



RAPE CRISIS
NETWORK
IRELAND

RAPE & JUSTICE IN IRELAND

An Introduction and
Executive Summary

December 2009



RCNI Introduction to Rape and Justice in Ireland

“The contradictions between women’s reality [of rape] and the legal definitions of that same reality are often so extreme that they effectively bar women from participation in the formal structures of justice. Women learn quickly that rape is a crime in theory only”.

JL Hermann, Trauma & Recovery, 1992.

It is relatively recently that Ireland has come to recognise the reality of sexual violence. Largely due to the women’s movement, Rape Crisis Centres and victims speaking out, we are beginning to appreciate the scale of crimes of sexual violence in Ireland, within institutions, families and social settings. Many gaps remain in our knowledge, perhaps in no greater aspect than how our legal system can deliver restitution and justice.

This unique research, which sought to understand Ireland’s low rate of conviction, is exceptionally wide-ranging, including data from three separate and distinct locations. Strand I researched 100 individual rape victims and their experience of the legal process, Strand II researched 597 files from the office of the DPP and Strand III researched 173 Central Criminal Court cases and 35 transcripts of contested trials. Such an unprecedented project required support from rape victims, Rape Crisis Centres, the Office of the Director of Public Prosecutions, the Courts Services, the Central Criminal Court, the Legal Aid Board, to name just some of the agencies and individuals involved. Ireland has never before had such a range, depth and breath of evidence on our criminal justice system and rape. This is a very bountiful harvest of knowledge, which we will be digesting and using for years to come.

Many rape victims in Ireland have a positive experience of our legal system, equally, many do not. Many rape victims consider the legal system, and, on balance decide that it is not worth it or that justice will not happen in their case. This decision bears no correlation to the seriousness of the crimes perpetrated against them, nor the traumatic impact of those crimes.

Conor Hanly and his team have delivered extensive insight into the reality of rape in Ireland and the pervasiveness of highly inaccurate ‘real rape stereotypes’. Along with insightful findings and a programme of reforms, this research signposts further critical research and requisite data collection and research protocols. Further recommendations concern law reform, policy and protocol development and implementation, allocation of resources and services, awareness raising and education programmes.

The RCNI is committed to securing these recommendations, which if implemented, will make an immediate improvement for some rape victims in Ireland. Where it is within our capacity, the RCNI is already achieving outcomes, for example we are already actioning recommendation 19.

Having uncovered so much knowledge, ***Rape and Justice in Ireland*** does not, and indeed could not, provide all the answers. It is clear that further specific and equally reliable research is required. The DPP only prosecutes one in every three rape cases that make it as far as his office. Seventy of every hundred rape cases are lost at this point alone. Further examination is required in particular regarding “lack of evidence” which emerges from the research as the most common reason why the DPP does not prosecute. “Lack of evidence” is a however a blanket term, and as the authors themselves recognise “evidentiary issues may not be as relevant to the decision to prosecute as the stranger/acquaintance, public/private issues” (pg 257). This research shows that where the complainant is attacked by a stranger in a public place and reports her rape immediately she is more likely to have her case prosecuted than the far more common rape which is committed in a private place by someone known to the victim and where the delay in reporting is greater than an hour. This means that the less likely form of rape is more likely to be prosecuted and the much more common form is less likely to be prosecuted. This in turn reinforces inaccurate, less common, ‘real rape’ stereotypes. This latter finding is one which must be addressed if there is to be justice for victims of rape in Ireland. Along with information campaigns, leadership is required across the criminal justice system which challenges any reinforcement of inaccurate rape stereotypes. Such leadership should seek to enable further prosecutions of the much more likely reality where the suspect will be known to the victim, the assault will take place at either his place of residence or hers and the assault will be reported after a number of hours.

“No point [reporting the rape]. His word against mine and I had been drinking”.

Rape And Justice in Ireland, participant 80.

It is not at all uncommon that the complainant and assailant have previously had some form of intimate contact. Of those who withdrew from the process after reporting, over 60% involved individuals who had a current or previous intimate relationship with the suspect. There is a combination of factors informing this decision-making, including victims guessing that their case will not be believed, or wanting to protect self and others from the significantly negative impact of going through with a trial.

“So helpful and supportive [Gardaí], brilliant”.

Rape and Justice in Ireland, participant 26.

Victims interviewed in this research recommended specially trained Gardaí – in particular regarding statement taking, and also specially trained prosecutors and judges. Such specialist training in statement taking regarding rape victims is likely to encourage more complete statements, thus in itself perhaps addressing to some degree the “lack of evidence” difficulties faced by the DPP. Other jurisdictions are successfully introducing both specialist training and specialist officers to provide on-going support to rape victims, which addresses victims isolation within the system. This research calls for the consideration of extension of specialist training to barristers and judges, as is the norm elsewhere.

Ireland’s binge-drinking culture is visible in our criminal justice system. Complainants who have been drinking at the time of the assault are less likely to meet the combined prerequisites for securing a prosecution – they are less likely to report within an hour, they are likely to know the suspect, more likely to be with the suspect in either his or her place of residence. They are therefore more likely to fall into the DPP categories for non-prosecution of “lack of evidence” and “unreliable witness”, with possible inconsistencies in statement.

Any relationship between alcohol consumption and sexual violence is complex. How we consume alcohol is a choice. How someone chooses to behave having consumed alcohol is not solely determined by alcohol and there are wider cultural influences at play. That alcohol is in itself a “dis-inhibitor”, is in fact disputed – a case is made for drunken behaviour being in fact more affected by one’s culture and what might be deemed as more acceptable, or excusable, when one is ‘under the influence’. Alcohol is not, and cannot be, an excuse for rape or an excuse for recklessness as to consent. At the first **Rape and Justice in Ireland** conference on December 7th, the RCNI have chosen a panel which takes a close look at Ireland’s relationship with alcohol and also successes in other jurisdictions tackling rape investigation and prosecution within a binge-drinking culture.

It is without doubt that in publishing **Rape and Justice in Ireland**, we owe a great debt of gratitude to Conor Hanly and his team, and to all the women who participated in this research.

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Rape and justice in Ireland

Executive Summary

Purpose of Study

There is a dearth of information about the causes of attrition in rape cases in Ireland. It is difficult to develop a coherent response to the problem of rape in society when there is insufficient information to allow for a comprehensive review of existing structures. The primary aim of this study is to fill that lacuna by reviewing materials from different points of the criminal justice system. Secondary aims include the development of a more precise profile of rape in Ireland, and an evaluation of the experiences of those victims who choose to engage with the criminal justice system

Methodology

The three primary attrition points in the criminal justice system were identified: the decision by victims whether to make a formal report to the Gardaí, the decision by the Director of Public Prosecutions whether to initiate a prosecution, and the trial process. Each of these points was the focus of a specific element, or Strand, of the study and each Strand had its own eligibility criteria. All Strands, however, were confined to acts that fit the legal definition of rape provided by section 2 of the Criminal Law (Rape) Act 1981 and section 4 of the Criminal Law (Rape) (Amendment) Act 1990.

Strand I concerned the decision by victims of rape whether to make a complaint to the Gardaí. Participants were eligible if they were aged at least 18 at the time of the incident, and the incident occurred in Ireland since 2002. One hundred victims of rape participated by completing a questionnaire that contained questions about the incident, their decision whether to report and, if they did make a report, their experiences with the criminal justice system. Participants were also invited to participate in a follow up quantitative study, and fifty people did so. This follow up study employed a series of psychometric devices to assess the impact of the rape and reporting decision on the participants' mental health and attitude. Finally, a small number of participants volunteered for an in-depth qualitative interview designed to elicit narrative accounts about their experiences.

Strand II concerned the decision by the DPP whether or not to initiate a prosecution. A detailed questionnaire was developed which was then completed by researchers in the Office of the DPP in respect of each of 597 files received by the DPP between 2000 and 2004. The purpose of the questionnaire was to elicit information about the complainant, defendant and case characteristics of the cases, and the presence of a series of 'risk factors' – factors identified by the literature as having an effect on the prosecutorial decision. The effect that these characteristics and risk factors had upon the DPP's decision-making was investigated. A further quantitative study exploring the reasons for complaint withdrawal was also conducted.

Finally, Strand III focused on the trial process. Detailed questionnaires were completed in respect of 173 Central Criminal Court cases received by that court between 2000 and 2005. These questionnaires provided an enormous amount of information on how rape is dealt with in the criminal justice system. Additionally, the transcripts of 35 contested trials were analysed to elicit information about the conduct of rape trials in Ireland.

Results

Strand I: Reporting Rape

The Sample

- The participants were all female, half were single and the median age was 27. Nearly 60 per cent were in paid employment and there was a fairly even split among those who lived in cities, towns and villages.

The Rape Incidents

- Over two-thirds of the incidents occurred in houses, with the victim's own home being the single most common location.
- One-third of the rapes were committed by strangers, 39 per cent by friends or acquaintances and 18 per cent by current or previous intimate partners. All told, two-thirds of the participants were raped by someone known to them.
- Force was used in over 70 per cent of cases while threats were made in just under one-half of cases. Two-thirds of participants attempted to resist in some way, and nearly the same proportion reported some physical injury. Only 15 per cent reported serious injuries, however, and one-third stated that they did not suffer any physical injury.
- Some 70 per cent of participants had been drinking at the time of the incident; 30 per cent had consumed in excess of six drinks.

Reasons for Not Reporting

- Thirty-four per cent of participants had not made a report to the Gardaí. Concerns about the criminal justice system figured prominently, but the single most commonly stated reason was that the victim did not want others to know what had happened. Four participants claimed to have been drugged and therefore felt that they did not have sufficiently detailed information to make a complaint.

Reasons for Reporting

- Sixty-six per cent of victims had contacted the Gardaí but only 58 per cent made a statement and 9 per cent subsequently withdrew their complaints. The two primary reasons for making a report were that the victim wanted justice (23 per cent) and the influence of family and friends (22 per cent).
- Two-thirds of those who made a report did so within 24 hours of the incident, with half of them making a report within an hour of the incident. The longest delay in making a report was 18 months. By far the most common reason for a delay in making the report was shock.

Withdrawing the Complaint

- Over 40 per cent of those who made a report seriously considered withdrawing their complaint, and the primary reason for this was a poor reaction from the Gardaí.
- Twenty-one participants reported that they had been encouraged to withdraw their statements, with family and friends and Gardaí being almost equally implicated. Nine participants did in fact withdraw their complaints.

Contact with the Gardaí

- Almost two-thirds of the complainants who made a complaint did so in a Garda Station. A female Garda was present in over 85 per cent of interviews, and nearly half of the interviews were conducted solely by a female Garda.
- Most complainants found the interviewing Garda to be warm and sympathetic and most rated the atmosphere during the interview as warm and supportive. Two-thirds of complainants were satisfied or very satisfied with the interviewing officer. Those complainants who had been physically injured and those who had been raped by a stranger tended to give higher satisfaction ratings than those who were not injured or whose attacker was known to them. The prime reason for dissatisfaction with the interviewing Garda was stated to be their unsupportive attitude.
- The complainants were largely dissatisfied with the Gardaí overall, with poor ongoing contact being the most common reason for this dissatisfaction.

Strand II: Prosecuting Rape

The Sample

- The complainants were overwhelmingly female (96 per cent), Irish (87.2 per cent) and young (77.1 per cent were under the age of 35).
- The defendants were all male and predominantly Irish (76.6 per cent). Nationals from Africa and Eastern Europe were especially over-represented. Two-thirds of defendants were aged under 35.
- There was a high level of alcohol consumption: nearly two-thirds of complainants and 57 per cent of defendants reported being either severely or moderately intoxicated at the time the incident occurred.

The Rape Incidents

- Over two-thirds of incidents occurred in a private setting such as a home or a hotel room.
- Nearly 62 per cent of complainants knew the man accused of raping her/him.
- The incidents were spread over the entire country; counties with easy access to a Sexual Assault Treatment Unit tended to be overrepresented which might indicate that the presence of such a unit improves the rate of reporting.
- The vast majority of cases (95 per cent) involved single perpetrators. While physical force was used in two-thirds of cases and the complainant reported physically resisting in nearly 50 per cent of case, physical injuries were reported by one-quarter of complainants which suggests that the level of force used is usually relatively minor.
- The most common risk factor was the complainant willingly going to the defendant's residence, car or hotel room (24.7 per cent), while another 10.4 per cent had invited the defendant back to her place of residence.

Prosecution Rate

- The DPP prosecuted just under one-third of prosecutable cases (i.e., the total number of cases excluding those cases in which the complainant had withdrawn the complaint).
- Of those cases that went to trial, nearly 60 per cent resulted in a conviction or a guilty plea in respect of at least one charge, sexual or non-sexual.

Impact of Risk Factors

- Regression analysis showed that most risk factors had little impact on the DPP's prosecutorial decision. This finding indicates that the DPP's decisions are being made primarily on evidentiary grounds. A history of alcohol abuse and especially the presence of a mental illness were shown to be related to not prosecuting, however. There were 78 cases involving a complainant with a history of mental illness and only two were

prosecuted, the primary explanations being insufficiency of evidence (45 per cent) and it being unsafe to proceed (30.4 per cent).

Complaint Withdrawal

- Over one-quarter of rape complainants withdrew their complaints. One-quarter of these complainants suffered from substance abuse (primarily alcohol). Nearly one-quarter of complainants who withdrew their complaint had a history of mental illness. There was a significant relationship between mental illness and the withdrawal of the complaint on the grounds that the rape did not happen.
- The most common stated reasons for withdrawal concerned the trial and appearance in court.
- Either the Gardaí or the DPP indicated that approximately six per cent of cases might be false. This was most likely in cases in which the complainant made an admission (just under four per cent of complainants, or 13 per cent of those who withdrew their complainants).

Strand III: The Trial Process

The Sample

- Complainants were overwhelmingly female (97.67 per cent), young (median age of 23) and employed in a manual or unskilled job primarily as a shop assistant, waitress or barmaid.
- Defendants were male, slightly older than complainants (median age of 27) and also employed in manual or unskilled jobs especially as construction labourers.
- Probation Reports on 70 convicted defendants indicated a troubled background for most. In particular, three-quarters had a history of alcohol abuse.

The Rape Incidents

- Stranger-rapes made up less than 18 per cent of all cases, with the largest categories of perpetrators being acquaintances (25.82 per cent) and those who had met the complainant within 24 hours of the incident (21.43 per cent).
- Over 60 per cent of rapes occurred in a building, and three-quarters occurred between midnight and six o'clock in the morning.
- There were high levels of alcohol consumption by both complainants and defendants. Looking at those who specified how much they had consumed, nearly two-thirds of complainants and 88 per cent of defendants had been binge-drinking.
- Physical injuries were common, but they were overwhelmingly minor in nature. The primary effect of the rape was psychological, with psychological issues being mentioned in all but two victim impact statements.

The Legal Process

- Three-quarters of defendants were admitted to bail, usually conditionally. Only eight defendants out of the 112 who were admitted to bail absconded, and one of them was subsequently caught and stood trial. Bail is not a significant cause of attrition.
- Juries were numerically dominated by men: nearly 60 per cent of jurors and three-quarters of jury foremen were male. Over 90 per cent of juries contained at least three members of each gender, thereby allowing the minority gender to force a hung jury if they so chose. Jurors were predominantly employed in manual or unskilled positions, with the most common position being a clerical job in the financial services sector. Those who held professional or skilled occupations were disproportionately represented among the jury foremen.
- Juries were reluctant to convict defendants of rape (only 20 out of 84 that were free to do so), and even more so in cases of rape under section 4 (only four out of 29). Eleven juries acquitted the defendants of rape charges but convicted them of lesser sexual or non-sexual offences.
- Female-dominated juries did not convict any defendants of rape charges. Male dominated juries were most likely to convict a defendant of rape.
- Seventy defendants were convicted of rape, a further 29 were convicted of a lesser sexual offence and nine were convicted of a non-sexual offence; excluding the seven defendants for whom the result of their case was unclear, 108 defendants out of 181, or 60 per cent, were convicted of something.
- The median sentence for rape after a trial was 96 months or 102 months after a guilty plea. In cases of rape under section 4, the median sentence after a trial was 84 months and 114 months after a guilty plea. Three-quarters of sentences for rape were for between five and ten years imprisonment.
- Multiple sentences imposed upon the same offender always ran concurrently; in one case, the defendant was sentenced to consecutive terms, but this arrangement was altered by the Court of Criminal Appeal.
- There was no evidence that victims were abusing their right to address the court as to the impact that the rape had upon them. Defendants and punishment were mentioned in 17 and 19 statements, respectively, out of 107 statements.
- The median length of a rape case was 33 months from date of incident to date of final disposition. Cases disposed of by guilty plea typically lasted nine months less than cases that went to trial.

- Sexual history evidence was admitted in 13 cases out of the 35 for which we had transcripts; in 10 cases the prosecution asked the complainant about her sexual history. By contrast, the complainant was questioned about her behaviour in 24 cases, and usually at greater length.
- The primary defence in rape cases was that the complainant consented to sexual intercourse.
- Corroboration warnings appear to be given in a minority of cases only.

Main Specific Recommendations

The Reporting and Investigation Stage

1. The Gardaí must develop protocols to initiate and maintain ongoing contact with rape complainants. This is the primary cause of complainant dissatisfaction with the Gardaí once the initial stages of the investigation are over.
2. The Gardaí should ensure that all rape victims are adequately informed as to all the key developments in the prosecution of their allegations, as required by the Victims' Charter.
3. It is recommended that a greater emphasis be placed on personal sensitivity and compassion towards rape victims during Garda training.
4. Serious consideration should be given to specialist training for Gardaí who take statements from those with mental illness, as this group may need to be treated with extra sensitivity in order to discourage withdrawal of genuine complaints.
5. Attempts to dissuade complainants from maintaining their complaints must end. It is not for the Gardaí to make this decision. The Gardaí should explain what is involved in the trial system, but this should be done in as positive a manner as possible.
6. It is recommended that, where possible, victims be allowed time to recuperate before their full statement is taken in order to reduce the impact of shock and post-traumatic stress disorder.
7. Improvements should continue to be made in the provision of support services to complainants from the very beginning of their involvement with the judicial system. Doing so might result in fewer cases being withdrawn. It is therefore recommended that a SATU be established ideally within 80 kilometres of any given location, and that there be a media campaign to educate the public about such supports.
8. It is further recommended that there be a nationally co-ordinated approach to the planning, delivery and ongoing evaluation of support services for victims of sexual violence.

9. It is recommended that the Victims' Charter be amended to include, in addition to the complaints' procedure, an explicit commitment by all criminal justice agencies to take active measures to ensure that their responsibilities under the Charter will be properly discharged.
10. It is recommended that the Victims' Charter be placed upon a statutory footing

The Prosecuting Stage

11. The DPP should investigate the overrepresentation of non-national defendants to ensure that these prosecutions are being brought for proper reasons.
12. The DPP should develop a protocol for dealing with complainants with a history of mental illness to ensure that complaints by such people are not being dropped simply because they have a mental illness.

The Court Proceedings Stage

13. Bail in rape cases should always be subject to strict conditions which are swiftly and rigorously enforced. At a minimum, defendants should be required to be of good behaviour, to stay away from the complainant unless absolutely necessary and to stay within the jurisdiction of the Irish courts. Bail should not be granted to a defendant who has been convicted of rape.
14. A research project should be commissioned into the jury's deliberative process as soon as possible.
15. Gender quotas should not be imposed on rape juries as there is no evidence that increasing the number of female jurors would have any effect on the conviction rate.
16. There should be a statutory obligation on judges to instruct juries that a conclusion that the complainant acted foolishly does not of itself make her wholly or partially responsible for the rape.
17. The apparent judicial hostility to consecutive sentences needs to be justified or abandoned.
18. The interaction between suspended sentences and post-release supervision orders should be examined.
19. A booklet giving directions on what is inappropriate to mention in a victim impact statement should be produced and distributed, especially to complainants who wish to produce their own statement.

20. A defendant in a rape case should be forbidden by statute to conduct a personal cross-examination of the complainant.
21. The restrictions on the introduction of sexual history evidence should be extended to the prosecution. In the alternative, if the prosecution is to be permitted to continue to introduce such evidence, the complainant must be consulted in advance of any such introduction.
22. With regard to every stage of the process, but particularly once the case is returned for trial, every possible means of reducing delay should be explored, and pursued where appropriate. It is recommended, therefore, that the National Crime Council research recommendations on delay set out in this report are followed, and that there be an implementation strategy by all the relevant agencies in relation to these recommendations.
23. It is recommended that section 6 of the Criminal Justice Act 1993 be amended to clarify and strengthen the victim compensation procedures. Compensation should be considered in every case in which a crime has been shown to have been committed. To ensure that this is done, it is recommended that a statutory obligation to seek compensation on behalf of the complainant be imposed upon the DPP.
24. It is recommended that an expert group be convened to consider the acceptable limits of cross-examination and defence strategy in criminal cases generally, and rape cases in particular. The expert group should consider also whether there is a need to introduce specialist training for lawyers involved in rape cases.

Outside the Criminal Justice Process

25. It is strongly recommended that dealing with Ireland's drinking culture, particularly as it affects the behaviour of potential perpetrators, be seen both as a part of any anti-rape campaign and a prerequisite for the success of any such campaign.
26. It is recommended that there be a media campaign aimed at men, particularly young men, to make them aware that rape is a possible consequence of binge-drinking. They need to be reminded that they are responsible for their own actions, and that voluntary intoxication does not relieve them of that responsibility, morally or legally.

Recommendations regarding research and data collection in the Criminal Justice System

The following recommendations emerge directly from the research process of ***Rape and Justice in Ireland***. These specifically relate to research and data collection across the criminal justice system as it relates to rape and agencies supporting survivors. As a result of participation in the research project, some of these recommendations are now under progression.

The Expert Group on Crime Statistics noted that the production of high quality criminological research is of vital importance to all stakeholders in the criminal justice system: the agencies themselves, the government, the research community and the general public (2004: 19-22). While recognising the legitimate security constraints that must exist in this field, the Group recommended that all agencies should afford the maximum possible access to researchers to their materials (ibid.: 5). In designing this study, the research team sought access to materials held by three State agencies – the Courts Service, the Office of the D.P.P. and the Legal Aid Board. The research team also made contact with private individuals through a number of non-governmental agencies, the Rape Crisis Centres. With the experience gained in both designing and conducting this research, the following constructive recommendations are offered.

1. Research Protocols

It is recommended that all criminal justice agencies develop and publish a research protocol to give effect to one of the Expert Group on Crime Statistics' basic recommendations – that all agencies grant to legitimate researchers the maximum degree of access to their materials consistent with the dictates of security, privacy and confidentiality. In conducting this research, both the Office of the D.P.P. and especially the Courts Service demonstrated their willingness to support good quality research, and An Garda Síochána offered their support as well. The publication of a research protocol, therefore, would simply crystallize the support for research that already exists within the agencies. Doing so would also speed up the design of research projects by identifying in advance the terms on which access will be granted.

2. Access

Whenever possible, it is recommended that direct access to research materials be granted. In preparing this research, the Courts Service granted unrestricted access to its records and provided a research office in the Four Courts Complex in Dublin. As a result, the research team was able to ensure that the research questions were answered in a consistently and accurately. Where direct access is not granted, the possibility of inconsistent or inaccurate interpretation of questions cannot be excluded which creates a potential limitation on the usefulness of the research.

3. Non-Governmental Agencies

Non-governmental agencies (N.G.O.'s), being private bodies, do not have the same obligations as do public bodies. Nevertheless, many N.G.O.'s are able to operate only with financial support from the State. Accordingly, it is recommended that all N.G.O.'s operating in the criminal justice area be subjected to two research obligations, as a condition of being awarded State funding. First, the N.G.O.'s should be under an obligation to produce and publish high quality statistics relating to their operations. Second, the N.G.O.'s should be required, at a minimum, to co-operate with all legitimate research projects to the maximum extent consistent with their resources and requirements. Ideally, N.G.O.'s should be required to develop a research protocol of their own, but this may be beyond their resources.

4. Centralisation

The Expert Group on Crime Statistics (2004) noted that all the criminal justice agencies produce statistics but that there are no linkages between them. They went on to note as a result, it is not possible to address some "relatively straightforward but very important questions" such as the tracking of offenders through the criminal justice system or determining re-offending by crime type or sanction type (2004: 44). To remedy this situation, the Expert Group recommended the creation of a Central Criminal Statistics Unit with the responsibility of creating and publishing criminal statistics using data from all agencies. As things stand, the different agencies do not co-ordinate case identification numbers, making the tracking of cases more difficult than it needs to be. To assist in basic tracking of cases through the various elements of the system, it is recommended that cases be identified by one number that will be used by each of the agencies in turn. Given that the Garda Síochána will usually be the first agency to become aware of the case, it is recommended that the number assigned to it by the Gardaí should be used by all succeeding agencies who come into contact with the case, perhaps using different suffixes to distinguish the agencies; e.g., 1/2009/GS will indicate the file held by the Garda Síochána on the first case of 2009, while 1/2009/DPP will refer to the file of the same case held by the D.P.P., and so on. Each agency has its own function and is independent in that function from the other agencies, but using the same number compromises neither function nor independence. Case numbers should also be allocated on a consistent basis.

5. Computerisation

The National Crime Council recommended in 2006 that all criminal justice agencies should "ensure that key information, including statistics on their respective caseloads, is electronically collated, maintained and published" (2006: 3-4). In particular, it is recommended that the Register of the Central Criminal Court be computerized. At present it is a large, ledger-style book in which key details of each case in the Central Criminal Court are entered by hand. The Register contains a great deal of interesting information that can be accessed only by going through its pages – doing so for this study took two days. Further, it is recommended that the Register be expanded into what would amount to a synopsis of each case by including all the key information of each case. In addition to the information already entered into the Register (name

of defendant, name of defendant's lawyer, date of receipt, whether or not bail was granted, the main charges proffered and the county in which the offence is alleged to have occurred), why not include also age and gender of the complainant and the defendant, the date and nature of the defendant's plea, the date of trial, the verdict and sentence? Doing so would make the extraction of such information for inclusion in the Annual Reports more efficient and detailed, and would permit more sophisticated analysis.

6. Trial Court Records

At present, the Trial Court Records held by the Central Criminal Court do not appear to follow any standardized pattern. Further, some files appeared to have more complete documentation than others – some files, for example, contained jury cards while others did not. As there is no checklist of correspondence attached to the file, it is difficult to determine whether documents have gone missing. Accordingly, it is recommended that a standardized filing order be implemented, and that a computerized checklist be created to record all incoming correspondence relevant to a particular file. This checklist could be attached to the expanded Register, as suggested above, or it could stand alone.

7. Trial Transcripts

Trial transcripts are invaluable sources of information on the conduct of trials, information that would be difficult to obtain from other sources. Transcripts are produced, however, only when a case is appealed and seeking transcripts from the Court Reporters is problematic and expensive. It is recommended that one electronic transcript of each case be produced and archived for research purposes. A protocol must also be developed regarding access to those transcripts, especially as transcripts do not fall within the Freedom of Information Act 1997 (*Re s.42(1) of the Freedom of Information Act 1997; Minister for Justice, Equality and Law Reform v. The Data Commissioner, 2002*).

8. Published Statistics

The Courts Service produces an Annual Report each year that includes a section on statistics. These statistics are the only published source of information available to the public (and to legislators) of the activities of the courts. It is recommended that in presenting these statistics as much raw data as possible be published. For example, the Courts Service currently publishes sentencing statistics but does so only in sentencing bands, and as a result it is impossible to make even basic calculations such as the mean or median sentence. The presentation of raw data would be more useful and would permit greater manipulation. Further, it is recommended that the counting conventions followed in the extraction of data be published. For example, the Annual Reports from 2001 to 2004 give average waiting times for trials in the Central Criminal Court but do not indicate how the waiting time is calculated. Not knowing how these figures were calculated makes replication and comparison almost impossible to carry out.





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Rape Crisis Network Ireland (RCNI) is the national representative body for Rape Crisis Centres (RCCs) in Ireland. The RCNI role includes the development and coordination of national projects, supporting Rape Crisis Centres to reach quality assurance standards, using our expertise to influence national policy and social change. The RCNI is a national information and resource centre on all aspects of sexual violence, with a proven capacity in strategic leadership including contributing and advising on the necessary infra-structure for a national response.



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