights feature more centrally at the heart of the criminal justice process.

Chapter 3 Methodology and profile of participants

The study was carried out by 3 One in Four Advocacy Officers. The research was approached from a critical research perspective using a qualitative, narrative approach. A semi-structured interview schedule was developed allowing the researchers to focus on certain areas of interest while allowing other lines of inquiry to emerge from the responses of the interviewees.

10 clients who had completed their engagement with the criminal justice system agreed to participate. They included 3 men and 7 women ranging in age from 20 – 55 years. All cases related to historic allegations of child sexual abuse. 6 cases involved allegations against a family member, 3 were extra-familial and 1 involved a member of a religious order. 7 cases resulted in a conviction, 1 of which was overturned on appeal, 1 case was dismissed following judicial review, 1 case was stayed and 1 had a verdict of “not guilty”.

Chapter 4. The role of the Gardai

In this chapter the participants reflect on how the Gardai communicated with them and kept them informed, the sensitivity of the Gardai, the issue of gender of the investigating Garda and the impact of the physical environment in which they met with the Gardai. The majority of participants had a good experience of the Gardai but there were exceptions. The participants also make recommendations to the Gardai as to how engagement with the Gardai can be enhanced for future witnesses.

Regarding communication from the Gardai, most participants had a good experience:

“They understood and kept you informed all through it... I think it was the man himself... you could see and know he actually cared” (Daniel)

But there were exceptions: *“I could be waiting 6 weeks for return calls when I would just keep ringing and leaving messages and getting no response”* (Sarah)

Participants were very aware of the ability of the Gardai to understand the dynamics of sexual abuse and to be treated sensitively:

“Garda X made me feel so comfortable... he listened and he had such a gentle way about him but he was so professional” (Megan)

But other participants were disappointed and frustrated by how they were dealt with when making a statement:

“All she (the Garda) did was light up one cigarette after another. And then she went out and she fainted outside... Some of the older Gardai came in and said that she wasn’t so well... and if I could quickly sign the statement. I said to them I’m not finished... And then I phoned her to say I was coming back... and it had to be after 10’o clock at night when they weren’t busy” (Emily)

Regarding the gender of the Gardai, positive interactions were more associated with age and experience:

Megan had dreaded meeting a male Garda but: *“When I went into X he was brilliant and I told him everything”* whilst Emily found it difficult to deal with a female Garda: *“She just kept saying ‘this is really hard to take’ ...she asked me ‘is there a possibility you’re being vindictive?’”*

There were significant issues with the physical environment in which participants were asked to make statements. In one case all the interview rooms were in use so she was taken into the Garda canteen to finish her statement:

“She sat me down beside the pool table ...In the meantime the guards kept coming in to make their cups of tea and would walk over and then realise what she was doing and would walk back out again.” (Sarah)

Chapter 5. The prosecution

Chapter 5 presents the participants’ reflections on their engagement with solicitors and barristers who prosecuted the cases on behalf of the State. While some were satisfied with the prosecution approach, many reported experiences of disrespect, exclusion and indifference for example, Daniel was told:

“You’re only a witness”

Kevin asked to speak to the State Solicitor and *“I was told he was too busy...I said I would wait around. I waited until after lunch. He was too busy...When will he see me? I want to sit down and talk to him about where we are going with this. He was too busy”*.

Barbara on the other hand had a positive experience: ***“I found X (the barrister) fantastic.. she let us know what was happening...you didn’t feel like you were in the dark”.***

Some participants experienced a lack of sensitivity. Emily said ***“And they were talking over me and about me and I think they forgot I actually had a brain and I had ears”.***

Other participants perceived the prosecution team to be ill-prepared. For example Sinead asks how the prosecution could not have foreseen that the defence was going to ask for a judicial review on the morning the trial was due to begin: ***“That means we will all have to see a clinical psychologist. Could they not have had that sorted out amongst themselves before they brought us in?”***

The chapter concludes with recommendations from the participants to the prosecution teams.

Chapter 6. The trial

This Chapter deals with the impact of the trial on participants. The role of the judge, the court environment and the importance of Victim Impact Statements are also addressed.

Participants were profoundly affected by their involvement in the trial and they all describe being re-traumatised by the experience.

Barbara describes the pain she experienced as being akin to bereavement and stated that ***“If I knew what it was like I wouldn’t have gone through with it and I won’t go through with it (retrial) either”.***

Megan said ***“It’s really, really bad, horrific. It’s worse than the abuse itself in some ways”.***

Participants also experienced the trial as being weighted in favour of the defendant: ***“It was so inhumane...I never felt the system in any way valued me as much as it valued him – never!”*** (Sarah)

Participants described the humiliation of cross-examination. Anne says ***“He (the defence barrister) looked at me like I was dirt, like I had no dignity ... and I was nothing...There’s cruelty in there that there doesn’t need to be”.***

Participants also described the importance of having the opportunity to read a Victim Impact Statement following a conviction. Sinead said ***“I felt a great sense of achievement ... It’s the only time you have your own voice”.***

The role of the Judge featured strongly in the participants' reflections on the trial. Some participants experienced a humane and respectful attitude from the Judge: *"One thing that really impressed me ...was the fairness of the Judge in that court... And unlike the barristers, there was a bit of warmth in him and respect for everybody"*. (Jason)

Other participants however reported feeling trivialised and demeaned by the judge. *"I think the Judge didn't see a victim...He didn't see somebody"*. (Anne)

Participants also felt disillusioned by the lack of judicial accountability re the conduct of the trial. For example Anne continues: *"I was questioned about past sexual history. I didn't know until later that I should have had my own representation. The Judge should have known that. He should have stopped the questioning that was going on"*.

Most participants had concerns about the courtroom environment, especially the proximity to the accused person and the lack of privacy.

Chapter 6 concludes with recommendations by the participants regarding specialist training for legal professionals and judges, changes to key elements of the trial itself and the need for professional support for victims.

Chapter 7. Discussion

The discussion covers the issues raised by the participants and also reflects the broader context of the dynamics of sexual abuse. It is premised on the fact that the impact of child sexual abuse pervades and shapes the interaction between the victims and the criminal justice system.

While everybody is agreed that due process for the accused person is crucial, this study would suggest that the adversarial system, by its nature, is problematic in cases of historic allegations of child sexual abuse. Alternatives which further address the needs and rights of victims, including specialist courts and restorative justice practices need to be considered, and lessons can be learned from other jurisdictions.

Chapter 8. Recommendations

The following recommendations are jointly informed by the participants' contributions and One in Four's direct experience. While many are the direct recommendations of the participants, some are the considered position of One in Four and arise from many years of experience in supporting victims through the criminal justice system and beyond.

a) Gardai

It is recommended that:

- Gardai be specially selected and further trained to work with victims of sexual abuse.
- Consistent and regular information be provided by Gardai to complainants.
- Suitable and appropriate environments and times for the taking of statements are provided.
- Professional support and debriefing structures be introduced for Gardai involved in this work, recognising their risk of vicarious traumatisation.
- Recommendations highlighted in the Garda Inspectorate Report be fully implemented creating closer links between the Tusla and the Gardai with a focus on child welfare in prosecuting and investigating sexual abuse cases.

b) Prosecution

It is recommended that:

- Consistent and structured communication with a complainant before and during trials be provided.
- All solicitors and barristers acting on behalf of the DPP be required to undertake specialist training in the dynamics and impact of sexual violence, including child sexual abuse, as is the case in the Crown Prosecution Service of England and Wales.
- That presentations on sexual violence be routinely introduced in all training courses for legal professionals and that incentivised CPD training be made available to all practising legal professionals.
- A specialist sexual violence unit be established, within the DPP's Office, drawing from the experience of the Scottish and New York models, with a maximum time limit for legal professionals to work in this field, acknowledging the impact of prosecuting sexual crimes.

c) The Criminal Trial

It is recommended that:

- Consideration be given to establishing a specialist court to try sexual crimes as is currently under consideration in England and Wales.
- All judges hearing cases of sexual crime should be obliged to receive specialist training, as is the case in the UK.
- Pre-trial hearings of potentially legal contentious issues be routinely introduced to avoid multiple reviews and adjournments.
- Defendants should not have the right to represent themselves in trials relating to sexual crimes, as is the case in most European jurisdictions.

- Disclosure of counselling notes should be restricted to sections of the notes directly relevant to the offence in question.
- Ethical guidelines on the cross examination of complainant witnesses in trials of sexual crimes should be introduced, as is the case in the UK.
- The decision to give video linked evidence should rest with the complainant witness rather than the trial judge.
- Official Court Service Guidelines on the preparation of Victim Impact Statements should be made available to all complainant witnesses.
- Professional support and guidance be given to complainants in the preparation of their Victim Impact Statements.
- Appropriate, separate and private witness facilities be provided in every trial location as is available in the Central Criminal Court in Dublin.
- Complainants be automatically provided with a specialist support person for the duration of the criminal trial whose role is to explain and clarify the various processes and procedures which emerge.
- Information be systematically and widely disseminated regarding available support and court accompaniment services for complainants.
- Free legal aid be available to complainant witnesses in all categories of sexual crime to enable them to seek independent legal advice.
- Information on free legal aid should be provided routinely to the complainant by the Gardai at the time the complaint is first made.
- The Judicial Council be placed on a statutory footing as a matter of urgency.
- Consideration be given to the introduction of a Code of Practice and Ethics for legal professionals explicitly dealing with victims of sexual crimes e.g what is permissible in cross-examination.
- While welcoming judgements by the Court of Criminal Appeal in relation to consistency of sentencing and the establishment of the Irish Sentencing Information System project (ISIS) the issue of consistency of sentencing be researched, particularly at Circuit Court level.

d) Resources

It is recommended that:

- Relevant support agencies be adequately funded and sustained.
- Resources be made available for the preparation and delivery of training and education by experienced and qualified agencies, including the design of public awareness and information campaigns.

e) Further research

It is recommended that:

- Further research be carried out into alternative international models of prosecuting sexual crime, for example, on inquisitorial or non-adversarial rather than adversarial approaches.
- Research into the effectiveness and relevance to Ireland of approaches such as the Scottish and New York models be carried out where multi-disciplinary specialist units manage cases of sexual crime throughout the judicial process.
- Research be carried out into the design of, and potential benefits of, a restorative model of justice for a certain cohort of cases.

f) Media

It is recommended that:

- An enforceable Code of Practice specifically around the reporting of sexual abuse cases be introduced and implemented to avoid exploitative and sensationalist reporting.



CHAPTER 1.
INTRODUCTION

Chapter 1. Introduction

1.1 Background to the study

This study, *Only a Witness*, presents and discusses the experiences of ten clients of One in Four who had experienced sexual violence as children and who had been complainant witnesses in trials prosecuting sexual offences within the Irish criminal justice system. The findings and conclusions form the basis of recommendations relating to the criminal justice system, to inform One in Four's service provision and contribute to debates on public policy.

One in Four provides support services for adult survivors of child sexual abuse through psychotherapy, family support, sex offender treatment programmes and advocacy services. In addition to this direct support work, One in Four engages with government and other agencies to work towards greater awareness and improved responses to the issue of sexual violence and child protection.

In 2016, over one-third (245) of One in Four's advocacy clients presented with needs relating to the criminal justice system. The Advocacy Service offers practical support and information, mainly around issues of child protection and criminal and civil legal processes, as well as general issues such as housing, social welfare, education etc. In 2016 the service worked with 646 clients, during which time court accompaniment was provided for 25 clients.

Through this work, One in Four has developed wide experience in helping clients negotiate the difficult and complex terrain between their private experience of sexual abuse and the criminal justice system. Through One in Four's experience of supporting complainants, the organisation is keenly aware of the risk faced by clients of re-victimisation and re-traumatisation within the criminal justice process. This insight is not new. There is an acknowledgement of these issues in national and international research on victims' rights. However, the reality is that stresses, anxieties and traumas persist, raising urgent questions for the criminal justice system about attaining justice and remedy for victims. These issues point to the reasons why there is a low rate of disclosure and reporting and raise important questions about how justice for victims can be secured, alongside the continued danger to children if crimes go unreported and therefore without prosecution.

Ireland has one of the highest attrition rates of complaints of sexual violence in Europe (Bacik, 1998; Hanly, 2009; Regan & Kelly, 2003). While definitive statistics for unreported incidents do not exist, research suggests that just one per cent of incidents result in a conviction (RCNI, 2007). The Director of Public Prosecutions (DPP) will prosecute in approximately one-third of reported cases. 2044 sexual offences were recorded in 2014. There were 86 convictions of sexual crimes while proceedings were still pending for 289 offences. (CSO, 2016). Furthermore, only 7% of cases reported to the Gardai result in a conviction (An Garda Síochána, 2004).

Disclosing, reporting and prosecuting historic child sexual abuse is complex and difficult, requiring a depth of expertise, awareness and sensitivity. While there is already a substantial body of national and international research on the prosecution of sexual crime, very little is available in relation to adult survivors of child sexual abuse. One in Four's experience offers a particular perspective on the prosecution of cases of historic child abuse.

The approach taken by One in Four's Advocacy Service is to provide an individual with practical support and information on matters relating to sexual violence. Clients initially present with a variety of complex needs. Advocacy Officers work with clients to clarify these needs and provide any other relevant information. Clients can then make informed decisions with an awareness of both the potential and limitations of the available options. In most cases this relates to child protection, criminal and civil justice systems. Advocacy Officers aim to facilitate rather than prescribe what a client needs.

1.2 Aims of the study

The aims of the study are as follows:

- To bring the voices of the victims to the forefront, as co-researchers, in order to identify their experiences of the criminal justice system.
- To provide constructive analysis and recommendations to the criminal justice system through the voices of complainant witnesses.

1.3 Research focus

There is a dearth of research based on in-depth interviews with victims of sexual violence in the literature, and, in particular, a lack of interviews with adult victims of child sexual abuse. As Advocacy Officers based in One in Four, the researchers behind this study brought to the project an awareness of the dynamics of sexual violence and of the difficulties involved in being a complainant witness in the criminal justice system. The team of three researchers have experience in social research and in the provision of direct support services in a variety of settings. The aim of the advocacy service in One in Four is to support clients to express their own needs and make informed choices. The researchers aimed to design a process which would mirror this ethos and bring the voices and recommendations of those who experienced the criminal justice system to the fore.

This research on the experiences of ten clients who have been the complainant witnesses in criminal prosecutions aims to get behind the facts and figures and present the voices and perspectives of the experts - the women and men who have had direct experience of the criminal justice system. Ten participants generously gave their time and revisited painful and distressing experiences in order to raise awareness and contribute to a very necessary exploration of how the criminal justice system responds to complainants of sexual violence.

The project was undertaken with the ethos of the advocacy service firmly in mind, with a primary focus on the voices and experiences of the clients themselves. The ethos of the Advocacy Service underpins the design of this current study. The experiences of the complainant witnesses are foregrounded in the findings in Chapters 4, 5 and 6, which have shaped the structure and development of the entire study.

The title of the study, *Only a Witness*, captures the overriding sense of the participants; that their role in the trials of their abusers was merely that of a 'witness' instrument used by the State. During this process, participants repeatedly reported feeling objectified, depersonalised and dehumanised. One participant ironically remarked that this was how her psychiatrist described the harm of the childhood abuse.

While it is beyond the remit of this research to describe the original experiences of abuse, it is important to note that earlier experiences form the context and backdrop to the participants' experience as complainants. It is important that this context is acknowledged, appreciated and understood. In providing this context a brief overview of the dynamics and impact of child sexual abuse is included in the next chapter.

One in Four seeks to be an authoritative, expert voice in influencing public policy and strategy and in educating public opinion (as provided for in the One in Four Strategic Plan 2015 – 2018). It is hoped that this research will result in a deeper awareness of the dynamics and impact of child sexual abuse and pave the way for a constructive exploration of the current system that falls short of meeting the needs and rights of the victims of sexual violence. It is also important to note that the criminal justice system itself is part of a wider social and cultural context. Formal and institutional change will be difficult to achieve within a social and cultural context that remains deeply resistant to the reality of sexual violence and where taboo and stigma still pose barriers to the disclosure of abuse.

1.4 Report structure

The remainder of this report is structured as follows:

Chapter 2 presents the background and context to this study. It brings together current thinking on three themes: the criminal justice system, sexual violence, and victim rights and needs. It includes national and international evidence on the needs of victims of crimes, what needs to change in the system and how this might be achieved.

Chapter 3 outlines the qualitative, narrative methodology used in the study and provides a profile of the participants in the research.

Chapter 4 explores participants' experiences of the Gardai and their recommendations about how Garda communications and interviewing can be enhanced for future witnesses.

Chapter 5 discusses participants' experiences of engagement with prosecution personnel and their recommendations for the prosecution process.

Chapter 6 discusses participants' experiences as complainant witnesses in the trials of their alleged offenders and makes recommendations for more victim-friendly procedures.

Chapter 7 discusses the findings in the broad context of the prosecution of sexual crimes.

Chapter 8 makes recommendations for changes in policy and practice.

The background of the page is a close-up, high-angle shot of water with numerous small, light-colored ripples and bubbles. The water has a teal or light blue hue. The lighting is bright, creating a shimmering effect on the surface.

CHAPTER 2.

CONTEXT OF VICTIMS' EXPERIENCES OF THE
CRIMINAL JUSTICE SYSTEM

Chapter 2. Context of victims' experiences of the criminal justice system

2.1 Introduction

This chapter explores the context within which a victim of sexual violence encounters the criminal justice system. It provides a brief overview of the dynamics of child sexual abuse; a sketch of the criminal justice system including the roles of the Gardai and Director of Public Prosecutions and a discussion of the needs and rights of victims. Further, it considers current thinking from researchers and commentators on the issue. Some alternative models are presented and the issues highlighted are considered within the context of the attitudinal and cultural shifts needed to effect change.

2.2 Child sexual abuse and Post Traumatic Stress Disorder (PTSD)

Child sexual abuse is rarely an isolated act. It occurs primarily in a complex relational context characterised by manipulation and abuse of power and trust. The perpetrator targets the child and subtly draws them into the sexually exploitative relationship, manipulating particular vulnerability, inculcating secrecy, fear, and feelings of guilt and responsibility in the victim through a process of 'grooming'. Contrary to popular myth, perpetrators of sexual violence are most often parents, siblings, extended family members or other people who are in positions of trust and authority who are known to the child (Herman, 2005). This abuse has a profound impact on the development of the child and an abused child has to adapt psychologically to a pathological situation in order to survive. These 'adaptations' include: splitting off conscious knowledge of the abuse, dissociation – mentally cutting off during the physical act of abuse, internalising feelings of shame and self-blame and rationalising and minimising the abuse. The cost of such psychological defences is high and fragmentation can become a core feature of personality development (Davies & Frawley, 1994; Herman, 1997, Rosen & Frueh, 2010, Van der Kolk 2015).

These defences, often essential to the functioning of the traumatised individual, militate against a capacity to report abuse. Furthermore, in One in Four's experience, they stand diametrically opposed to the rigorous recall, organisation and integration of memory required during the process of giving evidence and cross-examination in a criminal trial. This inevitable internal clash in the context of the felt and real power imbalance in the adversarial court setting contributes to a severe and almost inevitable re-traumatisation of the victim/complainant. The sensory and emotional aspects of traumatic memory such as terror, panic and confusion are all easily triggered in narrating the traumatic event, which are further compounded in situations of stress (Holmes, 2000).

Victims of child sexual abuse can exhibit many of the symptoms of Post Traumatic Stress Disorder (PTSD) (O'Neill & Gupta, 1991). Freedy et al. (1994) recorded a diagnoses of PTSD in 69 per cent of rape victims involved in criminal proceedings. As well as the physiological symptoms of stress, other symptoms include nightmares, sleep disorders, difficulties in concentration and in the ability to process and retain information, poor self-esteem, vulnerability to flashbacks, difficulties with attachment and trust, feelings of powerlessness and helplessness (DSM-5). Symptoms of PTSD may impact on the ability to report and on the courtroom experience.

2.3 The Criminal Justice System

It is widely accepted that many victims of sexual violence never disclose their abuse (SAVI, 2002). Some who disclose choose not to make a criminal complaint. Those who decide to make a formal complaint initiate an investigation by reporting the crime to the Gardai. The Gardai conduct an investigation and forward a file to the Director of Public Prosecutions (DPP). The DPP decides, based on the evidence compiled by the Gardai, whether to initiate charges against the accused. If the DPP decides to prosecute the crime, the victim's only role is as a witness to the crime. Sexual violence cases are ordinarily tried in either the Circuit Court or the Central Criminal Court before a Judge sitting with a jury. The Irish justice system, like most common law systems, is adversarial. The accused is not compelled to give evidence and the main complainant witness will most likely be subject to lengthy cross examination. Counsel acting for the DPP must prove the case 'beyond reasonable doubt', which requires a very high burden of proof. The Judicial Review Process is often initiated by the defence to challenge the right of the DPP or the High Court to proceed with a case. This process adds to already significant delays, causing added anxiety and distress to victims. Juries are the adjudicators of fact; they decide the guilt or innocence of the accused and the Judge will impose a sentence upon the return of a guilty verdict. It is only at this point in the process that the victim may for the first time be able to speak in court of the impact of the crime, by way of their Victim Impact Statement.

2.4 The Gardai

The Garda Síochána Sexual Crime Management Unit within the Domestic Violence and Sexual Assault Unit was established in 2010. This was further developed into the National Special Protective Services Bureau in 2014. Four new Divisional Protective Services Units (DPSUs) were rolled out in three Garda Divisions in 2017. The DPSUs will be supported on an advisory level by the Garda National Protective Services Bureau. The function of the Bureau is to evaluate the investigation of sexual crimes, assist and train Gardai in the investigation of sexual violence, ensure prompt and professional investigation and aid the Gardai in adherence to best international investigative standards. Garda Síochána policy (2010) on the investigation of sexual crimes recognises the vulnerability of victims of sexual crime and emphasises the importance of the Gardai remaining cognisant of the impact of sexual violence during all parts of the investigation.

In addition, Gardai receive training in interviewing vulnerable witnesses and the importance of a suitable venue is highlighted. Gardai are instructed that victims should be informed about relevant support services and should be kept informed of progress during all stages of the investigation. However, the cutbacks of recent years has led to a high rate of retirement among older, more experienced Gardai. There has also been a hiatus in training more junior Gardai in interviewing vulnerable witnesses.

The Garda Charter for Victims of Crime recognises the needs and concerns of victims and undertakes to keep victims informed at all times of the progress of cases as well as directing victims towards appropriate supports. A key finding highlighted by the current literature is the primary importance of the provision of information to victims (Bacik, 1997; Bacik et al., 1998; Fenwick, 1995; Hanly, 2009; ICCL, 2008; McGrath, 2009 McGrath, 2010; Raine & Smith, 1991; Wemmers, 1995). The Charter, however, is not on a statutory footing. It has been acknowledged that victims in the early stages of their contact often have a positive experience of the Gardai. However, there are declining levels of satisfaction with on-going contact (Commission for the Support of Victims of Crime, 2010; Hanly et al., 2009). This may contribute to the withdrawal of some complaints. The provision of proper support systems might have encouraged some of these complainants to stay the course (Hanly et al, 2009, 363). Garda station environments and facilities for vulnerable witnesses are another area that have been identified as problematic (Bacik et al., 1998; Hanly et al., 2009).

The Garda Inspectorate's Report (2012) has recommended that further specialised training and support for Gardai is needed in dealing with complaints of child sexual abuse. Further recommendations include the need for closer interagency work between the Gardai, the HSE and non-statutory agencies. It also calls for an amendment to the Children First Guidance to put a greater emphasis on child protection and welfare in the prosecution of child sexual abuse cases.

2.5 The Director of Public Prosecutions

The DPP decides whether or not to prosecute people for committing crimes and where a decision is made to prosecute she will decide on the charges. Between 2000 and 2004 the DPP decided not to prosecute 70 per cent of cases with a rape charge (Hanly, 2009). This statistic does not include incidents that went unreported and also does not capture cases where the claimant withdrew from the process. Some 27 per cent of claimants withdrew their statement of complaint; one of the highest attrition rates in Europe (Hanly, 2009; Regan & Kelly, 2003). In the past the DPP has not outlined to victims the reasoning behind the decision not to prosecute (RCNI, 2008). Since November 2015, following the EU Directive on Victim's Rights (Directive 2012/29/ EU) complainants are given reasons for non-prosecution, on written request.

Current literature highlights the primary importance of the provision of information to victims by the Office of the DPP and prosecuting barristers. This information includes updates as to the running of the case, what the process entails and follow-up support and information. Individual professionals must also be able to communicate effectively. Being kept informed can contribute to the victim's interpretation of the fairness of the justice system (Bacik et al., 1998; Fenwick, 1995; Hanly, 2009; McGrath, 2010; Raine & Smith, 1991; Wemmers, 1995).

2.6 Re-traumatisation and re-victimisation

Studies of the criminal justice system, especially as it pertains to sexual violence, have shown that there are serious problems related to the re-traumatisation of victims in the criminal justice process (Bacik et al., 1998; 2007; Charleton & Byrne, 2010; Guiry, 2005; Hamilton, 2010; Hanly et al., 2009; Herman 2005; McGrath, 2009; Mulkerrins, 2003; RCNI 2005). The term secondary victimisation is also often used to describe the re-victimisation of witnesses.

Harvard Professor of Psychiatry, Judith Herman, remarks that "if one sets out intentionally to design a system for provoking a symptoms of traumatic stress it would look very much like a court of law", (2005m p.574). Among the contributory factors to the problem are the adversarial nature of our criminal justice system (Bacik et al., 1998; Brereton, 1997; Herman, 2005; ICCL, 2008) and the particular nature of the impact of sexual violence on the victim (Bacik et al., 1998; Bridgeman & Mills, 1998). Herman (2005) in a study of twenty-two victims of sexual violence, states that the legal system and its procedures afford an inherent advantage to offenders above and beyond their formal rights and protections. She observes that the strategies of domination and control that perpetrators of sexual and domestic violence practice on their victims seem well suited for the legal system.

2.7 Victims' rights and needs

With regard to the development of services and facilities, research consistently shows the importance of ensuring that victims are at the heart of the criminal justice process (Bacik, 1997; ICCL, 2008; McGrath, 2009). As Hanly et al. (2009:363) conclude, it is an area of serious concern "that the criminal justice system has assumed such terrible proportions in the minds of rape victims that they would prefer to forego any prospect of justice rather than engage with it, is quite an indictment of the level of support provided to victims".

These same issues arise across different jurisdictions and even different models of criminal justice, whether adversarial or inquisitorial. Studies across Europe, Australia, New Zealand and North America conclude that successful implementation of new laws relating to victims' rights have been difficult to accomplish (Australian Department for Women, 1996; Bacik et al., 2007; Brienen and Hoegen, 2000; Government of Canada, 2000; Kury, Kaiser & Teske 1994; Victims in Europe Report 2010). Although European Member States have largely succeeded in formally implementing Council of Europe and European Union framework recommendations, high levels of victim dissatisfaction continue (ICCL, 2008; Brienen and Hoegen 2000; Commission for the Support of Victims of Crime 2010).

Victims' Rights and Legislation

As noted above in Ireland, while measures such as The Victims' Charter (2010) have been introduced, the lack of statutory measures enforcing victims' rights means the guidelines are not enforceable (Hanly et al., 2009; McGovern, 2002; McGrath, 2009; Guiry, 2005). Some commentators are suspicious of the political motivations behind introducing legislation that is not necessarily centred on victims' rights on the basis that such legislation is motivated by the desire to appease voters' concern about crime rates and is offering 'soundbite' solutions (McGrath, 2009; Guiry, 2005). Although it appears the perspectives and needs of victims have gained ground in public discourse, some authors question if this is a matter of rhetoric and whether the idea of victims' rights is merely being cynically used as a keystone to arguments for the introduction of harsher punishments for offenders (Fenwick, 1995; Garland, 1991; Guiry, 2005; McGrath, 2009). These authors contend that politicians largely introduce legislative and procedural change in the criminal justice system at politically strategic times in order to boost public confidence in law enforcement, but fall short of providing meaningful change to victims' rights.

In the UK, in recognition of the problem of victims' rights, an independent Victims' Commissioner was appointed in 2010. On taking up the role, the Commissioner described victims in the criminal justice system as 'poor relations'. Instead of a system of guarantees, what victims actually get is a 'maybe' system, where victims are subsumed into the 'administration of the law'. (Casey, 2010)

There is no shortage of victim-based national and international initiatives, including legislation and an EU Directive promoting the rights of victims. However, without putting victims' rights on an enforceable statutory footing, for example, as introduced under the Manitoba Victims' Rights Act, 2000, many recommendations remain aspirational. The EU Directive on Victims' Rights (Directive 2012/29/EU) establishes minimum standards on the rights support and protection of victims of crime.¹ This is the first piece of European 'hard law' on victims' rights that is legally binding on

¹ The Directive establishing minimum standards on the rights, support and protection of victims of crime was adopted on 25 October 2012 [2012/29/EU]. The Directive will ensure that victims are recognised, treated with respect and receive proper protection, support and access to justice. The Directive considerably strengthens the rights of victims and their family members to information, support and protection as well as their procedural rights when participating in criminal proceedings. It also includes provisions that will ensure that professionals are trained on victims' needs and encourage cooperation between Member States and awareness raising on victims' rights.

member governments. The Criminal Justice (Victims of Crime) Act 2017 was enacted in November 2017.

2.8 The Trial

Several elements of the trial process itself are stressful for victims. The adversarial nature and experience of a cross-examination, particularly in the case of trials of sexual violence, is one area where reform has been called for (Bacik et al., 2007 and 1998; Hanly et al., 2009). The process itself is inherently traumatising because aggressive argument, selective presentation of the facts and psychological attack are permitted (Herman, 2005). The perceived elitism of professionals and the court process reported by victims can also reinforce feelings of isolation and add to trauma (Bottoms & McLean, 1976). Delays in the trial process also compound the stress to the victims (Bacik et al., 1998; 2007; Fenwick, 1995; Hanly et al., 2009; ICCL, 2008). In Ireland a defendant in a sexual offence trial has the right to represent him/herself in court. This right has been withdrawn in the case of rape trials in England and other jurisdictions and there have been calls for a similar withdrawal here (RCNI, 2005). Given the realities for victims, the need for support services to assist with practical and emotional issues throughout the process is clear (Bacik et al., 1998; 2007; Fenwick, 1995; Hanly, 2009;. ICCL, 2008).

There have also been calls for a review of the judiciary, in particular for a reform of the appeals court for more consistent sentencing and a means of holding judges accountable for their conduct and decisions in court (Bacik et al., 2007; 1998; Carney, 2007; Hamilton, 2010). The proposed Judicial Council Bill (2017) will go some way to meeting this requirement. The Council will establish a committee to be known as the Judicial Studies Committee. The function of the Judicial Studies Committee will be to facilitate the continuing education and training of judges with regard to their functions. In England and Wales, specific training is now a condition of authorisation for every Judge who tries serious sexual offences. (RCNI, 2005, Saunders, 2012)

2.9 Pre-trial hearings

The Rape Crisis Network of Ireland (2011) endorses findings by the National Crime Council (2006) and the Working Group on the Jurisdiction of the Courts relating to a reduction in delays in trial proceedings by introducing pre-trial hearings. These hearings would be set up to deal with all matters of relevance to a trial and would help avoid lengthy delays through judicial reviews, which prolong the prosecutorial system for victims. The Dept. of Justice, in conjunction with the Chief Justice, has established a Working Group on efficiency measures in the District and Circuit Court. This group has initiated the establishment of a pilot pre-trial procedure commencing in both the Dublin and Midlands Circuit Criminal Courts.

2.10 Victim Impact Statements

One positive development has been the provision in the Criminal Justice Act (1993) for victims to read their Victim Impact Statement in court. Victims report that the feeling of being active participants in the process is of benefit to them (Bacik et al., 1998; Coffey, 2006; Erez & Rogers, 1999; Guiry, 2006; Joutsen, 1994). Guidelines on making a Victim Impact Statement were jointly published by An Garda Síochána, Victims of Crime Office and the Office of the DPP in July 2013. The guidelines state that the Victim Impact Statement should be given to the Gardai upon completion; however, the same guidelines do not refer to the fact that the victim may require support in preparing to make their statement.

2.11 Attitudinal change

There are recurring recommendations in research and recognition by the Law Reform Commission that the protection of the interests of the victim should be a more central concern of the criminal process as a whole (Law Reform Commission Report on Sentencing, 1996). Radical attitudinal change is necessary to address the perceived conflict between the provision of rights to a witness and the ensuring of due process to a defendant. The Criminal Justice (Victims of Crime) Act 2017 is very welcome response from the criminal justice system and goes some way to address the plethora of research findings highlighting the difficulties for complainant witnesses, especially in the trial of sexual crimes.

However, there is a need for attitudinal change as much as there is for legislative change. For example the, Canadian Resource Centre for Victims of Crime (2006) concluded that much of what remains to be done for victims of crime has more to do with changing attitudes than legislation. This remains one of the biggest challenges.

Models of attitudinal change

One example of attitudinal change influencing practice within the criminal justice system can be seen from recent developments in the Scottish criminal justice system (Crown Office and Procurator Fiscal Service, 2009). In 2009 the Scottish National Sexual Crimes Unit, comprising a team of Scotland's most senior prosecutors, was established as a specialist unit for the investigation and prosecution of serious sexual crimes. A dedicated team of specialist Crown Counsel directs criminal investigations from the earliest stages, providing advice and expertise to Procurators Fiscal. The National Sexual Crimes Unit also has a dedicated team of specialist Procurators.

The Scottish Unit mirrors and is based upon the model established by the District Attorney's office in New York, which has been used as a model by similar units across the USA and beyond. The New York Sex Crimes Unit's work is not limited to prosecution. In addition to trial work, members of the Unit train medical personnel, rape crisis intervention volunteers and law enforcement officers; provides safety lectures and informs the public about sex crime and works closely with

the NYPD's Special Victims Squad, frequently interacting with detectives from the moment a rape case is reported to the police. The Unit also investigates and prosecutes individuals who sexually exploit children via the Internet through the Family Violence and Child Abuse Bureau and the Cybercrime Bureau. Since the Unit was established in 1974 there has been an increase in the conviction rate of sex offenders and decrease in violent crime (New York District Attorney, 2013). Research has reported an 81 per cent increase in conviction rates for sex crimes in New York, and acknowledges that further law reform and societal awareness may also have played a role in this increase (Bachman & Smith, 1992).

2.12 Special Courts

Specialised courts for the trial of sexual offences have been discussed in several jurisdictions as a response to concerns about the experiences of victims of these crimes within the criminal justice system. As well as the issue of secondary victimisation there is widespread concern about the feedback effect on rates of attrition and underreporting given that securing convictions is so problematic. The reality is that what happens at trial has significant effects beyond the individual case itself and impacts not alone on the victim but also on future reporting and potential prosecutions. Special courts for sexual offences already exist in South Africa, models have been piloted in New York since 2006 and are being considered in other jurisdictions, for example, New South Wales in Australia and India.

In 2005 a comprehensive package of reforms was recommended to the New South Wales Attorney General by a Criminal Justice Sexual Assault Taskforce led by Annie Cossins. Having evaluated approaches in other jurisdictions such as Canada, the US and South Africa a key recommendation of the Taskforce was the setting up of specialist courts within the adversarial system (Attorney General Dept. of NSW, 2006). A special court for sexual offences would be staffed by Judges and legal personnel with specific training in the issue of sexual violence. The features of a specialised approach would be: special listings and pro-active case management; specially equipped court spaces; binding pre-trial directions to avoid delays; referral to specialist support services for victims; support services for legal personnel to prevent burn-out; internal prosecution case management systems; data collection to evaluate effectiveness and the employment of a specific person to drive reform and co-ordinate implementation. The NSW Taskforce also recommended the creation of a cross agency monitoring body to provide evaluation and leadership (Attorney General Dept. of NSW, 2006).

Within the present adversarial system there is no mechanism to ensure that defence counsel is aware of the complexities of sexual violence. However, if constitutionally grounded, a special court with an emphasis on training and education of Judges and prosecution lawyers may represent the best approach to acknowledge and address the problems of secondary victimisation, re-traumatisation and the low rates of reporting of sexual crime.

The Scottish and New York Models briefly sketched above and the recommendations of the New South Wales report illustrate the importance of recognising that sexual crime is different from other types of crime, thus requiring specialised investigation and prosecution. A further shift in focus to examine victims' needs specifically might broaden the range of options to include Restorative Justice principles and/or practice.

2.13 Restorative Justice

Restorative justice, if carefully managed and allied with the criminal justice system, may be well placed to meet some of the concerns of victims highlighted in this research. Restorative justice with an emphasis on inclusion of the victim and acknowledgement and reparation for the harm inflicted by the crime is used widely in Europe, Canada and the New Zealand. (Walgrave, 2011) Research into the general outcomes of restorative justice reveals significantly higher rates of victim satisfaction for those who participate in mediation or conferencing than in the traditional judicial procedure (Shapland et al., 2007; Walgrave, 2011; Wemmers and Canuto, 2002). While restorative justice or mediation has customarily been used in less severe crimes, Austria and Finland refer more serious cases including violence within the family. (Vanfraechem et al, 2010; Willemsens and Walgrave, 2007). Specifically in relation to sexual violence, one study of youth sexual assault (Daly, 2006) found that from a victim advocacy perspective, the restorative justice process may be less victimising than the court process and its penalty regime may produce more effective outcomes. Cossins (2008) has challenged Daly's (2006) findings concluding that evidence to support the inherent benefits in restorative justice is insufficient. As Koss & Achilles (2008) argue: "given the size and richness of the restorative justice literature, the minimal number and small scale of programs for sexual assault is notable" (p10).

Further research into the potential of restorative justice in relation to sexual violence is merited. Restorative justice as an option for addressing sexual crime is explored further in Chapter 7 below.

2.14 Summary

This chapter has examined the intersection of the criminal justice system and sexual violence, with a particular focus on victims' rights and needs, perspectives on victim's rights in Ireland and abroad, and the need for attitudinal and legal change.

There is agreement among researchers and commentators that the needs and rights of witnesses must feature more centrally at the heart of the criminal justice process. It is also recognised that there is a shortage of research on the direct perspective of the victims of sexual violence. (Bacik et al., 2007; Hanly et al., 2009) This study addresses that gap and responds to the experiences of One in Four's clients by engaging in qualitative, narrative research. The next chapter describes the methodology.



CHAPTER 3.

METHODOLOGY AND PROFILE OF PARTICIPANTS

Chapter 3. Methodology and profile of participants

3.1 Methodology

This chapter provides a brief overview of the methodology for the study. A more detailed account of the methodology can be found in Appendix 1.

The study was carried out by three One in Four Advocacy Officers with experience of accompanying complainant witnesses at criminal trials. The research was approached from a critical research perspective using a qualitative, narrative approach. A semi-structured interview schedule was developed which allowed the researchers to focus on certain areas of interest while allowing other lines of inquiry to emerge from the responses of the interviewees.

Eighteen clients were identified as potential participants based on the following criteria:

- All clients had experienced child sexual abuse;
- All had completed their engagement with the criminal justice system;
- They had received support from the One in Four Advocacy Service;
- The researchers had the opportunity to introduce the research to the clients and gave them the opportunity to decide if they wished to participate;
- Clients agreed in principal to participate in the research.

For ethical reasons, four of the clients were thought to be too vulnerable to participate. Fourteen clients were approached and ten agreed to participate. Interviews were recorded, transcribed and coded, and inductive data analyses methods were used to allow themes to emerge from the data.

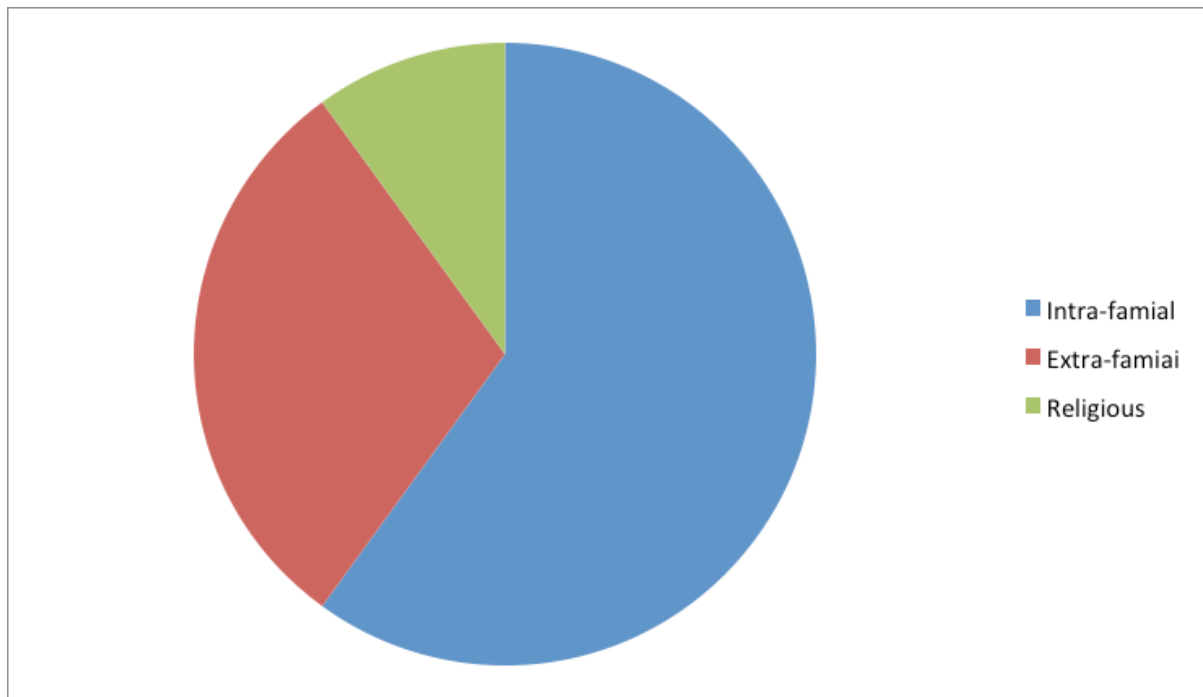
There was a high level of awareness among the researchers regarding the importance of ethical considerations in the approach to, and initial design of, the research project (see Appendix 2). At the beginning of each interview the participant was given an information sheet with all relevant information relating to the research. The researcher reiterated the main points relating to the purpose of the research and the procedures involved in the interview. All participants signed consent forms and gave permission for recording. Interviews lasted for an hour, on average, and were conducted in the One in Four offices.

At the end of each interview, participants read a debriefing sheet with information on support if any issues had arisen for them during the interview, as well as a grievance procedure should they have had any issues with how the interview was conducted (see Appendix 3). Participants were offered €50 expenses and asked to sign a confirmation stating whether or not they had taken the amount.

3.2 Profile of the Participants

Three men and seven women took part in the study. The age range was 20 – 55 years. All cases related to historic child sexual abuse. As Table 1 shows, 60 per cent (n=6) of the cases involved a family member, 30% (n=3) involved extra-familial abuse and 10% (n=1) involved a member of a religious order. One case was concluded nine years ago, all other proceedings have come to a conclusion within the past five years.

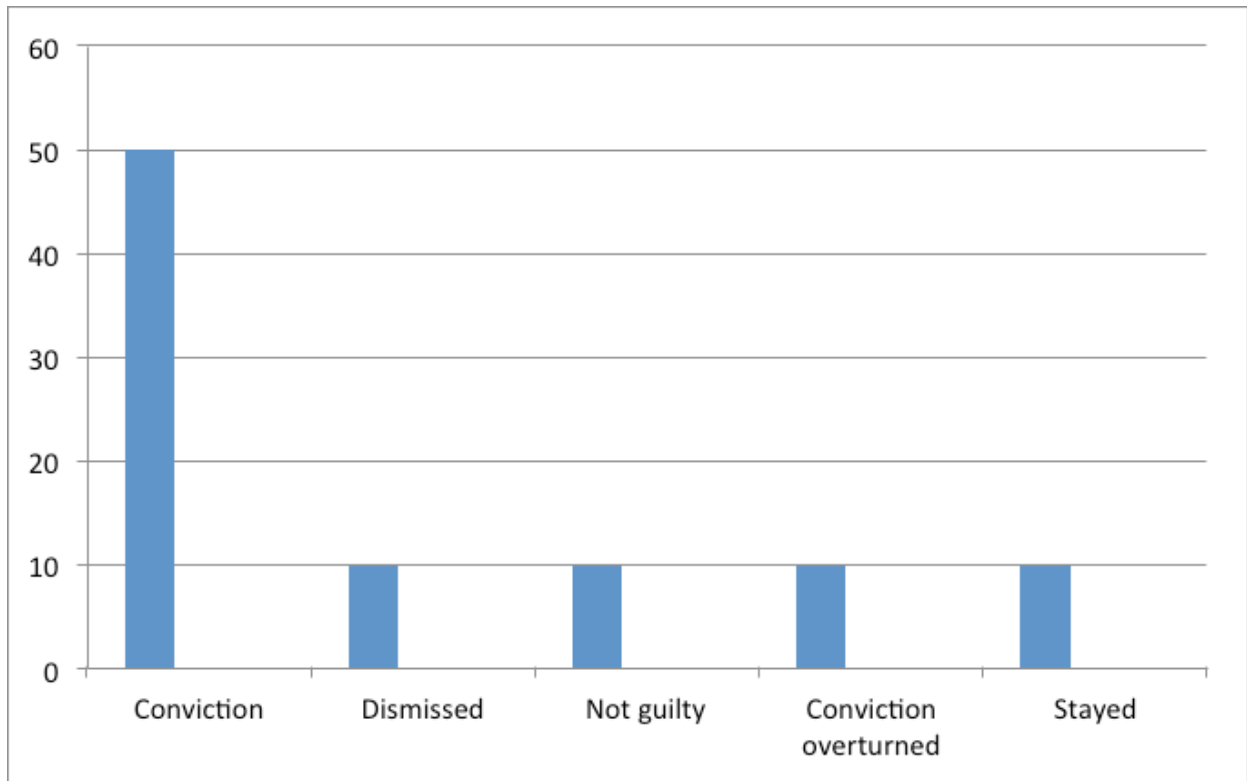
Table 1: Context of Sexual Abuse (n = 10)



Outcome of Criminal Trials

Table 2 shows that 50 per cent of the cases resulted in a conviction. One case initially resulted in a conviction but this was overturned on appeal. Of the remaining 40 per cent, one case was stayed, one was dismissed following a judicial review and one resulted in a 'not guilty' verdict.

Table 2: Trial Outcomes % (n=10)





CHAPTER 4.
THE ROLE OF THE GARDAI

Chapter 4. The role of the Gardai

4.1 Introduction

The stories of the participants of their involvement with the criminal justice system are clustered around three main themes; the role of the Gardai, the prosecution, and the trial. This and the following two chapters deal with these themes in turn. They present the direct experiences, reflections and recommendations of the participants.

In this chapter the participants reflect on how the Gardai communicated with them and kept them informed of developments, the sensitivity of the Gardai they dealt with, the issue of the gender of the investigating Garda, and the impact of the actual environments in which they met with the Gardai. Finally, recommendations are made, from the perspective of the participants, about how Gardai communicating and interviewing can be enhanced for future witnesses.

4.2 Contact & Information

Participants valued frequent contact from and availability of Gardai. Having access to information, a caring and respectful approach, and regular communications were some of the positive aspects of contact with the Gardai. The following extracts from participants' interviews describe some of these positive experiences.

For Daniel, being kept informed and a caring approach helped enormously:

They understand and they kept you informed all through it. To be honest I have to say they were very good. Even giving statements, there was no pressure on you...I think it was the man himself. You just knew by him. He was good. He cared. You could see and know he actually cared. (Daniel)

Emily acknowledged the help and expertise provided by the Domestic Violence and Sexual Assault Investigation Unit:

The Domestic Violence Sexual Assault Unit was able to say what it is and explain the processes and explain about the backlog in services. I found it helpful at the time that they clearly had a lot more experience. (Emily)

Other participants praised the commitment and professionalism of the Gardai, who often went out of their way to help:

The Gardai did such a fantastic job. They just went through everything. They had boxes of statements and everything was perfect and when they said they were going to phone me they phoned me. They never left me waiting. The Sergeant gave me his phone number so I could ring him day or night. It didn't matter if he was off duty, on holiday or what. (Barbara)

Any time I rang about intimidation when I didn't think Garda X would do anything he stepped up to the plate 100% and got it sorted. (Megan)

In Jason's experience the Garda who dealt with his case provided continuity throughout his case, was highly professional and went above and beyond the call of duty.

I could not fault the Garda. I had the same Garda from beginning to end, even though he moved station. Apparently in the Garda business if you start something you see it through. This particular man could not have been better – I just could not fault the way he dealt with it. I remember ringing him one day about something and I could hear some talking in the background and I said have I got you at a bad time. He said it was a band and I said I'll ring you again, but he spent about 5 minutes on the phone, obviously off for the day, gone to a wedding. (Jason)

When Barbara was in court communication with the Gardai helped her in dealing with the case, as did contact with the Gardai after the trial; regular communication was very important:

They were there waiting at the front of the Court. I didn't expect that because someone had said to me the Gardai probably won't talk to you in here but they did. They talked to me and even made eye contact if something wasn't going right or at the end I was so, so upset and one of the guards was saying settle, because I was just holding myself They phoned me a few times since and the sergeant, a big man, he would always say are you alright? (Barbara)

However, not all experiences were positive as the following extracts from the interviews show. One of the most important issues raised was a lack of information and contact, which led to frustration and stress for the people concerned. In dealing with two different teams of Gardai, Barbara had both positive (as noted above) and negative experiences:

I went to station A. It [the statement] had to be taken down there again and about a year was wasted in my own station where nothing was done. They would tell me they were going to phone me and they didn't phone me. I thought against going to station A because I had to get used to everything down there. So when I went down to station A from the first day I went down there they knew the trouble I had with my own Garda station and they knew the big issue was the Gardai would tell me they were going to phone me and they wouldn't phone me and that was one thing they did and one of the most important things. (Barbara)

Sarah also recounted her distress with phone calls not being returned and long delays in getting a response:

I had awful difficulties I have to say. She was a lovely person but I think she was very inexperienced in anything to do with a trial. At times throughout the trial I could be waiting six weeks for return phone calls when I would just keep ringing and leaving messages and getting no response. (Sarah)

A lack of information and phone calls not being made at critical times led to further anxiety for other participants:

We were told he will be arrested the day before. They said we'll definitely phone you. We never heard from them for about 2 weeks afterwards. Emily

Conflicting information about what a complainant was entitled to and progress in the case, and a failure to return phone calls was, in Valerie's experience, very frustrating and disrespectful:

I asked am I entitled to be there for the judicial review and I was told by the guards 'no'. But I found out I was. So I went. My husband came as well and the girl from court service. I knew that [the Garda] was not one bit impressed. If I phoned for information they wouldn't ring back; he had stepped out of the office, he would be back in a while, nothing. The way I was told that the case wasn't going ahead: just a phone call again, not even asking could I speak, it just came out and when I did look for information the next day I was just told I've told you what I've told you and that's just the way it is. (Valerie)

Emily was distressed to see details of her case published in the newspaper before the Gardai had updated her about what happened:

I always had to make contact with the guard. They never really contacted me themselves. I knew the charges that were being read out [at the arraignment] but I still wanted to be informed of what happened in court. It's not very nice reading it in the newspaper. Emily

In Megan's experience information was not provided to her and she felt that she had been dealt with in an uncaring and insensitive way.

I wasn't informed at the time that I was entitled to a copy [of the statement]. I just went off and did my business and was told he would contact me and he did and I found him to be uncaring and cold and asked do you want to make any changes to that and I said 'no, nothing'. 'Is there anything you want to take out?' I said 'no'. Then he said this is a historical case so the chances are it will go nowhere but we have to investigate it anyway. (Megan)

Continuity of information and contact are critical if there are changes in staffing. In Sarah's experience it was devastating to find out about the court date from her friend, who was a witness:

But the most frustrating thing that happened in all the build up to the trial was my best friend. She was a witness and she had given a statement. On this particular night she rang me up. I got through and she said 'are you alright?'. I said 'yeah, I'm grand, I'm watching TV' and she said 'are you not anxious for Wednesday'. I said 'why, what's happening on Wednesday?'. She said the guards have just come to my house with a witness summons for Wednesday and told me to keep the day free. I hadn't been contacted. I didn't even know that it had been adjourned to this particular date. So I lost it at that stage. I really lost it and I rang up the Garda station. Of course my Garda has been transferred and I said I needed to speak to the Sergeant now and it wouldn't be like me but I just had had enough and the sergeant rang me back and I said this is unbelievable. I explained the situation. My best friend has been told to show up Wednesday. Nobody has told me. (Sarah)

Kevin felt put under pressure to produce his Victim Impact Statement in a short time without being told why:

She needed to have the Victim Impact Statement in five days' time because the other side needed to read it. I said its four weeks to the court date, why do you need to have it now? She didn't bother to tell me that she was going on holiday and she wanted to get it all straightened up before she went on holiday. She was going on holiday for two weeks so it would have been a rushed job to get it in and then probably send it back. I told her this is the situation. It will be as long as I want it to be and you will have to deal with that because this is the only time in the whole process where I have some control. (Kevin)

4.3 Garda sensitivity in dealing with cases

Participants were acutely aware of the ability of the Gardai to understand the dynamics of sexual abuse and were appreciative of Gardai who dealt with the issue with sensitivity and care. Megan's experience illustrates the positive impact of such an approach:

I actually want to write a letter about Garda X because that man made me feel so comfortable and he is so professional at what he does and I actually said I am going to send him a Christmas card. I can only tell you that that man made me feel very comfortable and there are not very many men I can sit in front of and feel comfortable and he listened and he had such a gentle way about him but he was so professional. (Megan)

Because the Gardai are at the front line and the first point of contact with the criminal justice system, they can make a difference to whether someone pursues a complaint:

I think the Garda, the detective dealing with the case at the time; if it wasn't for him and his approach to me I don't think I would have really made the decision. (Sinead)

Jason also spoke about the importance of Garda sensitivity and communication skills:

The Garda was so sensitive and kind and I knew he realised very quickly that he had landed a scud missile in my life so I could not fault the Garda from beginning to end. He's been so good. This is a man who is very gifted at communicating with people and who has a natural sympathy for people who find themselves in situations that they wouldn't have expected. (Jason)

In contrast the following comments reflect participant's experience of being disappointed and frustrated by how they were dealt with by the Gardai. In Emily's case the Gardai involved lacked the experience and sensitivity and it was demoralising to have such a low priority given to her case:

There was a lack of experience from the Gardai involved. I remember the gentleman I met on the day. When I told him I was there to report my rape and sexual assault he was quite shocked by it. And he said he'd be quite embarrassed taking a statement from me. It was very difficult. I just thought well, first of all this is actually meant to be a professional service. It was at the time when you could actually smoke in the Garda station. [a female Garda was assigned to take statement]. So all she did was light up one cigarette after another. And then she went out and she fainted outside. Some of the older Gardai came in and said that she had fainted and that she wasn't so well and they kind of used the excuse that she wasn't well for a while now and if I could quickly sign the statement. I said to them I'm not finished so I'm going to have to come back another time. And then when I phoned her to say that I was coming back to make another statement she wasn't very happy. And she said come back when it suited her and it had to be after half past 10 o'clock at night when they weren't busy. And I know it did take quite a few hours but only I was quite adamant that I was going to make a statement I can see why people just would have withdrawn and not bothered. (Emily)

Emily further recounted her experiences of inappropriate questions and comments made by the Garda who took her statement:

And then there was one night when she commented something like 'seeing as you've left it so long to report it'll have to go on the list of things that we're investigating'. She made it sound so minimal. I think she said 'I'm just asking you questions'. She was quite rude. She said to me I'm asking questions that the other side are going to ask you. 'Why didn't you scream?' It was an empty house, screaming for what? No one was going to see me. It wasn't attached to any other house. If she had known the context she would not have made those comments. She also said they're going to wonder why you're making a complaint at this stage. Is there a possibility you're being vindictive? (Emily)

Valerie also describes not being believed and Garda insensitivity:

Garda X who was taking the statement said to me 'do you know what I was asked when I came in here?' I said 'no'. 'The lads I was with said it must be a sex case cause they are looking for chicks to take it'. I kind of let it go over my head. I didn't think it was very nice. She said there was a lovely guy there, Garda X, who would look after me, the best but then she came back and said 'I have to ask you this, are you telling me the truth?' I said I am. She said it's just that Garda X said you're a liar or a very good actor or maybe both. I said I am telling you the truth. (Valerie)

Valerie's negative experience was worsened because of Garda sympathy with her abuser:

I felt for such a long time that he [the Garda] felt sorry for him [the abuser] and what I was putting him through because he was only an old man with a dog for a friend. (Valerie)

Megan experienced rudeness and a negative attitude from the Gardai:

I went down to the guards and there was a guard standing behind the desk. I was nervous, obviously. I started telling the story. He was so rude and abrupt with me. He said there is no one here to take a statement. I came home and the next day a female Garda came out to my house and she apologised for the attitude of the Garda the day before. The minute he heard sexual abuse he didn't want to know. Now if that had been my first time to ever walk into a Garda station and report there was no way in a million you would have ever got me back there. (Megan)

4.4 Gender of Gardai

It might be assumed that the gender of a Garda is important when making a statement. However, as the following extracts show, positive interactions with Gardai were more associated with age and experience. Participants' assumptions around gender and sensitivity were challenged by their encounters with the Gardai.

Emily found the Gardai who were most helpful were experienced and were fully aware of the need to keep her informed about what would happen in the process:

I found that the older Garda, the Superintendent and the detective who were two older men seemed to be more kind and wise about the situation. They kind of added on extras when they were telling you about the court or what happens. For instance, when it's up for mention. It kind of makes you feel better, it makes you feel like actually he told it as it was so it's as if you were there. It's probably a protective thing. (Emily)

This had not been the case with a less experienced Garda, who found it difficult to deal with Emily's case:

At the time I thought it would be easier to speak to a female but now I don't know. When I was giving my statement the female guard fainted in the middle of it. She just kept saying this is really hard to take and she said I don't know how you ever got pregnant – that's all she could say to me and I think she was quite shocked, physically shocked by what I was saying. (Emily)

Megan found that being treated with respect and being believed was of huge importance, even though she had initially been worried about talking to a male Garda:

The fact that I was going into a man was horrific in the first place because you feel the fear along with the humiliation and the embarrassment at having to go in there and tell some man you've never met before your details. When I went into A he was absolutely brilliant and I told him everything. I had been told for years before that I was a liar and he said you know you couldn't make that story up. (Megan)

4.5 Physical environment

There were significant issues with the physical environments in which participants were asked to make statements. The participants stressed the importance of an appropriate physical environment in the Garda station in order to mitigate anxiety and help victims feel comfortable. The physical environment has a significant effect on the complainants' experiences from the outset:

I think the initial contact with the Gardai is crucial because that's when your trust develops but it has to be in the proper environment. You walk in [to the Garda station] with it's horrible tables and hard chairs. The minute you walk in you feel 'O my god'. In hindsight, at that point I had entered a system. It's not nice, I don't think in my circumstances that I felt it was relaxing at all. (Sinead)

Sarah described how her distress was compounded by having to give her statement in a setting designed for interviewing suspects:

So I went down to make the statement. I think it was around 11.00 o'clock or so. I was brought into an actual interview room where they interview suspects. She [the Garda] sat down in her chair and there was a table and a chair the other side of it. I went to move the chair to pull it back and it was actually nailed to the floor. I was pulling at this and she said oh sorry its nailed down. So I sat down in the chair and there's this camera looking straight at you; now it wasn't on but it was very much in your face. It was really horrible. I was sitting there and I was shaking, nervous and I'm sitting there going I can't move my chair, there's a camera staring at me and it was a proper interview room. There was nothing else in the room at all. Even that was horrific. (Sarah)

Sarah's experience ended in even more inappropriate surroundings, which were not conducive to taking a statement:

It was coming towards the end of my statement. The door of the room opened and another guard quite abruptly said 'are you not done with this room yet? The Garda turned around and said 'no, I'm still taking a statement' and he said 'There's a prisoner coming in'. The Garda I was with got very upset about that. She was really annoyed and she got up and opened the door and quite loudly said 'This is ridiculous, is there no consideration given to victims of abuse anymore?' So she was kind of saying to her colleagues this is no way to treat someone giving a statement. So she held open the door and said 'come on, we'll go' to me. So I said okay and took my bag up and followed her. She tried a couple of rooms along the way and they were all full or being used and she actually brought me into the Garda canteen room. She sat me down beside the pool table and finished the rest of my interview. In the meantime the guards kept coming in to make their cups of tea and would walk half way and then realise what she was doing and would walk back out again. So I was at the pool table finishing the last hour or 45 minutes of my statement. (Sarah)

Megan found going to a local Garda station difficult because she had concerns about privacy:

Now and then you have to go back and make another statement. Most people have to do this in their local Garda station and they probably know some of these guards. My brother is friends with a lot of Gardai from the Garda station. Another brother of mine would have been in the [sports club] and some of the Gardai would play with him. You walk in and then you meet someone and they are going 'Hi, what are you doing here?' and you going Jesus Christ. I don't think that was an appropriate place to go. (Megan)

4.6 Recommendations to the Gardai

In reflecting on their interactions with the Gardai, the interview participants made a number of suggestions to improve the future experience of complainants. They cover the areas of Garda training, communication and information and the provision of conducive physical environments for witnesses.

Garda training

Many participants were aware that some Gardai they dealt with were inexperienced and lacked training. Participants made strong and recurring recommendations that Gardai be specially selected and trained to work with victims of sexual abuse. This is very important to building good communications, trust and helping to make victims feel at ease.

In the ideal world I think there should be trained Gardai in each station with a room, a comfort zone. I know for a fact that the Gardai in my case hadn't done anything this big before. You know they are your first point of call. You think they know everything, and they don't and it's not their fault, they're not psychologists. I just think there needs to be more education and I think a lot of people would feel safer in their experience going through the courts. Without scaring people, if they had the proper training they might be able to talk properly. (Sinead)

Kevin suggested training within a relevant support agency:

Let a guard come in and get a bit of training from a support agency and let them find out what goes on. That guard, maybe she should get counselling from One in Four. (Kevin)

Susan describes how Garda training could improve the complainant's experience at key points in the process:

To me definitely the biggest thing is if the Gardai are specifically trained to make your environment better, to guide you better in your statement. I definitely think that would make a huge difference to the whole thing and they are dedicated to giving you information, explaining the court system, explaining what is going to happen, just looking out for the witnesses as best they can. It seems when you're the victim everything is weighted in favour of the accused and they get absolutely everything and the victims are left totally out of the loop so I think that's what needs changing. The victim has to feel supported and have the information because information is key. (Sarah)

Contact and information

The absence of consistent contact and information from the Gardai was a problem for some participants. This deepens existing feelings of isolation and anxiety in vulnerable victims of sexual violence. As a result participants made recommendations for a more sensitive approach to contact, through regular contact and information and better training of the Gardai. This includes having regular contact by telephone and willingness for a victim to make contact at any time:

I think that even a three monthly call, just to say there is nothing happening but there might be next week and if there is I'll ring you next week and if not I will contact you in a month again and if you need us in the meantime call - just to know he will call me back. (Valerie)

Sinead identified the need for clear and specific guidance from the Gardai when making a statement:

I think there needs to be more guidance from the Gardai. If you feel embarrassed about something and don't want to say it you can't come back in a month or two and say it. This is your only opportunity to say it. People need to understand that. (Sinead)

A suitable physical environment

The physical environment in which victims met with Gardai and made their statements was of very real relevance to participants. They described how difficult it is to relax under the circumstances, how hard it is to have to recall distressing detail and how relevant detail can be forgotten or omitted under the stress of the situation and in the hurry to leave.

Sarah stated that her desire to escape the environment was actually detrimental to her case:

A friendly environment, nice soft chairs nice light... I found if I had been more relaxed there were certain things that I didn't say in my statement because I just wanted to get out of this horrible place..... Oh, just a different room and to be offered a cup of tea or a cup of coffee, just something relaxing. You're going in. You don't know what to expect and you just think you can go in and sit down but all of a sudden all of your senses are coming together and you feel, in my situation, like a protectiveness coming around you and then you're looking at where you are and you're going O God, get me out of here quick, so you're not concentrating. I wasn't. I know what I wanted to say [but couldn't] because I wanted to get out of there as quickly as I could. And I feel in some regard that was detrimental to my case because I left out so much vital information. (Sarah)

The background of the page is a close-up, high-angle photograph of water. The water is a vibrant turquoise color, and the surface is covered in a dense pattern of small, white, frothy ripples that catch the light, creating a shimmering effect. The ripples are most prominent in the lower half of the image, where they appear more defined and textured. The overall composition is clean and modern, with a strong focus on natural textures and light reflection.

CHAPTER 5.

THE PROSECUTION

Chapter 5. The Prosecution

5.1 Introduction

This chapter presents participants' reflections on their engagement with the solicitors and barristers who prosecuted the cases on behalf of the State. In their roles as complainant witnesses for the state they reflected on their experience on being 'only a witness'. They commented on the quality of communication, sensitivity of the prosecuting personnel as well as issues around the competence of counsel. The chapter concludes with participants recommendations. While some were happy with the prosecution approach, many reported feelings of anxiety, frustration and confusion.

5.2 Only A Witness

Although participants understood their roles as witnesses, many identified feelings of disrespect, exclusion and indifference.

That was said to me, you're only a witness - not that you're an important witness, we'll keep you informed. But I think whatever way it was working between the guards and the DPP and I mean I know and accept that I don't have representation, you have to accept it the way it is but you're a person with an interest and deserve to be treated with respect. (Daniel)

I think there were days and no matter who you are and no matter how strong you are there was mornings when I woke up and I couldn't breathe and I don't think the likes of the DPP realise this. I think the DPP needs to understand that when they're coming back with these flippant things, we can't do this and we can't do that, that can actually destroy a person. There were times when I felt I was destroyed. That's the only word I can use to describe it and for me as a person. (Megan)

I can't say anything about the system that was nice, absolutely nothing. (Sinead)

Anne expressed the need to have someone to clarify matters for her in during the trial:

He (barrister for the DPP) wasn't my barrister so I didn't have any relationship where I was going to be able to go up to him and ask anything. In reality I never felt there was anybody that I could go to and pick up a phone and say well I'm wondering about this. And certainly in the court system, there was never a chance. (Anne)

Emily also struggled with the system having to meet a new barrister on the morning of the trial:

If you aren't in a position to actually fight on your feet and it's not easy no matter who it is, you actually just get lost in the system. The barrister subsequently changed so I met the next barrister on the morning of the court case. And you know, that wasn't possibly the best time for me to meet him because I couldn't really ask any questions. I hadn't slept the night before, it wasn't a good time. (Emily)

5.3 Communication with the prosecution

The need for clear, consistent, communication from the prosecution team features in the following extracts. Below, for example, Emily and Kevin describe their frustration and distress at the lack of information:

In regard to the DPP's office there are some things that couldn't be included in my court case and we never really found out why they couldn't be included, no indication even. I think it would be helpful to know why decisions are made. For instance at the time, prior to the sentencing there were 2 of us that made a complaint. It was my understanding that we both would go to court on the same day and relay our evidence. But actually the case was divided and they never really explained why the case was divided. I was really disappointed. I knew what I was saying was true but if there was a second person to confirm the information, it makes your case a lot stronger. And we never were told why that decision was made. (Emily)

I asked to speak to the State Solicitor and I was told he was too busy. When it got to the Central Criminal Court I asked to speak to him and he was too busy. I said I would wait around. I waited until after lunch. He was too busy. He won't be able to see you today. When will he see me, I want to sit down and talk to him about where we are going with this. He was too busy. A junior barrister came down and she said to me he will try and get in contact with me, he is very busy but I can answer some of your queries or questions. She couldn't answer any of my questions. Nothing. (Kevin)

Kevin further recounted the distress caused to him by the manner of communication from the DPP:

It was after he had been arraigned, and this is how inadequate the DPP are, I got a phone call; the court date was on the Tuesday. On Friday I get a phone call from the guard relaying a message from the DPP saying that the perpetrator was admitting to six charges and was I prepared to accept it and I would have to let them know on Sunday evening! That was on a Friday evening at 6.00pm that I got that call. I was driving the car home. I had to pull the car in and get out of the car. I didn't know what to do with myself. I rang my father and he said calm down, where are you and I'll come and get you. So I'm in the middle of a field. I don't know what I'm going to do. I was in a knot. (Kevin)

Daniel pointed to the role played by the organisation supporting him in explaining matters for him:

[The prosecuting lawyers] were alright, they weren't very informative. Only for [a support service] you wouldn't know anything that was going on so I feel they could be a lot more informative. (Daniel)

Where communication was good, witnesses were appreciative. Barbara had a very positive experience of prosecuting counsel:

I found X fantastic: It was just her sympathy. Even my husband found her so lovely, so sympathetic. Any questions we put to her she would find out. She was there beforehand and something happened one day in court and it was a discussion between themselves and she came back and let us know what the discussion was about and little things like that you didn't feel you were in the dark and you didn't know what was going on. (Barbara)

Sinead and Emily, similarly appreciated the approach of the State Solicitor

The State Solicitor was very nice. She was the only one; I think that she felt sorry for us really. (Sinead)

I suppose the DPP's office: I found them quite good. I found them very helpful in that they were able to say well the likelihood of the case going ahead or not going ahead, given that there were so many people before etc. They weren't definite but I got a good idea when it was coming up to the day, they were able to say it's highly likely it will go ahead this week. (Emily)

5.4 Sensitivity

Participants in the interviews found a lack of sensitivity to be a major factor contributing to negative experiences. For example, Emily and Jason experienced a lack of sensitivity towards them by their Counsel.

And they were actually talking over me and about me and I think they forgot that I actually had a brain and I had ears. And it happened quite a lot. Again, he just kind of went on and it was clear he was just kind of doing his job and a day's work. (Emily)

I would say (it would have been better) had I met with the barrister beforehand. I don't normally feel very intimidated by people but I felt that was almost her goal, was to keep me in my place, she was the boss, this was her brief and I just happened to be in the centre of it. On the morning of the trial I met [support person] at the Four Courts. I briefly spoke to the barrister, I would say in the broom cupboard. She sat on the table, the mops and buckets were all around and it was obvious that this was going to be extremely brief and the barrister was so cold towards me. The room didn't bother me at all but I felt she was quite arrogant towards me and I suppose if barristers have a bedside manner she would get 2 out of 10. Mind you as time went on and we eventually got to the day of the appeal she even called me by my first name and took me by the hand and told me she was so sorry the appeal had been lost. I nearly died. I thought she was nearly going to cry but that was the only time she betrayed any emotion. (Jason)

Informal discussion or 'banter' between prosecution and defence counsel during the trial period was very disturbing to witnesses, increasing feelings of anxiety.

While the trial was going ahead, the barristers obviously like every other profession, they know each other well and probably drink in the bar at the weekend but it's actually quite degrading when you see your barrister going over to the other barrister and actually have a great chat and have a laugh like they knew each other. Is a chat not maybe better after 4 o'clock because it isn't at all reassuring. It really is as if, maybe it's not, as if they're fixing things. You're not encouraged by it at all. There must be an element of professionalism, and it's very difficult to change but for the sake of the 4 hours, maybe keep the personal chat for that time. There needs to be an etiquette, there is a need to respect people who have been waiting years to come to court no matter what they think or what they think of me. (Emily)

Now maybe I'm being malicious, but I noticed coming out the court a few times herself and the barrister for the other side were you know, having very cosy conversations which I found odd. (Jason)

5.5 Competence of Counsel

On occasion participants perceived that the prosecution team appeared to be ill-prepared, as Anne and Sinead describe below:

And this man in his robes is walking around the room, thinking out loud. And you're saying to yourself, if he's professional, did he not see this coming, that he (defence counsel) would ask for this psychological report. We were told that it had to be done in a big, big hurry. So all this was going on in this room. You're walking in and you have all those emotions anyway saying 'well this is the road that you're starting on'. And then you're also looking at all these other people [other complainants]. You don't know why they're there but obviously something happened. You know nothing about them but your stuff is being bandied about. Their stuff is being bandied about. And then there's all this other mad confusion. So it didn't instil great hope in me initially of saying this man is on the ball he knows what he's about. (Anne)

I couldn't understand how they couldn't foresee it (judicial review) at the time. I remember thinking, these are the learned people with all the knowledge and they are going to fight this case. We went in in October for it to start. You're so built up, you're waiting on closure and closure and closure and they can't foresee that this man is going to look for a Judicial Review? That means we all have to see clinical psychologists. Could they not have had that sorted out amongst themselves before they brought us in? (Sinead)

Kevin was upset that insufficient background research had been carried out:

She [counsel] said you mention that at the time of your abuse you remember the film that was out. I remember very clearly I said because my uncle gave me posters of the film and then he abused me afterwards. It was a treat followed by abuse. That's something that's in your mind, you don't lose. She said we shall have to ring up Hollywood to find out if that film was actually in Ireland at that time. My wife jumped down her throat. She said we went on the internet and if you type in 1980 or 1982 it gives you a listing of the cinemas that it was shown in Dublin city and you look at the Grove cinema and the year and the day and time, it is exactly what he has said. We only looked that up after. Look at Google, she said and you'll find out. Then my father had a go at her and in fairness the Garda had a go at her. (Kevin)

The case against Sarah's alleged abuser was dismissed because of mistakes in the indictment:

So the Defence stood up and he basically said I am calling a motion to dismiss this case because the indictments are wrong. The Judge said he had researched it overnight and that he had no choice but to direct the Jury to acquit him on everything because the dates on the indictments were incorrect, all of them. So the Barrister at the end did a further stupid thing before the Judge called the Jury back in. He said I want to make a phone call to the DPP himself and the Judge actually laughed and said its very unorthodox and I don't see why. (Sarah)

5.6 Recommendations to the Prosecution

When asked how their experiences might have been improved, participants' strongest recommendations related to better communication and more training.

Communication between the prosecution and the witness

More direct communication between the prosecuting counsel and the witness was recommended, as was the need for the nature and mode of communication to take account of the impact of sexual violence. Megan and Emily recommended better communication, information and clarification when dealing with a case:

I think there should be more discussion between the victim and the DPP. A phone call to the detective and a phone call to [the victim]. It would only have taken the barristers a half an hour and it probably took them that length of time to talk to [Garda] and for [Garda] to come back to us. It would be quicker for them to get us in, say look we need to see you for half an hour. This is what we are faced with, this is what we have to do legally, we're trying to do the best thing here and then we would walk away saying we made that decision. Instead we got a phone call basically one morning and I had to find my sisters and one was at work and the other one was gone to a friend's house and I couldn't find her. (Megan)

I think for the barrister to even come and explain stuff. They seemed to have a big debate over certain legal trends. I was going I don't actually know why you're sending out the jury but it would be good if somebody said this is how it is. (Emily)

Training

Training for prosecuting personnel was recommended by Kevin:

I think they should send out agents from the DPP into these services here [support agency] and see what goes on and maybe get an understanding of what's going on the ground and not in the office typing on a bit of paper, looking in a book looking for cross reference for this and that. (Kevin)

CHAPTER 6.

THE TRIAL

Chapter 6. The Trial

6.1 Introduction

This Chapter deals with the impact of the trial on participants. It describes the way in which the trial process can cause re-traumatisation, the strain of taking the stand and the ordeal of cross examination. The role of the Judge, the court environments and the centrality for the complainant of the Victim Impact Statement are also discussed. Finally the participants' recommendations are presented about how the court process can become more sensitive to victims of sexual abuse.

6.2 The trauma of the trial process

Participants were profoundly affected by their involvement in the trial of their alleged abusers. They all described being traumatised by various aspects of this experience. As the following extracts illustrate, they felt that the trial process was inhumane, even barbaric, and biased towards the defendants. For Barbara, the trauma and pain experienced by participants during the trial is compared to a bereavement and having experienced the trial she stated that she would not feel able to go through the process again.

The only way I could describe the pain to somebody - I don't know if your mother has passed away or not but if your mother passes away that pain is one of the worst pains you'll have in your life. But going through this court case was that ten times over and that's the only way I can describe to someone what it was like. It was ten times worse than my mother's death....I didn't want to be looking for sympathy or anything else and I actually didn't cry the whole time. I just was so upset deep inside. If I knew then what it was like I wouldn't have gone through it and I won't go through it (retrial) again either. (Barbara)

6.3 Re-traumatisation and re-victimisation

Participants repeatedly referred to feeling re-traumatised and re-victimised by the process in a way that mirrored the impact of the original experience of sexual violence. They describe below the horror of having to recall and describe the abuse in detail:

I really felt that the toll and the cost to me was just further abuse forty years on. (Jason)

It's a really weird experience and I think afterwards it's really traumatic. I think I was so caught up in what was happening I didn't realise that in 6 weeks' time when I look back on this it's going to be the most horrendous experience, like a delayed reaction. At that time everyone was talking about you as if you were brainless and just really reinforcing your own negative beliefs about yourself. (Emily)

It's really, really bad, horrific. It's worse than the abuse itself in some ways and it's been recited over and over again to you. (Megan)

Barbara described the ongoing impact of revisiting the initial trauma while giving evidence.

I couldn't go up there and give my evidence again. I just could not do that. It's one of the most awful things that I had awful trouble with afterward. I've gone to counselling and the rest. They (defence) had a booklet of the house where I was born and that house is in ruins now and they have pictures of each of the rooms and the rooms where I was abused. I'm still having trouble getting that out of my head. That was gone and that's in my head again and that's one of the things I don't want to bring that back into my head again. I have a little girl and a son and I have to take care of them now and if I'm going to be really upset by things like this I am not going to be able to. (Barbara)

Anne and Emily described succinctly how the trial mirrored the original trauma:

I mean part of what I said in my letter to the Judge was that people who have had the most vulnerable parts of themselves exposed and abused go in there and that's what happens again. (Anne)

It's also really interesting because they were able to read out a psychiatrist's report and it talked about depersonalisation and dehumanisation – it actually reinforced it that day because everyone was talking around me. It actually made me feel like well actually is this really happening, am I in this world or not? It's like something unreal is happening even though I'm actually fully involved in it. (Emily)

Anne and Sarah described the trial process as being cruel, indifferent and biased:

Now from my experience of court, justice is very, very unbalanced - those scales are hugely in favour of somebody who's done wrong. The cruelty in that system doesn't need to be there...it is inhumane. Why does it have to be so inhumane? There's no other word for it. I just think it's a horrible barbaric system that we have in Ireland. You don't know how you're going to get up and start living again. And nobody to really care and your family left devastated around you. The way I felt about that was you could have walked out of those Four Courts, jumped into the Liffey and they wouldn't have felt one ounce of guilt. It was nothing to do with them, it was just the way things fell on that particular day. It was so inhumane. It's the only word. I never felt that the system in any way valued me as much as it valued him – never. (Anne)

The unfairness of it is horrific. I haven't words to describe how traumatic it is. I really can't. What can you say, there is nothing. Pick yourself up as best you can but you're never the same again from something like that, never. (Sarah)

The system was depersonalising and dehumanising. Valerie and Anne described feeling objectified as 'only a witness':

I would have been described as 'only a witness'. (Valerie)

I feel I was used by that system. You know, give me your information. And then I wasn't that important because they got what they wanted. (Anne)

Sinead described how she felt isolated, vulnerable and marginalised:

I felt the trial was very unfair for me because I just felt totally alone, totally lost, that you're a nobody, a total nobody. They just want what you have to say. You want to put this evil person behind bars. He might be found guilty, he might be found innocent. You do not know that until the jury comes back and I just feel that definitely, representation should be given [to the victim] at that stage of the trial. (Sinead)

Megan describes the difficulty in trying to remain focused to take in complex information when she was feeling very vulnerable and under scrutiny:

It's an environment where people are actually talking about you, over you. Legal terms are explained to the jury and all they can do is look at you to see well do I believe her or not, and then look at him [the accused]. And in some instances you can kind of see how juries can get really confused. The whole thing was really quite confusing and to try to keep your head above it in a time that you're actually in a very bad place. (Megan)

6.4 Taking the Stand

Participants' strongest and most focused reflections on the trial centred on the experience of taking the stand to give evidence. Particular distress was expressed about the degrading and disrespectful way in which they were treated while being questioned. Sarah described her horror at being cross-examined and how the system allows a victim to be treated in such an inhumane manner:

I think overall I was probably on the stand for, give or take, four hours. I can't tell you how horrific it is being cross-examined. To this day I can hear that barrister's voice in my ear crystal clear to this day. It feels like that is never going to leave me and my only saving thing is that I never once looked at him. I picked a spot on the wall and I looked at that for a solid four hours and I actually couldn't tell you what he looked like but if I heard his voice today I would know him straight away and it's horrific. He shouted at me. He told me that everything in my statement was a fabrication of my imagination and a lie. Every sentence he started with was basically 'this is a fabrication, this is a lie', and maybe the worst part of it all was that his sentence began with 'your mother will state', 'your mother will state', 'your mother will state'. My mother stated a lot of things that weren't true and she tried every angle to defend my father throughout it and that was really difficult because I went in expecting 'your father will state, your father will state'. (Sarah)

Daniel and Jason described counsel's antagonistic questioning and arrogant approach:

The [defence] just makes a liar out of you altogether and destroys everything you say. (Daniel)

I mean to be there for three and a half hours, to be questioned by somebody who hadn't the slightest bit of sympathy for you. I know the man had to do his job and defend his client but the arrogance of him was unbelievable. He shouted at me once and I asked him why he was shouting at me.....strange in all the three and a half hours the Judge never interveneda day I will never forget. (Jason)

Emily and Anne described the humiliation and frustration of being questioned in court:

You know the whole past sexual history, while the jury weren't there for that part of it, it's really degrading. I knew myself what they were saying was total rubbish, but that's because it's me, somebody else might interpret that totally differently. It's really humiliating. And again it was as if I wasn't there. (Emily)

He looked at me like I was dirt, like I had no dignity, like I had no respect for myself or anybody else in the court room and I was nothing. So what happened to me, in effect, meant nothing to him. It was just another case that was lost, he'd lost it. They can get away with saying the most stupid things to people in order to try and crack them and break them down. There's cruelty in there that there doesn't need to be. (Anne)

Anne went on to further describe her feeling of powerless during her cross-examination:

And so the powerlessness you feel of what happened to you just comes back again. I mean you're totally powerless in that room, you can't gasp. You can't go Oh my god, you can't go oh this is terrible. You have to sit there and be like a stone wall. Ok fair enough there has to be a certain thing that they can't have chaos. But why the cruelty? I just don't understand how barristers and people who are paid that amount of money can actually be cruel. And they are cruel in the way they speak to people who have been abused and raped. Why can they do that? And put the onus of the wrongdoing back on the person. (Anne)

The question of bias towards the defence arose for Anne and Barbara:

It's not a case of equality. The scales of justice are just a real mockery really. Because there is no balance in those scales. When everything is in the favour of someone who has allegedly done wrong and the person who is allegedly wronged is allowed be verbally kicked around in there. And anything is fair game to be asked. That just doesn't make any sense to me as to why we need a system like that. What does it gain? (Anne)

When we did go ahead I just found the trial completely on the side of the accused. Why does it have to be so unbalanced, in the favour of someone who is allegedly the wrong-doer? And the alleged victim is the one who gets the roasting and the horrible time. To be spoken to in the way that you are. From their wording, from the way they look at you, it's all a show. It's like going to the theatre, except it's much more serious for the people involved. But that's what the barristers do, they play a big thing and it's horrible to see. (Barbara)

Daniel similarly questioned the imbalance in the system:

They were trying to tear everything you say apart. If he [the defence] said something, it mightn't be true at all. They [defence barristers] are allowed say it as if it is true. (Daniel)

Barbara highlighted how complainants are left to give evidence with no knowledge of what is expected of them:

There was absolutely nobody to tell me what was going on. It was like being in a foreign country. I went in there and I had no clue what they were talking about even though they were speaking English. I went out every day with a headache because you thought is this good? Is that bad? Is that a good thing? Oh, what does that mean? And you absolutely were on edge the whole time and had no clue of what was going on in there and there was nobody to guide me through that. But there was somebody to guide him. It's not the same for me as a complainant or a victim. You don't have the same rights. And I just wonder why that is. Am I not as valuable to the State as he is? That I don't have that right to say well actually I have found out that something was wrong in the system and I should have had my own representation. There should have been more talk between his defence and the prosecution for the DPP and with somebody dealing with me than being led up there like a lamb to slaughter. He [defence counsel] questioned me so strongly. He did exactly what he was supposed to do. (Barbara)

Sinead and Barbara reported they had no chance to correct any inaccuracies raised by the defence:

You just can't correct anything but especially if there is something said in court. Say for example, this man made a camcorder of us dancing. They were trying to say he made it on the bank holiday in [September]. Well that was impossible because I know where I was. I was on holiday in [London] when I was ten, on the bank holiday because Elvis had died. But I cannot say that, unless I am asked directly. So he's telling lies and I have no way of contradicting him, I can't say hold on a minute, you couldn't have made that tape because I was in [London]. (Sinead)

The prosecution have to let so many things go and when I was up there, the defence didn't let one thing go. They had a way of saying 'I put it to you that that is a lie' and I had to just keep coming back and say 'it's not, it's not'. Sometimes I was worn out from saying that but not once was anything like that said to my family. (Barbara)

Delays, judicial reviews and adjournments in the trial process were a source of profound and ongoing stress, reinforcing the feeling that defence tactics were tolerated:

I am not quite sure of the number but I think it was 9 times it was up and adjourned. Anything to stop it. I don't think that's fair. Every offender going is using it. They seem to have their own little ways of trying to stall a court case. The technicalities, it's just so sided with the defendant, it's just so one-sided; it makes you feel disheartened. (Sinead)

It was put off so many times. The last day they tried to put it off, the weather was foggy and they wanted my sister to come home from abroad. I think there was a two line statement from her with the police. She wasn't wanted at any stage over the past two years but at this very last stage on the last day they wanted my sister there. Putting it off so many times is just so upsetting because each time you think it's going ahead and it's like a trial and then you go home and you're just deflated. One of the times I came up and went home and I was very sick. I had a pain in my head beforehand, it went down the side of my head and I ended up having to go the doctor. The doctor couldn't find out what was wrong. It was stress. I could barely look around. (Barbara)

6.5 Seeking Justice

What sustained participants throughout the difficult process of pursuing a complaint was the need to seek justice, to be believed and validated. This is illustrated in the following extracts from the interviews:

I think victims need to be believed. That's the core issue. When Judges make these decisions about your case, it's detrimental because you feel you are not being believed. (Sinead)

I never wanted to be a victim and I will never allow myself to be a victim and I didn't go to that courtroom as a victim. I went to the courtroom to stand up and say this is what happened to me. I am not ashamed of it and this man is wrong and I want something done about it basically and that's what I went there for. (Megan)

I got over the abuse, or what had happened to me. I had talked to myself and told myself not to be bitter. You know, to get on with your life. But when I went into that courtroom I unmasked the true feelings that I had which was that I wanted to be validated. I thought of the judgment and basically I said I was abused as a child by my Uncle and that he got a 12 months sentence. I got a judgment, I didn't get justice. (Kevin)

Jason described how his initial experience of feeling validated by the trial was negated after an appeal:

But what did mean something to me was that he was convicted [in initial trial]....then I really felt, in some way, his appeal being won was a slur on what I had said. (Jason)

6.6 Victim Impact Statement

The opportunity to have their voices and experiences heard by the court through their Victim Impact Statements was of central importance to the participants:

I decided anyway to do my Victim Impact Statement, which I did and I felt it gave me a great sense of achievement and I felt I did something positive that forced my voice to be heard in a way that I wanted it to be heard. It's the only time you have your own voice. That's the only time you have your own say, as far as I can see. Or if you write a book. (Sinead)

I have never regretted it and strangely, when I came down after making it and sat in my chair I just had a feeling of wellbeing that I don't think I've ever had before or since. I actually found the Victim Impact Statement, the preparation of it and the delivery of it very positive. Though I would have liked to have had more time to reflect a little bit more on it. (Jason)

I went through it [the Victim Impact Statement]. I got upset when I came out but I was glad I did it. It was very upsetting for my mother and father and anybody else but I was in control. For the first time in the whole process people could actually listen to what I had to say and make up their own mind. I haven't been able to socialise in areas of X because of the trauma and it reminded me of so many things and finally I was getting an opportunity for people to actually realise, well this did happen. (Kevin)

Jason made his Victim Impact Statement in the face of resistance and pressure from prosecuting counsel:

She [prosecuting counsel] actually said to me on the morning of the sentencing — do you remember there was a case [reported case] the courts have gone very strict on Victim Impact Statements. Now she said you have the right to read yours out but my advice to you is don't. I said 'why not?' Well she said, the Judge is a little bit impatient, it's a wee bit longer than usual she said you reading it out might prejudice him against giving [offender] a long sentence. I said I'll think about that and I spoke to [a support person] and she said well it's a matter for you but my advice to you is it's your only chance, she said when you see what's happening in this court you will see there will be witnesses to say how wonderful he is, they'll go on reading references and she said it's going to be very unbalanced if you don't say something. So I spoke to her [prosecuting counsel] and said I'm reading it. She said if that's what you wish but I don't think it's the best thing to do but if it's what you wish it's your right – which I found a bit crazy. (Jason)

In Emily's case the Judge did not allow the witness to read the statement:

The Judge said he had read my Victim Impact Statement and I didn't have to do it again. Whereas in some ways I thought actually at least I'll get to read or say what I've got to say but I wasn't allowed. He said it would be very difficult for everybody to hear. (Emily)

6.7 The Judge

The role of the Judge featured strongly in participants' reflections on the trial process. A humane approach on the part of the trial Judge was very reassuring and much valued by respondents. Jason and Anne valued a respectful attitude and approach from the Judge over a particular outcome.

One thing that really impressed me, in spite of this wrong decision, was the fairness of the Judge in that court. He appeared to be so fair to everybody. And, unlike the barristers, there was a bit of warmth in him and respect for everybody. (Jason)

She couldn't give me justice but she gave me mercy...She called me to the side and she looked at me and that meant an awful lot. Because these other men had not looked at me. (Anne)

Megan felt vindicated by the reflective and careful manner in which the judgement was delivered.

I tell you when Justice X started talking there was no way me and my sisters could have got any more justice and I really, really mean that. The way the man spoke, the way he worded it, the way he gave his sentences and the reasons for his sentences. He said there was no remorse for us and he said your sisters are in a very disturbed place and so I was more than happy, I can't complain about anything in that sense. It (the Victim Impact Statement) was sent into the Judge. The Judge reflected on that and the Judge gave the maximum sentence. (Megan)

Other participants, however, reported feeling trivialised and demeaned by the Judge. Experiences of feeling unseen and even irrelevant by the Judge are described below:

He said a little bit too much. I mean he couldn't look at me while he was saying it but yet he was able to say what he thought. (Emily)

The other Judge, I always remember him, I don't know if you ever saw that film, Oliver, the drunken Judge and he looks down on a boy, and he can't see him. That's the way I felt the Judge in that trial was. Whereas this Judge was different, she was just more humane. (Sinead)

I think that Judge didn't see a victim. He didn't see somebody. (Anne)

Barbara described her distress at the banter between the presiding Judge and counsel.

I felt it was such a fix. I felt it was all like a cosy cartel. The Judge kept saying to the barrister, oh, the West of Ireland and somebody's going to the West of Ireland this weekend and.. well I am from the West of Ireland as well. There was all this cosiness and jokes. And there was one joke one day and I thought I was going to be sick. Something about turkey - do you want to eat duck or do you want to eat turkey or something like this - and I thought Jesus do you realise I was raped and abused for nearly 8 years and you're talking like this. How disgusting. (Barbara)

Emily and Kevin felt that the impact of their abuse was not taken into account by the judge, and that by diminishing the impact of the abuse and not dealing with the abuse in a sensitive way led to further stress for participants.

And when he [the Judge] was giving the 18 month sentence he said that I had done so well and the offender had a disabled daughter, so considering all those things that he had taken all those considerations in mind. I just felt like it was a waste of 4 days. I felt like I had wasted their time. I think had I have been let out of St Pats [a psychiatric hospital] for the week of the case they would have been a lot more sympathetic or had a better grip or understanding of the impact. But because I was doing a university [course] or am in some way articulate it was very different. It just leaves broken and damaged those who were already pretty damaged to start with. (Emily)

During her sentencing the Judge said the [abuse] was at the lower end of the spectrum. It never happened to her so what's she talking about? Kevin

Barbara and Anne expressed their feelings of powerlessness and disillusionment about the Judge's conduct of the trials and the lack of judicial accountability:

I was feeling really, really weak. I don't know how a Judge could say the things he said. Okay, I know he had to tell them that if there was a chance at all of him being innocent that he can't go to jail but he mentioned three cases and the three cases he brought up referred to people who were wrongly accused and went to jail for abuse. You can't say anything against a Judge because if I say anything I'm the one that could end up in jail. I felt totally powerless. I understood that he was going to say that my brother should not go to jail if there was any bit of doubt in their minds but I feel he went far beyond that. If it is unbalanced why not do something about it? I don't know if mine was the only case he was like this in. So why isn't something done about it? If there were things that were wrong why let it go? This is very important to me. I can't understand how a Judge can say these things and you cannot question anything that was said. (Barbara)

I felt this Judge wasn't equipped and wasn't trained. And even when I look back there are so many things wrong with that. I was questioned on past sexual history. I didn't know until a couple of years later that the law had changed and I should have had my own representation. The Judge should have known that. He should have stopped the questioning that was going on. (Anne)

6.8 Sentencing

The sentencing process seemed to be arbitrary and confusing to participants. Emily describes her struggle to understand the broad variation in sentencing for similar crimes:

I think, with regards to the sentencing, I just wondered how they came to their decision. I know there is case law and other cases that have gone before. But I don't see how mine was 18 months, whereas somebody else in the same position got 4 years and how they make that decision based on the same crime. (Emily)

Daniel did not feel the sentence reflected the seriousness of the crime given the far-reaching impact the abuse had on his life:

I don't think the sentence was long enough either. It was joke. At the end of the day he took my life so he should have got life. So it was a joke. He took someone's life. He ruined my life. I know life isn't life, 14 years is nothing. (Daniel)

Jason described his distress when a conviction in his case was overturned on appeal:

That was the most devastating moment of my life. I could not believe that these three supposedly intelligent men in the appeals court could have made what I consider to be such a wrong decision. Between those three and the Judge not doing his job properly certainly, not just me, but all those other boys in my class have been let down by the State... and God knows who else in the meantime. (Jason)

6.9 The Court Environment

The atmosphere and environment in the courtroom was a significant cause of stress and anxiety for participants. Proximity to the accused and lack of privacy afforded in a crowded courtroom added to the anxiety levels and increased feelings of intimidation:

Disaster. A complete disaster. Yeah, it was terrible. There are no words to describe how horrific it is to be in that room. To be in such proximity to your abuser. Apart from the court clerks, who were typing .. he was the closest person. He was right there behind my shoulders. Absolutely horrific. Even going into the court building itself. You don't know if you're going to bump into them in the large foyer. When you walk in you walk in with all the Jury so you see all these people and you're looking at them going 'how are you'; it's a very busy place. Then you walk in and there are three consulting rooms right beside each other so as you walk out the door to go to the toilet. I had to say to my best friend will you come with me please. You walk into the toilet and you don't know who is going to be there. You pass each other. There's that constant risk and you don't want to see them and you haven't seen them in 5 years and you don't want to meet them in the corridor. So that just adds to the anxiety and stress levels. (Sarah)

While there were only people directly involved in the case technically allowed into the court there was a whole population of supporters outside. What constitutes intimidation when someone is sitting staring at you? We shared the same toilets and we met on the stairs. I had one instance where he followed me around the court but nothing was done. (Emily)

My sister went with my wife and they said each time they went they had to go up and talk to the court guard afterwards to find out exactly what had been said because they couldn't hear. It was like a cattle market. Very unfair. a.cattle market. Everyone squashed in. (Kevin)

Sarah and Jason described inadequate and unsuitable physical facilities within the courtroom:

On the witness stand when I sat down in the chair everyone said try and speak up and speak loud and the microphone is there which is horrible but, again something very simple, it was a big solid stone type chair, like a granite chair. It didn't move very easily so I was quite far away from the microphone and I couldn't shift the chair because it was so heavy. I couldn't actually move the chair to get closer to the microphone and the Jury kept saying we can't hear her, we can't hear her. I was trying to bring the microphone closer to me but I ended up sitting and I mean literally, on the edge of this stone seat leaning forward the whole time to lean in towards the microphone and all because this chair was too heavy to be moved. (Sarah)

It certainly wasn't a witness friendly place, that courtroom. I felt of everyone in that courtroom I got the rawest deal in what was imposed on me to do. (Jason)

6.10 Recommendations for the trial process

Having experienced the criminal justice system from the perspective of a witness, participants had much to suggest about how the system might be improved. Recommendations covered training for professionals, changes to key elements of the trial process itself and the need for professional support.

Training

Participants recommended that specialist training be given to legal professionals dealing with cases involving sexual violence. Anne and Sinead were clear about the need for training and education for the judiciary:

Why is it that a Judge would not be trained? That seems ludicrous to me. And the same with barristers. Why are they not trained in the frailties of the people they're dealing with? Not just in defending the defendant and giving him all the rights, making him sound lovely but not to actually even be humane to the people who are on the other side of that whether they're children, adults, men, women - to actually treat them and make them out to be the one who has done wrong as if to catch them out on a lie. (Anne) I definitely think the Judges need to be more educated. (Sinead)

Emily and Anne also recommended multi-disciplinary training and wondered how receptive legal personnel would be such programmes:

I do think at every level of the police service and maybe barristers and Judges that there needs to be some sort of training for them. I know there is some training but I don't know whether they're actually benefiting. I think it's really easy for Judges - when you listen to difficult cases for a long time, people become hardened by it. I wonder if there needs to be training or courses available for people; for a Judge to hear and how to deal with people. It would be interesting [to see] how the Judges themselves down at the courts perceive courses as being [either] touchy-feely or an opportunity to re-examine their practice. Multi-disciplinary training programmes, mixing people together so everyone that would be involved in the case say it be the barrister, One In Four, solicitor etc, everyone would give their piece and that in some way you see things in a different light. (Emily)

I would love to see Ireland just really being able to do something with that legal system, that there is not this elitist thing that the judiciary and barristers cannot be touched but that they will be up for training. That they will be willing to listen to people and they will be willing to say well actually it needs to be a fairer system than we have. It needs to be more informed. And they need to be educated themselves in a way that they're not willing to be. (Anne)

Emily appreciated the risks of burnout and complacency for legal personnel and recommended of a debriefing process be put in place for professionals involved in cases of sexual violence.

I feel there are, in other areas, a lot of debriefing sessions for people that are constantly exposed to very difficult situations and maybe that is something that's needed. Maybe if people are rotated between criminal and commercial courts. When you are constantly hearing about murder and constantly hearing about rape I'm sure it becomes, well, just another rape case and it's a difficult one for people to see, that actually I really don't want to go into the emotions of this, so just be really abrupt and rude. It's sometimes easier to be rude than to be nice. Some people do seem to be on rape cases all the time and that would have an impact on your ability to make logical decisions. (Emily)

Changes to the system

Several changes were recommended that would make the process more effective and compassionate. Kevin recommended that a special court be established for cases dealing with sexual violence:

I think they should have a court for sex offenders - just primarily sex offenders, there's that many of them in this country. (Kevin)

Anne called for a more investigative rather than adversarial trial process, similar to that in other jurisdictions:

I feel that that whole system in Ireland does not need to be the system that we have. We could have the system that the rest of Europe have, where the Judges actually go out and investigate and look into things and know more about the case than having two people dancing around a court room and having a good day, you know who ever was in good form. You know, they're using people like pawns in there. It's just, it's horrible. So a Judge that would definitely be trained in the first place would be the number one logical thing for any normal person to want. (Anne)

More access to a video link system when giving evidence in court was called for by Emily:

The option for people to actually do video linking. That wasn't the case in the old court. Whereas it should be available to people. (Emily)

The Victim Impact Statement provided participants with the opportunity to speak for themselves. Megan strongly recommended that victims seek guidance and support in preparing to make a Victim Impact Statement:

If I could give anybody advice about the impact statement it would be to understand that that this impact statement is so important. It is part of the evidence and they can let the Judge know the whole situation and that the impact statement is probably more important to them than the actual statement they gave to the guards at that stage. They can get so much information across through that impact statement. If I could give any victim advice it would be don't wait for a week beforehand. If the DPP says there will be a trial that's when you start your impact statement and you thrash it out and trash it out and thrash it out until you have exactly what you want to say in the impact statement. I feel there is a need for people to be informed to start it early and prepare it well and understand the scope of it.

It's your opportunity to put in, not all, but some of the information you'd like. (Megan)

Recommendations were also made by participants about the environment and atmosphere of the courtroom, including who should be allowed in the courtroom:

I have actually come to the whole conclusion especially around sentencing - to ban some people from the court. Some people are not helpful. Particularly in the family situation. The running commentary from the family (of the perpetrator). Maybe they should be shipped out because they just weren't helpful. And they're discouraging people from going forward. These are the reasons why people don't complain. (Emily)

Around the sentencing, I read in papers that people were furious that people were able to shake hands in a courtroom and to me that is part of intimidation. I believe that whoever is instructed to defend my father or anyone in my father's position needs to say you can't come into a courtroom. You cannot come into a courtroom if you're going to behave like this. It's intimidation. (Megan)

Support for victims during the trial process

Participants recommended that they be accompanied and briefed about the trial process and the progress of the trial by appropriate support agencies or professionals, as Anne, Sarah and Daniel argue below:

Any support that is there for the complainant or the victim would be a huge bonus. I think that you go into that room and you feel this is the person in your corner or just to say that's what that means. Or you can go out after and say 'when they say was that a good thing, was it a bad thing?' When you actually feel there's someone you can ask that rather than well you can't go near him cos you're not allowed approach him and you can't this and you can't that. Anybody who can actually help the people that are in there would be a bonus. It's so hard. (Anne)

When you're the victim everything is weighted in favour of the accused and they get absolutely everything and the victims are left totally out of the loop so I think that's what needs changing. The victim has to feel supported and have the information because information is key. (Sarah)

Only for [support person] you wouldn't know anything that was going on so I feel they could be a lot more informative. I suppose if we were informed of everything that was going on in all the legal areas. It's all legal shite. I don't understand it and it would help if they came out afterwards and said this is what happened and explained it. Bring plenty of support. Don't think you can do it on your own. Don't go on your own. Don't think you can do it on your own and talk about it because you won't do it on your own. (Daniel)



CHAPTER 7.

DISCUSSION

Chapter 7. Discussion

7.1 Introduction

Chapters 4, 5 and 6 presented the experiences of the ten research participants and included their own recommendations for change to the criminal justice system. This chapter deals with One in Four's own perspective, grounded in its experience of supporting clients through that system. The discussion covers many of the issues raised by the participants and also reflects on the broader context of the dynamics of sexual violence. Recommendations are made in the next chapter.

One In Four has been working with adult survivors of child sexual abuse for nearly fifteen years. It supports victims from the point of disclosure of historic abuse; the initial reporting of the abuse to the Gardaí, through to the conclusion of criminal proceedings if that arises. Reporting and prosecuting allegations of historic child abuse present a distinct set of challenges for support personnel and for the criminal justice system. In this regard, One in Four has accumulated a unique bank of experience of the criminal justice process.

This discussion is premised on the fact that the dynamics and the impact of child sexual abuse inevitably pervade and shape the interaction between a victim and the criminal justice system. These dynamics, briefly outlined in Chapter One, will intersect with and have an impact at different points within the criminal justice system, depending on the unique circumstances of each individual case.

The contributions of the participants in this study and the findings of international research show that the likelihood of victims' re-traumatisation and re-victimisation by the criminal justice system is extremely high, if not inevitable. This reality is borne out by the experience of One in Four's staff who regularly witness the ordeals of victims, especially in the court room. The adversarial nature of a criminal trial can mean that victims of sexual crime ultimately feel as though they themselves are on trial.

It is One in Four's contention that the adversarial system, by its nature, is problematic in cases of historic childhood sexual violence. Alternatives which further address the needs and rights of victims, including restorative justice practices and special courts need to be explored. Within the current legal system, a deeper understanding of the complex realities and dynamics of sexual violence is needed to reduce the risk of re-victimisation and re-traumatisation of victims. Such awareness and understanding on the part of justice system professionals is crucial. Furthermore, awareness needs to be fostered in the wider society to challenge attitudes and a culture that continues to deny or suppress victims' rights.

7.1 The criminal justice system and re-victimisation

When an adult decides to report the abuse they suffered as a child, they will be confronted by the terror, fears, intimidation and feelings of shame and self-blame that have been internalised and often repressed since childhood. As well as the internal struggle, the external social and practical consequences of reporting are far reaching. Victims report social and familial ostracism, denial, withdrawal of support, intimidation and threats. They are fearful, often with good reason, that reporting abuse and initiating a criminal process will adversely impact their relationships with their family and the wider community.

Some have felt their lives would be at risk were they to disclose and make a report. Other concerns revolve around property, land ownership and inheritance. There can be fears that they will be left without a roof over their heads if they have been living in the family home. Further fears arise from the possibility of exposure in the media and subsequent breaches of privacy.

When a victim enters the realm of the justice system, they carry these fears with them as well as trying to cope with the trauma of the abuse itself. Their experience of the justice system, for better or worse, can greatly reinforce their already very high stress load.

The EU Directive on Victim's Rights is very clear that re-traumatisation of victims must be avoided.

7.2 Making a Formal Statement

Having made a decision to report to the Gardai, victims must make an extremely detailed statement. It will take hours and sometimes days to complete. This is an immensely threatening task for a victim. The emotional cost of remembering and recounting the abuse in minute detail can be overwhelming. Victims effectively have to relive their experiences of abuse. At the same time the complainant is struggling against learned coping mechanisms of repression and denial, shame, guilt and self-blame. Added to this struggle is the difficulty many victims will have in dealing with people in positions of trust and authority. This is a crucial first point of interaction between a victim and the criminal justice system. As is evident in our findings, the manner in which victims are dealt with and how well they are received by the authorities at this stage is of the utmost importance.

While some of the participants had difficult experiences with the Gardaí, there was also significant satisfaction and appreciation for the support shown by Gardaí. It is worth noting that positive experiences of being received sensitively by experienced Gardaí took place irrespective of the gender of the Garda. In the experience of One in Four, the victim has a more positive experience of the Gardaí when they demonstrate an understanding and appreciation of the impact and dynamics of sexual abuse. The importance of this understanding, as well as the provision of suitable and appropriate surroundings for meeting victims and taking statements, cannot be overstated. The

recommendations of the Garda Inspectorate Report (2010) mentioned in chapter 2 correlate with the findings of this study. The availability of suitably resourced, specially trained Gardaí, working full time on sexual violence cases with appropriate supervisory support are all vital to successful investigation and prosecution of sexual crimes.

7.3 Prosecution

An overriding finding from this study and from other research (Bacik et al., 2007, 1998) is the need for victims to feel that they are more informed and involved in the criminal justice process. One in Four acknowledges and understands that it is not always possible for the legal system to include the witness in certain aspects of the process. While a victim may feel that because the abuse was perpetrated on them they should be at the heart of the investigative process, the reality is that they are a witness to the crime and the State takes responsibility for the prosecution on behalf of the public. Clearly the basis for this is that the State has to guarantee impartiality and so ensure a fair trial process. Within that context, nonetheless, it must be stressed that the loudest call from the participants in this study is for better treatment within the system at the level of communication, information and explanation. This finding is common to all other research studies, in this country and abroad and is acknowledged as a basic right by the justice system in various Guidelines and Charters and by commentators and authorities. For example, James Hamilton, Director of Public Prosecutions in 2010 remarked:

'The days that a prosecutor might regard a victim of a crime as no more than just a witness in the proceedings are over in this jurisdiction... just because the function of the prosecutor is to represent the interests of the people and not those of the individual victim, it does not follow that the prosecutor is to have no regard whatsoever to the victim's interest.' (Hamilton, 2010)

James Hamilton claims in this 2010 address that his Office has pre-trial meetings and 'considerable' interaction with victims during the trial. Regrettably, from our research and experience this has not routinely been the case. It must be acknowledged, however, there has been an improvement in terms of pre-trial meetings and interaction with counsel during the trial, particularly now the EU Directive on Victims' Rights has been put on an enforceable statutory footing. It is still our experience however, at times, victims may continue to experience arbitrary and inconsistent communications within the system.

Participants in *Only a Witness* reported that they would have wished for the attitude of some of the prosecution professionals to have been more sympathetic and for there to be better communication. They were keenly attuned to an air of elitism among some of the professionals they encountered, rendering them unapproachable and seemingly indifferent. They called for

more and better explanations of the process and for professionals within the Office of the DPP to convey a sense of respect in the way they communicate with the victim. It is appreciated that in a courtroom environment it is not always possible to inform the client at the time. However, against a backdrop of the dynamics and impact of sexual abuse, a complainant can be left extremely confused, vulnerable and distressed by the legal jargon and court procedures. There is immense tension surrounding these trials and the meaning of any decisions taken by the court is of utmost importance to the complainant. They need explanations of decisions made when there is time to do so. It is suggested that time should be set aside to clarify for victims the decisions made in court, providing invaluable information and reassurance.

Victims do not expect the Gardai or DPP personnel to replicate services which are available through specialist support agencies. It is enough, according to the participants, that they should appreciate the impact of sexual abuse on victims, that this understanding would inform how a trial is conducted and that the pressing need of victims for clear information through the process would be respected. The participants were clear on the difference between a professional who is cold and dismissive and one who is impartial and professional. Satisfaction with the justice system relates as much to a sense of respect, inclusion and empowerment as to the outcome (i.e. whether the perpetrator is convicted or not). One in Four's advocacy staff have observed that where respect and sensitivity has been afforded to victims during their cases, that this has had a very reassuring and positive impact on the complainants.

The participants experience highlight the need to ensure that all prosecution professionals be required to undertake specialist training, as is the case in the UK.

As evidenced in the findings, many victims experience the criminal justice system as being dehumanising. They describe being treated as mere pawns in the system, as instruments in the process; and feelings that mirror those associated with the earlier experience of being used, of feeling objectified and abandoned.

7.4 The Trial

In the Irish adversarial criminal justice system the State must prove the accused is guilty beyond all reasonable doubt. At the heart of the system is the notion of a fair trial. By and large, this principle is understood and accepted by complainants. However, participants repeatedly stated that there was a sense of imbalance in the system and that the system in reality affords more rights to the perpetrator than the victim. Delays, adjournments and judicial reviews seem to favour the accused in prolonging the commencement of a trial. The on-going stress and time needed to get a case to court are mentally and physically draining for the complainants. One participant had to attend court ten times before finally going to trial. In One in Four's experience this is not unusual.

When the trial finally starts, complainants have described their experiences when giving evidence as being traumatising, horrific and even barbaric. The accused is not obliged to say anything other than to answer the charges. The victim's vulnerabilities at any and all levels are exposed. During cross-examination the victim must endure a public challenge to their credibility. They face skilful, often hostile and aggressive questioning to the point of intimidation and character assassination. Victims may be accused of lying and fabricating their testimony. They will have alternative scenarios put to them for denial and unless the Judge intervenes there is no way of restraining such attacks. They are forced to relive the powerlessness and terror of the original abuse, in the presence of their abuser as well as strangers. The minutiae of childhood sexual abuse are discussed and dissected in front of a perpetrator who allegedly carried out the abuse. To further compound complainants' terror of confronting their abuser, there is still the threat in Ireland that a complainant may have to face cross examination by their perpetrator if the defendant chooses to represent themselves in court. In the UK and elsewhere, for example in some Australian states, vulnerable witnesses may not be cross examined by their alleged perpetrators (Bacik et al., 2007).

A lack of understanding or a denial of the complexities of child sexual abuse carries the risk of having the dynamics of that abuse played out again in the courtroom. Re-traumatisation is virtually inevitable as the stigma and shame of the original abuse is too often reinforced by the tactics of legal professionals in the courtroom setting.

Several participants raised questions around the accountability of Judges in their management of the trial process. Judges have the power to mediate and intervene in a cross examination if the victim is being treated to hostile or unfair questioning. The proposed publication of a Judicial Council Bill is to be welcomed in that it provides for improved practices in the conduct of a trial as well as for judicial education. It is hoped that the provision for training would specifically include the provision of training in the dynamics and impact of sexual violence as is the case in the UK.

At the core of sexual abuse is a power imbalance – physical, emotional and psychological. The most urgent needs of victims revolve around feeling supported and believed and in regaining power and control over their lives through social acknowledgement. However unwittingly, the criminal justice process can function to reinforce the original experience of powerlessness, shame, self-blame and abandonment. It must be questioned if the adversarial system in its current form it is at all capable of addressing the crime of sexual abuse in a way that does not compound the original injustice. Given the very low rates of reporting and conviction, it is clear why many complainants ask themselves if it is worth it, if they could withstand it and if it is in their own best interests to come forward in the first instance. It is the stark reality and an extraordinary comment on our justice system, that some of the participants in this study reported that the trial experience was more traumatising than the original abuse.

The disclosure of counselling notes for victims who availed of counselling and psychotherapy in relation to their sexual abuse did not emerge as an issue for the participants in this study. However, requests for counselling notes have become a routine feature of Garda investigations into sexual crimes. One in Four has signed a Memorandum of Understanding with the Director of Public Prosecutions governing the manner in which counselling notes will be released and treated. It could be argued that counselling notes should be afforded privilege in the criminal process, given that such notes often focus on the hypothetical therapeutic relationship and do not afford a factual, narrative version of the counselling journey. However, in the absence of total privilege it should be possible that only those sections of the notes which are relevant to the alleged offence should be produced.

The Criminal Law (Sexual Offences) Act 2017 introduces changes in the way in which third party records may be disclosed. It confers substantial power on the trial judge to decide if records should be disclosed and if certain parts of those records should be redacted. It also allows that the person who has possession of the counselling record and any other person to whom the counselling record relates is entitled to appear and be heard at a hearing to determine if all or parts of the record should be disclosed. It remains to be seen how these new provisions are interpreted by the courts.

The 2017 Act also imposes limitations, though it does not fully preclude, the right of the accused person to cross examine the complainant witness.

It is essential that legal mechanisms be created to address the difficulties in prosecuting these crimes. If imaginative, effective solutions are not devised, the reality is that victims will remain reluctant and afraid to come forward and perpetrators will feel they can offend with impunity, placing more children at risk. The challenge is to ensure the rights and safety of the victim while maintaining the rights of the defendant.

7.5 Societal denial

One in Four's work and the experiences of participants in this study show that the difficulties in the justice system are inextricably linked with society's aversion to and denial of the reality and prevalence of sexual violence. Victims of sexual abuse are keenly sensitive to societal denial and taboos surrounding the reporting of abuse. We are all too aware in Ireland of the levels of stigma, secrecy and denial that have kept and continue to keep victims from disclosing their experiences. As important as challenging the justice system, the social taboo and stigma attached to sexual abuse must be confronted. The silencing of victims also works to the benefit of the perpetrator allowing him or her to offend repeatedly and with impunity.

7.6 Media

For some victims fear of exposure in the media can present an insurmountable obstacle in coming forward to report their abuse. Investigative journalism has made an immense contribution to uncovering and highlighting the extent of sexual abuse in Ireland. While One in Four greatly appreciates and values the work of responsible journalists, there have, however, been instances of exploitative and sensationalist reporting causing immense distress to victims and their families. Such coverage has the potential to dissuade future victims from reporting their abuse.

7.7 Alternative models

In consideration of the difficulties outlined in the study and the resulting recommendations, there is an imperative to explore other models and approaches of what works in order to support victims to achieve justice. Two examples of alternative models, of the establishment of sexual offences courts and of restorative justice, are discussed below.

Sexual Offences Court

One of the participants recommended that a specific court be provided for the trial of sexual crime. This already exists in South Africa: it has been piloted in New York since 2006 and is being considered in other jurisdictions, for example, NSW, Australia and India. A special court for sexual offences would be staffed by Judges and legal personnel with specific training in the issue of sexual violence. Within the present system a defendant may not be restricted in their choice of representation and so it is difficult to ensure that defence lawyers are trained and educated in the complexities of sexual abuse. However, for as long as the adversarial system is constitutionally grounded, a special court with an emphasis on training and education may represent the best opportunity to acknowledge and address the problems of secondary victimisation, re-traumatisation and the low rates of reporting of sexual crime.

Restorative Justice

Restorative justice is a process through which those who have caused harm and those who have been harmed are supported to come together so that the harmed person(s) can describe the impact of the crime and the perpetrator can acknowledge harm done. If appropriate, reparation can be agreed and future involvement negotiated.

Central to this study is the contention that sexual violence is different from other crimes and thus requires a different response within the justice system. At first glance restorative justice appears to present a credible option for meeting unmet needs. In particular it offers the potential for the victim to feel included and to have a sense of ownership of the process. It also affords victims a space to tell their story, describe the impact of their abuse, to ask questions, hear the offender take responsibility for the crime and to be part of the negotiations about reparation.

The basic criteria for participation in a restorative justice process are the willingness on the part of the victim and the perpetrator to take part and the perpetrator's admission of having committed the crime. In recognition of the complexity of the power dynamic in sexual violence however, it is likely that a number of safeguards would need to be put in place. That the offender should have completed a treatment programme and exhibit genuine remorse and that a substantial period of preparation be available to all parties would be required. It would also be essential that the restorative process be facilitated by well-trained professionals who have experience in and understanding of the complexities of sexual abuse.

Restorative Justice is resource intensive, not just in preparing and facilitating the process, but also in terms of available offender treatment. In framing an authentic and viable system as an alternative to the court room, restorative justice would need to be properly resourced and researched. The potential of restorative justice to address unmet needs of victims is still contested (Cossins, 2008), so a cautious approach is advocated.

While Restorative Justice practices are used regularly in addressing less serious crimes, there is debate about its suitability for serious sexual crimes. An EU wide Daphne funded research project is currently underway exploring the degree to which Restorative Justice can contribute to a more balanced and integrated response to sexual offences.² The findings will provide a valuable resource for policy makers.

7.8 Summary

This discussion has highlighted the inherently problematic nature of an adversarial justice system for victims of sexual violence. It has drawn attention to the phenomenon of re-traumatisation that is a virtually inevitable outcome of the process, given the dynamics of child sexual abuse. It has also pointed to the social and cultural resistance and denial with which victims of sexual abuse are met. The need for alternative approaches and innovative responses is argued. The question at the heart of the issue is whether there is the social and political will to invest in developing alternative, innovative and appropriate responses to the needs of these victims. The following chapter concludes the study with joint recommendations from both the participants in the study and One in Four.

² *Developing integrated responses to sexual violence: an interdisciplinary research project on the potential of restorative justice.* Leuven Institute of criminology, University College Dublin 2013 - 2015

The background of the page is a close-up, high-angle shot of water with numerous small, light-colored ripples and bubbles. The water has a teal or light blue hue. At the bottom of the page, there is a solid dark blue horizontal band.

CHAPTER 8.

CONCLUSION AND RECOMMENDATIONS

Chapter 8. Conclusion and recommendations

8.1 Conclusions

The title of this study '*Only a Witness*' captures the overarching reaction of the ten participants in this study to their experiences in the Irish Criminal Justice system. They felt like 'an inconvenience', 'degraded', 'disrespected', 'destroyed', 'brainless', 'used', 'alone', 'lost', 'depersonalised', 'dehumanised', 'humiliated', 'lacking dignity', 'powerless', 'broken', and 'damaged' by the system. One in Four is immeasurably grateful to these ten generous and courageous clients who agreed to support this research. They agreed to be involved in the hope that future complainant witnesses would not have similar experiences and that future victims of abuse would not be deterred from reporting because of fear of the criminal justice system itself. They revisited difficult and painful memories of their long engagements with the system which were captured under the three main elements, the Gardai, the Prosecution and the Trial. They offered suggestions and recommendations designed to protect others from what they went through.

There is sufficient evidence from this study and from other research to show that victims' needs and rights require radical and genuine attention. The linked issues of underreporting and attrition also require urgent attention to ensure the protection of children. Recent improvements in child protection measures are most welcome and urgently needed. However, these legislative reforms will have to be accompanied by meaningful reform of the criminal justice system if perpetrators are to be successfully reported and prosecuted. There are undeniable challenges to be addressed in the constitutional and legislative sphere if change is to occur. However, the shocking and scandalous reality is that if the system is itself a deterrent to reporting, abusers will continue to go undetected and will offend with impunity.

There are very significant challenges in the cultural and social arenas with regard to stigma, denial and resistance to the reality of child sexual abuse. It is hoped the findings and recommendation in this study will be welcomed as a constructive contribution to the change in thinking and in policy that is needed. Only a combined effort on the part of survivors, supporters and policymakers will achieve an innovative and effective response to the difficulties recounted by these complainant witnesses. The abiding question is whether there is sufficient and authentic political and social will to address the issues.

There are challenges to us all, to our fears, prejudices and any misconceptions we harbour in order to understand and respond to the findings from this study. Those working within the criminal justice system – in direct contact with complainants or otherwise - as well as legislators and policy makers, must act to shape a system that is fair and just to all parties and which places the rights of victims on a statutory footing. It is a most basic right of any victim of sexual violence to be met in a

humane way; in a way that does not cause further harm, fear and shame. *Only a Witness* allows us to hear the direct experiences of ten women and men who speak with particular authority on the criminal justice process. It falls to us all to reflect on the experiences of these and other witnesses and to respond effectively.

The recommendations from *Only a Witness* clearly point to the need for practical changes, training and awareness, as well as changes in legislation. Crucially, these practical and legislative changes need to be situated in the context of attitudinal and cultural change. History tells us that such difficult shifts of thinking occur through a dual process involving the deepening of awareness and sensitivity to the issues as well as more formal, legal and institutional change.

8.2 Recommendations

The following recommendations are jointly informed by the participants' contributions and One in Four's direct experience. While many are the direct recommendations of the participants, some are the considered position of One in Four and arise from many years of experience in supporting victims through the criminal justice system and beyond.

a) Gardai

It is recommended that:

- Gardai be specially selected and further trained to work with victims of sexual abuse.
- Consistent and regular information be provided by Gardai to complainants.
- Suitable and appropriate environments and times for the taking of statements are provided.
- Professional support and debriefing structures be introduced for Gardai involved in this work, recognising their risk of vicarious traumatisation.
- Recommendations highlighted in the Garda Inspectorate Report be fully implemented creating closer links between the Tusla and the Gardai with a focus on child welfare in prosecuting and investigating sexual abuse cases.

b) Prosecution

It is recommended that:

- Consistent and structured communication with a complainant before and during trials be provided.
- All solicitors and barristers acting on behalf of the DPP be required to undertake specialist training in the dynamics and impact of sexual violence, including child sexual abuse, as is the case in the Crown Prosecution Service of England and Wales.

- That presentations on sexual violence be routinely introduced in all training courses for legal professionals and that incentivised CPD training be made available to all practising legal professionals.
- A specialist sexual violence unit be established, within the DPP's Office drawing from the experience of the Scottish and New York models, with a maximum time limit for legal professionals to work in this field, acknowledging the impact of prosecuting sexual crimes.

c) The Criminal Trial

It is recommended that:

- Consideration be given to establishing a specialist court to try sexual crimes as is currently under consideration in England and Wales.
- All judges hearing cases of sexual crime should be obliged to receive specialist training, as is the case in the UK
- Pre-trial hearings of potentially legal contentious issues be introduced to avoid multiple reviews and adjournments.
- The right of the defendant to cross examine the complainant witness in trials of sexual crime should be abolished absolutely.
- Disclosure of counselling notes should be restricted to sections of the notes directly relevant to the offence in question.
- Ethical guidelines on the cross examination of complainant witnesses in trials of sexual crimes should be introduced, as is the case in the UK.
- The decision to give video linked evidence should rest with the adult complainant witness rather than the trial judge.
- Professional support and guidance be given to complainants in the preparation of their Victim Impact Statements.
- Appropriate, separate and private witness facilities be provided in every trial location as is available in the Central Criminal Court in Dublin.
- Complainants be automatically provided with a specialist support person for the duration of the criminal trial whose role is to explain and clarify the various processes and procedures which emerge.
- Information be systematically and widely disseminated regarding available support and court accompaniment services for complainants.
- Free legal aid be available to complainant witnesses in all categories of sexual crime to enable them to seek independent legal advice.

- The provision of education for judges in relation to sexual violence for all judges presiding in trials of sexual crime, as is the case in England and Wales.
- Consideration be given to the introduction of a Code of Practice and Ethics for legal professionals explicitly dealing with victims of sexual crimes e.g what is permissible in cross-examination.
- While welcoming judgements by the Court of Criminal Appeal in relation to consistency of sentencing and the establishment of the Irish Sentencing Information System project (ISIS) the issue of consistency of sentencing be researched, particularly at Circuit Court level.

d) Resources

It is recommended that:

- Relevant support agencies be adequately funded and sustained.
- Resources be made available for the preparation and delivery of training and education by experienced and qualified agencies, including the design of public awareness and information campaigns.

e) Further research

It is recommended that:

- Further research be carried out into alternative international models of prosecuting sexual crime, for example, on inquisitorial or non-adversarial rather than adversarial approaches.
- Research into the effectiveness and relevance to Ireland of approaches such as the Scottish and New York models be carried out where multi-disciplinary specialist units manage cases of sexual crime throughout the judicial process.
- Research be carried out into the design of, and potential benefits of, a restorative model of justice for a certain cohort of cases.

f) Media

It is recommended that:

- An enforceable Code of Practice specifically around the reporting of sexual abuse cases be introduced and implemented to avoid exploitative and sensationalist reporting.

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APPENDIX 1.

METHODOLOGY

Appendix 1: Methodology

Rationale of Research Design

The work was approached from a critical research perspective using a qualitative, narrative approach. Given the subject matter being investigated in this study, a qualitative approach was chosen as qualitative data can provide rich insights into respondents' understandings of their social worlds (Clark & Quadara, 2010; Gardner, 1990). This qualitative component has the potential to provide a valuable addition to knowledge in Ireland and further afield (Hanly et al., 2009: 110).

Research Design

A critical, qualitative perspective involves an inquisitive approach that can explore issues and events raised by interviewees but can also examine subject matter that arises when the interviewer is taking a lead role. Critical researchers acknowledge their standpoints and preconceptions and view research as a political act that seeks to address injustices. In this context the interviewee is seen as a co-researcher rather than an informant guided by the agenda of the researcher (Altork, 1998; Kinchloe & McLaren, 1998).

Narrative methodology focuses on how individuals assign meaning to their experiences through the stories they tell about particular phenomenon being investigated (Moen, 2006). The narrator and the researcher reach a joint inter-subjective understanding of the narratives that occur during the research process (Connolly & Clandinin, 1990). The 'shared understanding model' acknowledges the interpersonal situation that exists in an interview. This method recognizes that the interviewer's characteristics – qualities such as sympathy, empathy and so on - are likely to affect what is said (Franklin, 1997).

In developing a method to collect narrative data, elements of the Life Story Interview (McAdams, 1995) were incorporated. McAdams structured his interview schedule around key moments in a life story or narrative. He identified different aspects of a narrative and asked participants about these key moments. The interview schedule, in this instance, was structured around the key elements of the witnesses' participation in the criminal justice system. The application of a common framework to guide questioning helped to ensure transparency and reliability. This framework addressed the issue of researcher bias and provided an explicit procedure for the way each interview was carried out (Smith, 1999).

Procedure

A semi-structured interview schedule based on three open-ended questions was developed in order to elicit the most salient aspects of the participants' experience of the criminal justice system. The structure of three questions allowed the researcher to focus on certain areas of interest. At the same time there was a flexibility to react to certain lines of interest and enquiry that emerged from the content of the interviewees (Smith, 1999; Franklin, 1997). In this way positive and/or negative experiences of the system could be described. Recommendations from the participants were obtained by asking what helped or could have helped them through their experiences and what might help others going forward. (See Appendix 1 for the criminal justice system map and interview schedule).

Sampling

Eighteen clients were identified as potential participants. The criteria for this cohort were:

- All clients had experienced childhood sexual abuse
- All had completed their engagement with the criminal justice system.
- They had received support from One in Four's Advocacy Service.
- The researchers had an opportunity to introduce the research to the clients and gave them an opportunity to think about whether they would be able to participate.
- Clients had agreed in principal to participate in the research.

Coding

Interviews were recorded and transcribed. Inductive data analyses methods were used that allow themes to emerge from the data (Patton, 2002). The specific inductive strategy used was thematic content analysis; a systematic and replicable technique for compressing large amounts of text into meaningful content categories based on explicit rules of coding (Krippendorff, 1980; Weber, 1990).

The content analysis began with *open coding*, involving line-by-line analysis of all relevant interview material. The emphasis was on looking for recurring issues that revealed distinct patterns and categories of data (Patton, 2002). Once these categories were delineated, the data was clustered into domains or topic areas (Elliot & Timulak, 2005). Several refinements to the clustering of categories and domain topics were made by going back to the raw data to ensure coding reflected the experiences of the participants as faithfully as possible.

Reliability

Reliability was ensured through procedural trustworthiness (Stiles, 1993). The reasons for the research and circumstances under which this study was conducted were made clear. The interview schedule and the subject matter were explicitly related. To ensure accuracy during the interview the researcher consulted with the participants to make sure observations were accurate. Random segments of the transcriptions were checked for inter-coder reliability by each researcher. Care was taken to ensure researchers were not checking their own interviews. Analysis, interpretations and conclusions were brought back to the research subjects to Judge the accuracy and credibility of the account (Moen, 2006).

Validity

For validity in this study, investigator triangulation was employed. The interview technique was reviewed with each researcher throughout the process. Respondent validation was used throughout the interviews. To ensure reliability and validity participants were also consulted post analysis for further comment and opinion on the initial analysis of the data, as recommended by Moen (2006). Forty per cent of the participants responded to the post analysis data. All 40 per cent of the participants declared they were satisfied with the findings at that stage. The researchers were careful to adopt a reflexive stance throughout each step of the research project ensuring that every decision taken was made actively recognizing that decision process (Mason, 1996).



APPENDIX 2.
RESEARCH ETHICAL CONSIDERATIONS

Appendix 2: Research Ethical Considerations

Confidentiality

Information provided by participants will be kept strictly confidential and will only be seen by the researchers. After the data is analysed the material will be locked away until the study is published. Then all data will be destroyed. Data was stored in a locked cabinet, and all computer files were locked with a password.

Anonymity

Participants will not be named or identified in the final report

Participation is voluntary

Participants are free to withdraw from the research at any time and do not have to answer any questions that they feel uncomfortable in answering.

Participant distress

Throughout the interview researchers were mindful to check in with the participants and be aware of any distress the participant may display. In order to minimise distress following the interview, the participants were offered support numbers and grievance procedures in a debriefing sheet.

APPENDIX 3.

DEBRIEFING SHEET

Appendix 3: Debriefing Sheet

Thank you for meeting with me. I appreciate your time and input into this study.

If you need any support in respect of your participation in the research please feel free to contact myself or my supervisor Ms Deirdre Kenny, Advocacy Director at:

One in Four,
2 Holles St.,
Dublin 2.
Tel: 01 6624070.

I am aware that aspects of our discussion may have been upsetting. If you find yourself distressed and feel you may benefit from therapeutic support contact:

One In Four Clinical Team at 01 6624070 or the National Rape Crisis Helpline at 1800 778888.

At a later stage in the research we will contact you to offer you the opportunity to confirm or clarify our emerging findings.

We will keep you informed of the date and details of publication and make copies available to you should you so wish.

