



**AN ROINN DLÍ AGUS CIRT AGUS COMHIONANNAIS  
DEPARTMENT OF JUSTICE AND EQUALITY**

# **WHITE PAPER ON CRIME CONSULTATION PROCESS**

**Discussion Document No. 4**

## **The Community and the Criminal Justice System**

**Overview of Written Submissions Received**

**December 2011**

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## Introduction

### Background

Work to develop a White Paper on Crime was commenced in January 2009. The White Paper process, now in its final phase, will lead to a policy framework for future strategies to combat and prevent crime.

A key element in the development of the White Paper is a consultation process which is structured around a series of discussion documents. In June 2011, the fourth and final discussion document, *The Community and the Criminal Justice System*<sup>1</sup> was published. Aimed at the general reader, it considers the relationship between the criminal justice system and the community it serves. Key issues for consideration as part of this consultation include:

- public confidence in the operation of the criminal justice system and its capacity to tackle crime and the fear of crime.
- communications between members of the public and the criminal justice system.
- responsiveness to members of the public in their direct dealings with the criminal justice system.
- a greater role for members of the public in responding to crime, whether by providing information or engaging in local voluntary activity.

The discussion document invited views on a series of questions relating to these issues.

An invitation for written submissions was advertised in national newspapers and the discussion document was posted on the Department's website and was also circulated electronically. In addition, hard copies of the document along with the press notice were sent to public libraries throughout the country.

### Responses to the consultation

By November 2011, the Department had received 52 submissions, 29 of which were from organisations, while 23 were from private individuals (see Appendix). One submission was made anonymously, and 3 submissions were made by 2 contributors who wished their submissions to remain confidential.

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<sup>1</sup> The first discussion document 'Crime Prevention and Community Safety' was published in July 2009 and an overview of submissions received in response to that document was published in February 2010. The second discussion document 'Criminal Sanctions' was published in February 2010 and an overview of submissions received on that document was published in August 2010. The third discussion document 'Organised and White Collar Crime' was published in October 2010, while an overview of written submissions received was published in April 2011.

Comments and proposals were made on all of the issues covered in the discussion document. However, submissions on issues relating to victims were predominant and some of these contained considerable detail.

This document reflects the submissions made but does not purport to be an exhaustive catalogue of all of the points conveyed.

Finally, it should be noted that the contents of this document do not necessarily reflect the views of the Department.

## Overview of Submissions Received

### Summary of comments made in submissions

In general, submissions welcomed the opportunity to contribute to the public consultation and, as in the earlier consultation phases, the White Paper on Crime process was favourably received.

For the most part, submissions focussed on matters raised in the White Paper discussion document. Factors which inhibit or promote **public confidence in the criminal justice system** were to the forefront. Visible policing in communities was seen as a means of underpinning confidence in the system, contributing to a greater feeling of safety and encouraging people to report crime. Issues which were listed as undermining public confidence included a failure to punish ‘street crime’ and white collar crime equally, lack of consistency in service delivery by the relevant agencies and delays, as well as inadequate information and transparency around issues such as sentencing, bail and remission.

Issues relating to **information and communication** were raised in many submissions. These included improving information on websites of the criminal justice agencies, more information on levels of crime and on the success of interventions, better and more consistent flows of information to victims of crime, and a greater use of social media and other on-line tools for ease of public communications with the system.

As mentioned above, **community policing** was viewed positively. Suggestions were made for improving engagement between communities and An Garda Síochána and for enhancing the capacity of Joint Policing Committees (JPCs) to tackle crime and anti-social behaviour and reduce fear of crime. Several representative groups thought that the community membership of JPCs should be extended and suggestions were also made for reinventing the Neighbourhood Watch scheme.

Submissions welcomed advances that had been made in the criminal justice system for **victims of crime**. However, many submissions argued that the victim should have a greater role and be given greater priority during the course of investigation, prosecution and sentencing. Issues concerning specific categories of victim such as children and victims of sexual crime were dealt with in a number of submissions and some very detailed recommendations were presented.

Many of the submissions received were from representative groups (e.g., older citizens, disabled persons and the traveller community) and included suggestions to improve the engagement of their constituents with criminal justice agencies. Some submissions were concerned with specific aspects of the criminal trial process and the experience of participants as **witnesses and jury members**.

As in previous consultation phases, **restorative justice** interventions came in for favourable comment insofar as they were seen to be of benefit to the victim, the offender and the wider community. Other submissions addressed the treatment of offenders more generally, with particular emphasis on measures to support their reintegration into the community.

## Public Confidence in the Criminal Justice System

Public confidence in the criminal justice system was addressed in a majority of submissions.

Some submissions cited factors which it was felt undermined public confidence in the system. These included delays in the processing of cases, inconsistent sentencing, offending on bail, early release of offenders, remission of sentences, and a lack of confidence in the capacity of the system to deal with anti-social behaviour, persistent offenders and organised crime.

Suggestions for increasing levels of confidence in the system included a greater Garda presence in the community and improvements to the Garda Family Liaison Officer service. The **link between confidence in policing and a willingness to report crime was underlined.**

A large number of submissions addressed the question of confidence in the system from the **victim's perspective**. It was stated that confidence in the system is undermined by the perception that the system is more geared to the needs of the perpetrator of crime than those of the victim, e.g., the provision of legal aid for the offender in many cases but not for the victim. It was stated that when the perpetrator of a crime is identified, there is an expectation on the part of the victim that the criminal justice system will deal with the case in a timely manner. Instead, it is not unusual for there to be many delays before a case is concluded in court. For many crime victims this lengthy period is one of stress and frustration. The need to reduce delays was a recurring theme in submissions.

A number of submissions pointed to a perception of a **lack of parity of treatment between white collar criminals and other criminals**. It was acknowledged that while investigation and prosecution of cases such as banking or pension fraud can be complex and time-consuming, there is no excuse for inaction on this type of crime. Another submission said that the failure of Irish regulators to indict white collar criminals and imprison them has damaged the reputation of the criminal justice system. The apparent lack of consequences for the financial crimes of the rich was contrasted with imprisonment for non-payment of fines. This response to non-payment of fines was viewed as costly to the taxpayer, wasteful in terms of resources of criminal justice agencies and a source of reputational damage for the criminal justice system. One submission welcomed the Fines Act 2010 which will end the practice of imprisoning people for failure to pay court-ordered fines but regretted that it has yet to be fully commenced.

One contributor said that if significant numbers of people in any given community don't believe that the criminal law is there to protect them and their interests as much as the privileged and powerful people in society, they will not be as likely to view the law's violation with seriousness.

Many submissions considered the link between **sentencing policy and practice** and confidence in the system and made suggestions from a number of differing standpoints.

On the one hand, the introduction of **statutory fixed minimum sentences** for most crimes without provision for mitigation was mooted. Some contributors were critical of remission of sentences. Many of the same contributors wanted access to bail to be restricted further. One submission proposed ‘a root and branch review’ of sentencing practices in relation to concurrent and consecutive sentencing. A further submission spoke about the illicit tobacco trade which it said was perceived as low risk by organised crime gangs given the insignificant fines and penalties being imposed. It was also submitted that offenders should pay court costs, or that costs should be deducted from their social welfare benefits or from their wages when they start employment.

By contrast, some submissions emphasised other measures, such as implementation of **Integrated Sentence Management (ISM)**, on the basis that this would result in lower rates of recidivism and that successful reintegration of ex-prisoners into the community would strengthen public confidence in the criminal justice system. It was argued that if the success of ISM could be demonstrated, public perception of the ability of the criminal justice system to reduce the risk of re-offending would be enhanced and fear of crime reduced. Some submissions favoured the use of restorative justice and community courts as a means of responding to anti-social behaviour and of increasing confidence in the criminal justice system.

The **Report of the Thornton Hall Project Review Group** was viewed positively in some submissions and, in particular, its recommendations for a strategic review of all aspects of penal policy, together with an acknowledgement of the primacy of the human rights of prisoners and a statement that overcrowding cannot be addressed through prison building. It was hoped that the White Paper on Crime process would lead to a national crime policy setting out a coherent vision of the appropriate balance to be drawn between crime prevention, diversion, punishment and rehabilitation.

It was submitted that street crime rates are unlikely to decline significantly unless steps are taken to combat marginalisation, poverty and educational disadvantage in certain communities to enable them to relate to the goals and aspirations of society at large. This approach, it was considered by some, would do more to decrease crime than harsher sentences and additional prison places.

### **Information and Awareness of the Criminal Justice System**

Improving awareness of the activities of the criminal justice agencies and their services was a theme common to many submissions. It was submitted that the Department of Justice and Equality should encourage its agencies to address deficiencies in their **communications systems**, with a particular focus on ensuring that websites provide regular updates about progress, policies and relevant statistics. Links should be fully functioning and all key policy documents and strategies should be included. Also suggested was the pooling of resources for communications by the agencies, including through the development of one website or portal with links to all criminal justice system departments/agencies and websites, which might generate savings or enable current funding to be redirected to better use in communicating to the community. Reference was made to the Northern Ireland Prison Service website

and that of the UK Home Office which, it was stated, have a very comprehensive collection of policy documents and regular updates of statistics.

In broad terms, effective communications were seen as crucial in developing accountability and reporting processes to the general public and promoting trust in the system. A number of contributors stated that a lack of knowledge of how the system works can generate a fear of crime. It was suggested that **feedback on the success of initiatives**, such as the ‘Dial to Stop Drug Dealing’ confidential line, helps to build public confidence in the criminal justice system. One contributor said that such initiatives and their impacts encourage communities to contribute constructively to tackling crime and should be reported on and promoted in communities through meetings between Community Gardaí and residents’ associations, estate management groups and public meetings facilitated by, for example, the local community policing forum. It was also suggested that the Gardaí might give talks in schools and other settings on the operation of the law and that, where relevant, Gardaí should mount an awareness campaign in the local media to inform residents about safety issues and available supports or warn residents about any increase in certain types of crime and encourage them to report suspicious activity.

Some submissions considered communications at a local level should include **clear and accessible data on levels of crime and anti-social behaviour**. One contributor suggested that consideration should be given to also reporting on other community indicators such as new housing starts, local primary and post-primary school attendance levels, adult participation in further and higher education programmes, new business starts, economic activity/inactivity, estimated inflows and outflows of residents in the community and inter-community links.

A number of submissions commented positively on the White Paper on Crime consultation process. A small number recommended that **inclusive public meetings**, such as those held as part of the White Paper process, should be held by State agencies more frequently, as they provide a very useful forum for exchange of views and information, as well as a means of communicating concerns directly to the responsible State agencies. One submission suggested a National Crime Forum with a consultative and review role reporting to the highest level in government.

## **Media and Awareness of Crime**

A small number of submissions referred to the role of the media in influencing attitudes towards crime and crime prevention.

One submission believed that the 24 hour news media and ‘pop culture’ have exploited a new culture of criminology for its entertainment value and its sensationalism and concluded that in many ways, cultural representations of crime have become blurred with actual understandings of crime and society’s responses to crime.

Another submission stated that the media can have a very positive or a very negative impact on **public perceptions of the criminal justice system**. It noted the tendency for the public to ‘buy in to the more negative and sensational aspects of reporting’ and



believed that much of the good work of the criminal justice agencies and their partners in the community gets lost. Writing along the same lines, another submission observed that the media report intensively on violent crimes at the time they take place, but are much less consistent in reporting the subsequent trials of those crimes, many of which result in convictions which might promote public confidence in the criminal justice system. The correspondent considered that the approach of the media encourages a public perception that people are committing crime without suffering any consequence, while another believed that the media can play a part in keeping prisoners in high profile cases in prison for longer. On a more positive note, one submission observed that the media contribution to crime investigations as a conduit for information from the general public has been underestimated.

Finally, one submission said that the media have enormous capacity to influence the public's understanding of crime and criminal justice issues, so the criminal justice system has a responsibility to work with the media and provide them with information so as to ensure that public opinion is well informed and shaped by accurate information.

### **Community Relations and An Garda Síochána**

A thread common to several submissions was that responsibility for reducing crime, disorder and anti-social behaviour should not be the sole responsibility of the Gardaí, but must be shared out among other public bodies and the community.

Several submissions commented positively on **community policing** and its capacity to build good relationships between communities and An Garda Síochána, break down barriers and encourage people to watch out for and report crimes or suspicious activity. Another contributor said that a very positive development in the management of youth crime has been the Garda Case Management System which encourages a 'key worker' based approach to managing the offending behaviour of young people and designates one specific liaison Garda for the young person, their family and other professionals involved. Others mentioned the assistance given by the Gardaí to witnesses and victims. One submission suggested that young people could be encouraged to report emerging criminal trends or activity through the development of confidence building projects between schools, youth clubs/groups and Community Gardaí.

Some submissions talked about the benefits of **building good relationships between communities and the Gardaí**. It was suggested that people need to be encouraged to come together to form or join residents' associations and estate management groups supported by the Gardaí, local authority and other agencies working on the ground in the community. It was considered that membership of these groups can facilitate and encourage individual residents to fully understand and use community-based initiatives such as the 'Dial to Stop Drug Dealing' campaign, Garda confidential telephone numbers and to report criminal and anti-social behaviour. These groups could also provide support and anonymity around the reporting of criminal and anti-social activity in a locality. It was pointed out that residents' associations and other groups can be a channel used by Gardaí and local authorities to develop and deliver 'Myth Busting' campaigns such as the mistaken belief that local criminals use

scanners to listen and eavesdrop on the phone calls of residents reporting criminal activities to the Gardaí. Community groups can reduce feelings of isolation in a community and with support from residents and the relevant agencies can be active in projects such as setting up Neighbourhood Watch schemes and organising community cleanups. Some contributors believed that residents' groups/committees could be more active in contributing to community safety priorities in consultation with the Gardaí and other relevant agencies to ensure that the real needs of the community are being addressed.

The question of continuity of service by Gardaí in communities to build a rapport with members of the public was raised on a few occasions, as it had been during regional consultation meetings. It was suggested that Garda management need to operate a **succession planning strategy for Community Gardaí** who sometimes appear to be redeployed to another assignment at very short notice. It was also suggested that change or imminent change of Garda personnel in an area should be communicated to the community.

Other points made included that: there are not enough community-based Gardaí; the best crime prevention measure is visible front-line policing which helps to ensure that communities get to know their local Gardaí and have a sense of security; Gardaí should deploy plain-clothes and uniformed foot patrols in estates affected by burglaries; every Community Garda should have an official mobile phone; Community Gardaí should introduce themselves to and get to know local youths; young Gardaí need to have extra **community relations training**; standardised training in effective communications with young people should be developed and monitored; some Gardaí are not always easy to talk to and young people can be 'labelled' with reference to family or home address.

### **Neighbourhood Watch**

One submission focussed in detail on the Neighbourhood Watch Scheme and noted the commitment of An Garda Síochána to the Scheme. It said, however, that as a brand it is 'tired and outdated' and lacks organisation and an effective communications system. While the positive effect of Neighbourhood Watch on levels of burglaries was acknowledged, reference was made to the high turnover of local schemes and weaknesses in coordination, planning and communications structures to develop Neighbourhood Watch at national level. It was reported that, as a result, ad hoc methods are being used to keep track of the number of active schemes at local level resulting in patchy communications and a loss of effectiveness. With change of boards or coordinators over time communications links can be broken and a scheme can become isolated without supports or information. Sometimes schemes lapse after a crime problem has been solved leaving an opportunity for the problem to recur. Schemes were said to face various challenges in remaining viable including access to resources and skills for fundraising, developing newsletters, managing volunteers and organising meetings. It was submitted that **Neighbourhood Watch could become active and effective with better structures and supports.**

The Neighbourhood Watch model proposed in this submission was similar to that operating in Australia and the UK where it was reported that Neighbourhood Watch is

administered as a charity with strong links both to the police and local government. It has a State coordination body with an advisory group and organises training, campaigns, marketing and events. It also allows for representation on local government fora, the equivalent of Ireland's Joint Policing Committees, and along with both local and national police helps in the coordination of information and resources. Funding is obtained through sponsorship from the private sector, grants schemes and philanthropies. It was submitted that in an Irish context, State funding could be used as 'seed funding' for the new initiative, but that the overall aim should be to be completely free from State funding in order to guarantee the sustainability of the organisation.

### **Joint Policing Committees**

Joint Policing Committees (JPCs) were the subject of comment in a number of submissions. Their advent was viewed positively as a means of generating dialogue between members of the public, voluntary and statutory agencies, local businesses and the criminal justice system on all issues affecting local community safety.

Several submissions favoured a broader and **more inclusive membership** for JPCs. Suggestions were made for the involvement of representatives from the voluntary sector, youth organisations, Rape Crisis Centres and other victim support organisations, Neighbourhood Watch/Community Alert schemes and Traveller and Roma communities, as well as new communities. It was argued that the involvement of new communities would help to promote social cohesion.

A small number of submissions proposed changes to the **operation of JPCs**. One correspondent believed that JPCs and Community Policing should be integrated into a single strategy so that community policing strategy is informed by the views of JPCs. It was contended that since their launch, JPCs have lacked the resources to function properly and realise their full potential to deliver improvements to public safety.

The same submission considered that JPCs have the potential to minimise low-level crime and anti-social behaviour through engagement with a wider range of statutory bodies. It also argued for the involvement of the Private Rented Tenancy Board in the JPC process. It also was submitted that there is an opportunity to assimilate industry, retailers and local business, including publicans, further into the work of JPCs on crime related issues.

Other suggestions made were that JPCs need a wider brief in dealing with offending in the local community; they **should not just be a complaints forum** but a body enabling an effective and active response to situations in the local community. Various suggestions included; the development of key performance indicators for JPCs in consultation with the relevant local communities and taking account of local knowledge and the most up to date PULSE statistics relating to the localities/communities in question; an annual 3-point strategy to give a clear focus to their work; and dates of JPC meetings should be available online.

## **Community Relations and Customer Service within the Broader Criminal Justice System**

While Courts Service measures to become user-friendly were acknowledged, it was suggested that such progress should continue and that courts should become less austere, language should be simplified, dress normalised and ‘the approach to justice must not continue to be elitist and exclusive’.

It was submitted that agencies within the criminal justice system (Coroner, DPP, Court Services, Criminal Compensation Tribunal, and Prison Service) rely on the Garda Family Liaison Officer to communicate information and services. It was felt that these **agencies should themselves take a more pro-active approach** to ensure that victims or families (in the case of homicide victims) have access to relevant information on support groups and counselling services, the operation of the coroner’s court, the pre-trial meeting, appeals after convictions, the Victim Impact Statement, the possibility of compensation, or the possibility to register with the Prison Service.

One submission said that the public needs to have a better understanding of the work of the Probation Service - what it does, how it works and who it works with. Another said that the Prison Service victim liaison officer provides a valuable service to victims but that not all victims are informed of this service and that the system should ensure that all those who might avail of the service are informed about it.

One correspondent referred to the **Drug Treatment Court Programme** as an example of an innovative way to deal with crime which is inexpensive and which offers a real opportunity for rehabilitation and self-development for participants, rather than imprisonment. It was seen as having a positive impact on the programme participants as well as on the communities in which they live. The correspondent acknowledged that the court has come in for some criticism due to poor graduation rates but saw that as a direct consequence of the limited geographical nature in which it operates. Not everyone convicted of drug-related, non-violent offences is suitable for the scheme and candidates must show a desire to stop using drugs. It was suggested that if the geographic area covered by the court were to be extended (across the whole of Dublin City and other cities which face drug-related crime problems) it would be easier to find suitable candidates for the programme and thereby improve graduation rates and benefit communities affected by drug addiction.

### **Issues Specific to Particular Groups**

Initiatives by the criminal justice system to respond to the needs of particular groups were described in the discussion document and acknowledged in a range of submissions.

#### *Children and Young People*

The establishment of the **Department of Children and Youth Affairs** incorporating the Irish Youth Justice Service (IYJS) and agencies responsible for areas such as early

childhood care and education and child welfare and protection was seen as having the potential to contribute to a co-ordinated crime prevention strategy.

A number of submissions considered that universal delivery of services such as **health** and **education**, to ensure that all children enjoy access to essential supports and services, is the most effective long-term strategy for addressing the marginalisation and inequality associated with higher rates of offending. The submission concluded that government policy on the relationship between the community and the criminal justice system must reflect the link between educational attainment and crime and anti-social behaviour.

One submission referred to the White Paper consultation which had taken place with young people<sup>2</sup> and endorsed some of the recommendations arising which included more youth cafés, skate parks, availability of psychological help and more education and awareness campaigns around drug/alcohol and sex crimes. Investment in **youth facilities** was described in another submission as a means of providing more satisfying lifestyles for young people and allowing them to steer clear of crime and anti-social behaviour and to become valuable members of their community. Reference was made to one of the key findings of the Lord Mayor's Commission on Crime and Policing which was that it often falls to the community to provide services which present alternatives to street drinking, drug abuse and anti-social behaviour. The restrictive opening hours of many public services were seen as being detrimental to communities, the Commission recommended that the City of Dublin Youth Services Board try to ensure that recruitment and human resource policy is oriented towards providing an effective out of hours and weekend youth service, and ensuring that all leisure centres, swimming pools and parks should be open late during weeknights and at weekends.

Increased use of **non-custodial sanctions** (community service orders, restorative justice practices and parental supervision orders), a recurring theme throughout the White Paper consultation process, was also the subject of submissions relating to children and young people. Garda Juvenile Liaison Officers (JLOs) were seen as playing an important role in dealing with young offenders in an effort to reduce further crime and anti-social behaviour. It was thought that the JLO system has the potential to act as an alternative to the more costly option of imprisonment and detention and should therefore be supported and developed.

The appropriateness of detaining young people who breach their bail conditions was questioned. It was considered that the longer they are in a prison environment, including in adult prisons, the greater the negative consequences for themselves (including their further advancement in criminal activity), their family and community. It was suggested that a **Bail Support Scheme** be introduced for young offenders to improve compliance with bail conditions and reduce the likelihood of re-offending while on bail. It was envisaged that such a scheme which would provide practical supports based on the needs of the individual could include components such as supervision of court attendance, substance use treatment, and engagement with

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<sup>2</sup> Department of Justice and Equality (2011) White Paper on Crime Report of the Consultation with Young People, November 2010.

employers and parents. It was reported that an evaluation of such a scheme in the UK found a success rate of approximately 80% in preventing re-offending and enabling young people to abide by bail conditions and attend court. Reference was made to a pilot Bail Support Scheme which had been scheduled to be introduced in Ireland but had not commenced.

A contributor noted that a feature of criminal justice systems internationally has been the detention in the criminal system of persons in need of medical care and argued that **adolescent mental health** is a key area for investment with potential for significant positive outcomes for vulnerable children and the youth justice system. They supported the priority delivery of Child and Adolescent Mental Health Teams as recommended in *A Vision for Change*.

It was also argued that human trafficking disproportionately affects children and should be the responsibility of the National Bureau for Criminal Investigation rather than the Garda National Immigration Bureau.

Other contributors addressed issues specific to children as victims of crime, which will be set out in the section of the document dealing with victims.

### *Older People*

It was stated in submissions that crime, security and fear of crime are particular concerns for older people. Contact with local Gardaí was seen as vital in terms of information and reassurance and the deployment of **Community Gardaí** was seen as positive in this regard. A number of contributors advocated greater Garda presence in rural areas as a means of being more proactive in preventing crimes against older people.

A number of correspondents addressed issues relating to older people living in rural areas. One contributor said that the White Paper consultation meeting which they had attended was largely concerned with urban issues and that the full spectrum of the experience of older peoples should be represented in the White Paper process. A number of submissions referred to **access to services** as being important for this group of the population. It was stated that access to transport enables people to collect their pensions and to go to the bank or post office on a regular basis, thereby eliminating the need to have cash at home. It was submitted that without transport many older people can be isolated and become cut off from social interaction and consequently miss out on vital information links and social networks, with possible implications for their personal security. It was also submitted that while issuing alerts to older people to ensure that they seek ID from callers is useful, a requirement that personnel working for State agencies should produce IDs when calling to homes as a matter of course would enhance the security of older people.

One correspondent said that collaboration between State agencies is very important in the fight to combat **elder abuse** and referred to the National Steering Committee established by the HSE with representation from several agencies including the Law Society, Law Reform Commission and An Garda Síochána and Cosc. It was suggested that despite significant appreciation of the issue of elder abuse among An

Garda Síochána and the legal profession this could be improved through training and increased vigilance by An Garda Síochána in preventing and detecting elder abuse. The level of confidence that older people have in the Gardaí was noted in this regard.

Other points made include: greater on-going co-operation between Gardaí and Health Services personnel and groups representing older people underpinned by formal protocols; greater support for **Community Alert** programmes and the **Security Alarms** programmes to enhance a sense of security in the community.

### *Disabled People*

One submission dealt in detail with people with disabilities. It stated that while little research has been conducted in Ireland, international studies have shown that disabled people are at **greater risk of becoming victims of crime** (including verbal abuse, assaults and damage to property). The submission recommended: research on the prevalence of crime against people with disabilities in Ireland; the development of a policy response to eliminate violence and harassment against people with disabilities in their communities; and the development of measures to protect vulnerable disabled people involving key stakeholders, e.g., An Garda Síochána, the Court Service, victim support and disability representatives.

The submission stated that disabled people can experience a high level of **physical and social isolation**. Those who are isolated are more at risk of becoming victims of crime, particularly if they are seen to be living on their own or unable to fight back. They can be further isolated through lack of knowledge of their legal rights and the inability to self-advocate. It was stated that this is especially the case for people with an intellectual disability and those severely inhibited by their disability, be it physical, sensory, neurological or mental/emotional.

A range of issues relating to **accessibility** were considered in the submission and the following are some of the recommendation made: ensure the full implementation of the Disability Act 2005; Garda stations, victim support services, the courts and jury services should go beyond statutory requirements and comply with the principals of universal design (National Disability Authority); written and oral communication must be in a form that is appropriate to the needs of those with a visual or hearing impairment or persons with intellectual disabilities; the criminal justice work environments need to be accessible to workers who have or acquire disabilities in their working life, to victims and witnesses, as well as offenders who may have an underlying disability; disability awareness training should be rolled out to the staff involved in the criminal justice system; a disability module should be designed for Garda training and for legal trainees to ensure a sensitivity to the needs of disabled people with regard to crime; and urgently address access to jury services for deaf people or those in need of a personal assistant.

Reference was made to the disability **advocacy service** provided by the Citizens Information Board which supports vulnerable disabled people. It was suggested that the criminal justice system work with the Citizens Information Board to increase awareness of the advocacy service in the criminal justice system to ensure that a disabled victim or offender can access the advocacy service.

Finally, the submission stated that legislation on mental capacity is ‘critical’ in the process towards Ireland’s ratification of the **UN Convention on the Rights of Persons with Disabilities** and that in its development consideration should be given to provisions relevant to the criminal justice system.

### *Traveller and Roma Communities*

A small number of submissions concerned Travellers and Roma. Initiatives taken by the criminal justice system and, in particular, An Garda Síochána (e.g., expansion of the remit of the Garda Racial, Intercultural and Diversity Office (GRIDO) and the appointment of Diversity Officers to cover all nine grounds of Irish equality legislation) in its relationship with minority communities, were positively acknowledged. However, it was reported that many members of these communities have **little confidence** in the criminal justice system and that more needs to be done to foster confidence among these communities in their interactions with the system. One submission said that the low level of confidence is based a perception of the criminal law as a source of persecution and harassment and not as a source of protection.

Recommendations relating to Traveller and Roma communities included: the introduction of racism as an aggravating factor in sentencing; reform of the Prohibition of Incitement to Hatred Act; the prohibition of racial profiling by the Gardaí to include Travellers and Roma; and cooperation between the Garda Racial, Intercultural and Diversity Office, Diversity Officers and Traveller and Roma organisations; training for Gardaí on appropriate ethnic identification of suspects to media and accurate recording of racist incidents on the Garda PULSE system; consideration of positive and/or affirmative action programmes to encourage recruitment of Travellers into An Garda Síochána; recording by the Irish Prison Service of comprehensive statistics on the prison population which include an ethnic identifier relating specifically to membership of the Traveller and Roma communities; independent monitoring of sentencing by the courts in order to assess the level of discrimination, if any, in the administration of justice; comprehensive civil society representation on the proposed Judicial Council; training of the judiciary on Traveller and Roma issues by the Judicial Studies Institute; and improved representation of Travellers and Roma on jury panels.

### *Ethnic Minorities*

Submissions were received from network organisations representing over 100 ethnic minority groups. Social inclusion initiatives which have been taken in recent years in the criminal justice system were acknowledged. These included the establishment of the Garda Racial Intercultural and Diversity Office (GRIDO), the appointment of Ethnic Liaison Officers (ELO), the publication of the An Garda Síochána Diversity Strategy 2009-2012, publication by the Court Service and the Office of the DPP of information leaflets in a number of languages and the Irish Sentencing Information System (ISIS). It was stated that despite these developments, concerns about lack of confidence amongst ethnic minorities in the criminal justice system remain against a backdrop of their greater vulnerability to crime and victimisation. One submission



while acknowledging the work of the GRIDO, was concerned that the resources of the office were limited and that there is a lack of consistency in responses to racist crime at a local level.

Concerns were expressed about policing and **ethnic profiling** and it was recommended that immigration legislation should not facilitate ethnic profiling, directly or indirectly; the Garda Ombudsman should be given a specific function of investigating complaints of ethnic profiling; and data collection systems for recording racist incidents should include ethnic profiling incidents.

It was submitted that the legislation and infrastructure to combat racist violence and crime is inadequate and ineffective and recommendations included provision for **aggravated sentencing on the ground of racism**; appropriate penalties to act as a deterrent; and inclusion of information on nationality and ethnicity in ISIS data.

Submissions raised issues in relation to reporting, responding to and monitoring racist incidents. It was stated that there are high levels of **under-reporting** of crimes by minority groups who experience racially motivated crime and racist attacks. The effectiveness of the system in identifying, deterring and punishing racially motivated crime, except in circumstances where the crime has resulted in serious harm or loss of life, is rated low by ethnic minorities. It was recommended that the development of the independent monitoring of racist incidents be supported and that the recording and follow-up of racist incidents reported to An Garda Síochána be ensured.

Improving **communications** between ethnic minority communities and the criminal justice system so as to enhance confidence in the system was a matter for comment. Recommendations made in that regard included: more information about court processes; provision of interpreter in all cases where it is apparent that there are language difficulties, even if the defendant has not requested one; adequate proficiency standards for interpreters; recruitment of members of the ethnic minority community into An Garda Síochána; and human rights and diversity training in all criminal justice system agencies.

#### *Lesbian, gay, bisexual, and transgender (LGBT) people*

One submission referred to growing evidence that LGBT people experience significant physical violence, harassment or assault because of their sexual orientation or gender identity. It stated that transphobia (described as fear, dislike or hatred of people who are transgender or perceived to challenge conventional gender norms) can manifest itself as direct verbal or physical attacks and harassment or through institutional policies and practices that fail to acknowledge the rights and needs of transgender people. It also stated that transphobic crime is under-reported due to fear of exposure of their gender identity or because of a lack of trust in criminal justice agencies. The expansion of the remit of the Garda Racial, Intercultural and Diversity Office to expressly include all nine equality grounds under Irish equality legislation was welcomed, as was the appointment of Garda LGBT liaison officers to deal specifically with LGBT issues.

It was recommended that: the scope of the **Prohibition of Incitement to Hatred Act** be extended to protect transgender people against incitement to hatred and individual verbal attacks; aggravated sentencing be introduced; An Garda Síochána adopt an official policy towards dealing with transphobic crime; Garda LGBT liaison officers receive specific training on transgender issues, with input and/or in partnership with representatives from the transgender community; data on hate-motivated crimes, speech and incidents related to transphobia is collected; all members of An Garda Síochána are trained in recording hate crimes, including transphobic crimes, using the PULSE system; the Irish Prison Service work with the Department of Justice and Equality and representatives of the transgender community to adopt an official policy for dealing with transgender prisoners; and the Prison Service collect official statistics on the transgender population in prison in a manner which respects the privacy of the individuals involved.

### **Voluntary Sector**

The role played by the voluntary sector and its potential to contribute to communities was referred to in many submissions. The work of volunteers in victims support groups, restorative justice projects, Neighbourhood Watch Schemes, services delivered to families of prisons and ex-prisoners and other initiatives was acknowledged. One submission said that the voluntary sector provides opportunities for people to participate more fully in their community and to increase the sense of civic responsibility among residents.

## Interaction with the Criminal Justice System

### Reporting Crime

Submissions cited various reasons for a reluctance or failure to report crime including fear of **intimidation** and retaliation, belief that the crime is not serious enough, or that the report won't be acted upon. Other reasons given for non reporting of crime included mobility or communication barriers, the social or physical isolation of the victim, a victim's feeling of shame and self-blame, ignorance of the criminal justice system or because the perpetrator is a family member or primary caregiver.

A range of confidence-building measures to encourage the reporting of crime were proposed. It was submitted that people need to be aware that they can **report crime in a safe and confidential manner**. It was further submitted that a feedback from the Gardaí on solved crimes or on the outcomes of initiatives such as 'Dial to Stop Drug Dealing' would build and foster trust in the criminal justice system within communities and make them more amenable to reporting crime. Offenders would come to realise that fear of reporting crime had reduced and would become more reluctant to offend as the likelihood of being caught was increased.

Numerous suggestions to encourage people to report crime were made and included: awareness-raising campaigns to encourage people to report offences; developing standardised third party reporting, i.e., use community workers/ representatives as contacts between victim/witness and Gardaí at the different stages of investigation and prosecution of the case; good communications channels between community representatives and community Gardaí; each Garda station to have a designated person to deal with emerging issues relating to a current case as the arresting/ investigating Gardaí are not always available; produce information in a non-technical, plain language form; SMS text based and e-mail reporting. One submission referred to reporting of ATM crime, which they considered as being a lucrative organised crime, and suggested that generic signs at ATM machines about reporting suspicious activity to the nearest Garda station should be replaced with signs which give a Garda phone and text number, whether centralised or for the nearest station. Finally, one submission suggested that young people can be encouraged to report emerging crime trends or activity through the development of confidence building projects between schools, youth clubs/groups and Community Gardaí.

### Victims Charter

While some welcomed the development of the Victims' Charter, others argued that the Charter needs to move from being an aspirational document to a legislative one, where rights and obligations of agencies and all parties are clearly specified along with the penalties for the breach of such rights. One submission said that in the absence of a legal obligation to respond to victims in accordance with the terms of the Charter, the service provided to victims by each of the criminal justice service agencies has **no standardised approach**.

Some submissions wanted the Charter to be better **publicised**. One thought that the Charter should be provided to every victim of crime when they report a crime to the

Gardaí; that it should be provided to every household in the country and copies made available at Garda Stations, libraries, and public offices generally. One contributor referred to the Department of Justice and Equality website which they thought should provide a home-page main reference to information for victims of crime. They said that, at present, it is difficult to access this information from the home page and that links to the Victims Charter, the Victims Office, and support organisations for victims of crime should be easily accessible from this section.

It was also submitted that current **interagency fora at regional and national levels** should be maintained and developed. These include the National Steering Committee on Violence against Women, the Regional Advisory Committees, the Victims' Consultative Forum, the Garda Victim Liaison Forum and Joint Policing Committees. It was thought that more attention should be paid to the process of effective interagency working, so that all of these bodies are effective on behalf of victims and victims' experience of the criminal justice system is improved accordingly. It was suggested that the dissemination of general information and the cross-agency referral process be included as a permanent item on the agenda of the Victims' Consultation Forum, so that any shortcomings could be addressed and effective solutions publicised and replicated across the system.

### **Meeting the Information Needs of Victims**

The flow of information from agencies of the criminal justice system to victims and their families was addressed in many submissions.

Positive feedback was given in relation to some aspects of the current system. The work of the **Garda Family Liaison Officers** (FLOs) to support victims and their families was seen by some correspondents as working well, although a number felt that the quality of service varies depending on the attributes and commitment of individual officers. Recommendations in relation to FLOs included that every crime should have an assigned FLO; within reason, families and victims should have easy access to the FLO and information which is not case sensitive; and FLO training should be upgraded and continuous, with input from victims organisations. The Garda letter to victims of crime was seen as a useful means of ensuring that victims of crime receive the contact details of the investigating Garda, and that they are informed of the Crime Victims Helpline which offers support and information. It was stated, however, that not all victims of crime receive this letter and it is important that An Garda Síochána ensure that this letter is sent to all victims regardless of where in the country they are located.

The **Director of Public Prosecutions** 'reasons project', whereby reasons why there will not be a prosecution in certain cases are now provided, and plans to extend this initiative were welcomed. It was hoped that it would be further extended in the future to include all cases of violent crime. One submission acknowledging major progress by the DPP's office in improving communications said that a further improvement would be to allow victims of crime to have contact with the office by telephone and email, rather than just by letter. Another submission said that where the crime victim is offered a meeting with the prosecuting counsel the outcome is positive as the sense of isolation and exclusion commonly suffered by victims is lessened. On a further

positive note, one submission said that that the **Prison Service Victim Liaison Officer** provides a valuable service to victims of crime and that it would be important that all those who might avail of the service are informed about it.

Submissions recommended changes to improve the response of the criminal justice system to victims. One submission suggested an **online direct information system** for all victims of crime tracking the progress of a complaint from initial report through to trial and beyond if necessary, which would be based on a unique identifying number which stays the same throughout the lifetime of the complaint.

Some submissions referred to the difficulties for victims of crime in communicating with the Garda investigating the crime in question as the Garda works on rosters and away from the station. In order to overcome this hurdle and to enhance service to victims it was suggested that a **liaison Garda** in each station could provide information on current Garda cases. This would mean that a victim of crime would no longer have to repeatedly phone the station to make contact with the one Garda who can give information.

A small number of submissions thought that there could be **more information available on the investigation process** on the Garda website in flow-chart format. One submission said that a lack of awareness about the investigation process leads to ‘unreal expectations’ on the part of victims of crime around, for example, time-lines and flows of information. When such expectations are not met, people tend to quickly lose confidence in the justice system. It was suggested that an outline of the investigation process, with a loose indicative timeline, should be given by the Gardaí to everyone who reports a crime.

Recommendations relating specifically to **families of homicide victims** included that the State designate an officer or agency to specifically liaise with these families; the criminal justice agencies be pro-active in providing them with information on their services; the information booklet on the Prison Service and the Parole Board should be given to the family at time of sentencing along with a registration form; and there should be more contact between the Office of the DPP with the families before and during trial.

Finally, one victim support group reported that many of its callers experience **secondary victimisation** in their dealings with the criminal justice system and feel a sense of exclusion, isolation and disempowerment. The group was pleased that the Minister for Justice and Equality has recognised these difficulties and has proposed legislation to benefit victims of crime in their interactions with criminal justice agencies.

## **Victims and the Trial Process**

The lack of **information for victims on the trial process** was the subject of numerous comments, although it was acknowledged by one correspondent that the Gardaí may be understandably reluctant to go into any detail with the victims in case they trespass over the boundary separating general information from the evidence in a particular case. It was suggested that prior to the pre-consultation with counsel there is

a need for a liaison service within An Garda Síochána or the Office of the DPP staffed by legally qualified people whose job it would be to give accurate information about the trial process to victims, and who would be aware of the precise boundaries between what they can and cannot discuss with a victim. It was suggested that, ideally, such a service would be provided from the time of the investigation through to verdict, and include accompanying a victim to court so that information can also be given during the trial. This would ensure that counsel's role in acting for the DPP is not blurred. It was acknowledged that lack of resources would probably prevent this from being realised in the near future. Another suggestion was that access to the Court Support service for victims be improved.

**Delays and adjournments** in criminal trials were referred to in many submissions. There was concern that such delays and adjournments are upsetting and stressful for victims who are waiting to give evidence and who can experience secondary victimisation, or for the families of deceased persons in homicide trials, particularly given that they have already waited a long time for the case to reach the trial date. It was acknowledged that some delays are due to legal issues such as disclosure of prosecution material, or agreement between prosecution and defence in relation to witnesses. It was suggested that these could be dealt with pre-trial if there were a system of pre-trial applications and integrated case management. It was believed that measures to prevent and reduce unnecessary delays in the criminal justice system would enhance public confidence in the criminal justice system generally.

A small number of submissions referred to **intimidation during the trial** and one said that there felt there were no protections for families of homicide victims during the trial process to prevent the accused or his family and friends from intimidating the homicide victim's family at any point, or in any place, including the court house.

Other observations made included that criminal trials are **unbalanced**, with no involvement from victims of crime who often feel that the DPP is not meeting their expectation in prosecuting the case. It was suggested that legal representation for victims and their families would introduce some balance into the system, and provide the victim's family with a means of protecting both their name and the homicide victim's name and character during the trial.

One correspondent referred to procedural difficulties which can be encountered by the Gardaí in proving that a person has committed an offence. It was proposed that when it is known to the victim of crime or to the Gardaí, or both, as to who is responsible for the crime(s) under investigation, and where current investigation methods prove inadequate, a prosecuting officer of An Garda Síochána, not below the rank of Superintendent, should be statutorily empowered to give evidence of opinion, on oath if necessary, regarding the culpability of any person before the court. This evidence should centre on facts obtained during the investigation and include all or any of the following relative to the accused person – history, motive, opportunity, means, social disposition, interaction with victim, proximity, knowledge, expertise, transport, grudge, etc. Such procedure could be instigated at either the decision of the Gardaí or at the request of the victim. This would assure the victim that they had an avenue to the courts where all available evidence could be presented. It was also proposed that the presiding judge should have due regard for such evidence when reaching a decision in the case. It was submitted that such a new procedure would enhance the

efforts of Gardaí in combating crime and would serve as a powerful deterrent to those contemplating a life of crime or to the opportunist who feels ‘too smart to be caught’.

### **Victims and the Sentencing Hearing**

It was suggested that victims and their families should be assisted throughout the sentencing process with legal representation or by an agency with statutory authority.

One submission observed that **Victim Impact Reports** have worked well since their introduction and welcomed the recent statutory expansion of those reports to fatal cases. **Victim Impact Statements** also came in for comment. It was submitted that these are an important means of ensuring that the voice of the victim is heard, and that every court should be obliged to consider the impact of the crime on the victim. Another submission said that as this statement is submitted after a guilty verdict is given it should only be seen by the judge and not by the defence team at all. It was argued that if victims, or in the case of homicide, the victims’ families had legal representation, counsel could also assist in the consideration and preparation of the Statement and ensure that it conformed to legal requirements.

### **Criminal Injury Compensation**

Submissions relating to victims issues also raised a number of points about the criminal injury compensation system. It was suggested that the **Criminal Injuries Compensation Tribunal** should be more actively publicised. Exclusions from the compensation scheme were a concern as was the time taken to obtain compensation. One exclusion referred to concerns about situations where the victim was a member of the same household as the perpetrator and it was argued that there are many such situations where compensation would be entirely appropriate, and a review of this was called for. The level of awards was also criticised. The mechanisms for obtaining compensation through the Courts were also criticised.

### **Restorative Justice**

Restorative Justice came in for a substantial amount of comment in submissions. Some acknowledged and welcomed the support expressed for increased use of restorative justice practices and other non-custodial sanctions during the White Paper consultation process.

Contributors believed that restorative justice methods offer **advantages for offenders, victims, community volunteers and other stakeholders within the community**. The offender is given an opportunity to sit down with the victim, and see the human face of the hurt caused, to accept responsibility for his actions, to apologise and to make amends and to be re-integrated into the community. It was argued that restorative justice gives the victim the chance to be heard and to be engaged with the criminal justice process to a greater extent than is normally offered. Perceived advantages of the process were that it has the potential to be both a deterrent and

rehabilitative measure and boost public confidence in the responses to crime while empowering victims.

One submission recalled the question in the White Paper discussion document and at regional consultation seminars as to whether there was scope for “a greater role for members of the public in responding to crime, whether by providing information or engaging in local **voluntary activity**”. The submission, which was from a restorative justice project, stated that it would not be possible for the project to function without members of the public volunteering their time to engage with the project and with offenders referred by the District Court. They noted the ‘huge interest from members of the public in being involved in the project and in playing a role in responding to crime within their communities’. Volunteers are trained in restorative justice methods and attend reparation panel meetings with the offender and with victims of crime to discuss the offence and put in place a Contract of Reparation. The submission reported that panel meetings promote a sense of offender accountability, and in cases where there is a direct victim of a crime, engagement of that victim is central to the process. It believed that the involvement of community volunteers is vital to the project as their presence highlights to the offender that certain actions and behaviours are unacceptable while also emphasising that the offender is part of the community and being given the necessary support to assist a change in behaviour and prevent re-offending.

Some submissions addressed **restorative justice practice in the context of sexual offences and domestic violence**. Notwithstanding that restorative justice measures are not often used where sexual crimes are concerned, one organisation indicated openness to further consideration of such measures where a survivor of sexual violence has indicated that s/he wishes to consider them in a particular case, as long as the process is one which is conducted in line with best international practice and does not circumvent criminal responsibility and the criminal justice process itself. It was reported that in other jurisdictions, notably Canada, convicted sex offenders have agreed to submit themselves to a restorative justice measure, known as “Circles of Support and Accountability”, following release from prison having served a sentence for a sexual offence. These Circles depend on the input of dedicated and trained teams of volunteers drawn from local communities, whose role is to offer some social support to a sex offender who might otherwise be isolated within those communities and therefore at risk of further offending. Their role also includes holding the offender to account for his actions. The submission reported that a research initiative to assess the viability of initiating something similar in this country is currently in progress. Another submission stated that restorative justice sentencing models should not be introduced in cases of domestic violence, unless there is evidence from other jurisdictions that these models prioritise the victim’s safety and well-being and do not put them at further risk.

Other suggestions made relating to restorative justice included that teachers and other school staff should adopt a restorative approach in schools to help young people to develop empathy and understanding for victims; restorative justice practices should be developed and used a lot more, especially with **first time and young offenders** in order to achieve accountability for their behaviour either on the part of the offender or their parents; the restorative justice contribution to peaceful communities should be strengthened within the Joint Policing Committee process.



## Issues of Concern to Victims of Sexual Crime

It was stated that it would be helpful if State agencies, such as the Victims of Crime Office, would encourage victims of sexual crime to give feedback on their experience and make suggestions into the various interagency meetings, either directly or through victim support groups. It was submitted that **interactive online evaluation** forms for members of the public could be a very useful anonymous means of providing feedback to relevant agencies from victims. Such a system was seen as a means of providing State agencies with valuable feedback which would not otherwise be available to them.

A number of submissions referred to the **granting of bail** and concern was expressed that serious sexual crimes have been committed by persons on bail. One submission welcomed the Minister's intention to examine the extent to which further guidance could be given to the courts on the need to have regard to public safety when making bail decisions as well as guidance on identifying those who present an unacceptable risk of committing serious offences if granted bail. The submission urged the Minister to identify a means of giving judges power to remand in custody those who are not charged with serious offences, but whose criminal record discloses serious violent offences grave enough to give rise to a reasonable fear that they would commit a serious offence if released. Other points made included that bail should not be available to anyone convicted of rape and/or aggravated sexual assault; and strict conditions including a condition not to contact the victim and/or any other family member, directly or indirectly, except with the permission of the Court, should be the norm when a person is granted bail on a charge of sexual crime.

Other submissions supported **measures to protect victims of sexual violence during the trial process** which included: the giving evidence by video-link or other electronic means without having to be present in court; where electronic facilities are not available, screens should be provided so that victims do not have to see or be seen by the accused; victims should have private dedicated waiting and hospitality facilities and not have to spend any time in close proximity to the accused and/or his/her associates in the court precincts; where such facilities are not available, there should be a protocol in place to keep the accused and/or his/her associates separate from victims of sexual crime in the court precincts; and the accused in a rape or other sexual violence case should not be able to conduct a personal cross-examination of the complainant.

Legislation on **third party disclosure of intimate personal records** (e.g. access by the defence to the complainant's medical and therapeutic records in sexual assault cases) was called for. It was stated that there are no formal procedures to regulate such disclosure and it was recommended that legislation should be introduced in this area to provide for judicial oversight and separate legal representation for any complainant or third party against whom disclosure of intimate records is sought in this area.

In relation to **sentencing** it was stated that the introduction of non-statutory sentencing guidelines would make the criminal justice system more predictable and therefore less stressful for victims of sexual crime and others involved in the process.

Some submissions dealt with **management of sex offenders**. It was proposed that probation supervision should be the norm for all released sex offenders, as well as attendance at a sex offender programme as directed by the probation officer; Local Risk Management Committees (LRMCs), which manage the risk attaching to all released sex offenders in a given area, should be increased in number to cover the whole country, should include some measure of victim support, therapeutic and community representation, and should have the statutory power to share information as necessary to ensure that the victim and the wider community are protected; and LRMCs should have legally based national guidelines on sharing information about sex offenders in their community.

A number of submissions looked specifically at issues around **domestic violence**. It was stated that An Garda Síochána is one of the few criminal justice agencies with a written policy on domestic violence and that even when a woman opts out of the court process, personal contact from the Gardaí is seen as a positive indication that there is support available should another incident of domestic violence occur. Recommendations relating to domestic violence included that sanctions for the crime and for breach of orders should reflect the severity and nature of the crime; sentencing guidelines for use in domestic violence crime and other crimes between intimate partners should be developed; the role of the judiciary in responding to domestic violence crime should be supported through provision of training seminars on the issue; risk assessment by the Probation Service should become a routine element of domestic violence cases; and when a suspended sentence is served on a domestic violence offender the case should be kept before the court to monitor any re-offending and prevent re-victimisation.

It was considered that **research into the effectiveness of sanctions for domestic violence crime** is needed. Suggested areas for research included: level of sanction, judicial decision-making, comparison with stranger crime sanction, victim safety, and the response to Traveller women and minority ethnic women, women with a disability and women with additional needs such as addiction require investigation. It was also stated that national crime statistics should include the gender and the relationship between the assailant and the victim for both violent crime and sexual crime so as to give a clearer picture of levels of violent crime in relationships.

One submission was made by a sex worker led association campaigning for the rights of **sex workers**. It stated that while for most people, working in the sex industry is a choice, sometimes persons are trafficked or otherwise coerced into the sex industry. It welcomed special measures in place for victims of human trafficking, including the entitlement to anonymity for victims of trafficking, similar to that in place for rape and sexual assault victims. However, it believed that all sex worker victims of crime or witnesses of crime should be entitled to anonymity due to the difficulty for sex workers to engage with the criminal justice system. The possibility of being identified as a sex worker in the media as a result of reporting a crime or being a witness in a court case stops many sex workers from reporting crime. It was stated that crime against sex workers (threats, harassment, assault, robbery and fraud) is under-reported and that there are criminals deliberately targeting sex workers who they view as 'easy targets' who are unlikely to report crime.

## Child Victims

A number of submissions addressed issues relating specifically to the criminal justice system as it applies to child sexual abuse cases. The Criminal Evidence Act, 1992, which made provision for the **videotaping** of a child's account and the subsequent playing of that videotape at the trial and which came into force in 2008 was seen as a positive development. It was noted that some members of An Garda Síochána and Health Board social workers have been trained to carry out videotaped interviews in accordance with Good Practice Guidelines. In the interest of ensuring that video-recorded statements are admitted by the trial courts, it was suggested that a review of the earliest cases be carried out to analyse and eliminate any problems arising in practice with the use of this evidence.

It was recommended that the investigation by An Garda Síochána in child sexual abuse cases should be treated as urgent and dealt with by a specialist units. The DPP and the Chief Prosecution Solicitor (CPS) should also develop their systems to ensure that child sexual abuse cases are treated with **urgency**.

The Office of the DPP might also participate in **research projects** given the quality of the material and data it has within its files. It was noted that the UK Crown Prosecution Service has produced policy documents on criminal cases involving children and ongoing relevant developments and that the adoption of a similar approach by the DPP would be a good thing.

It was submitted that a good case can be made for child witness cases to be **treated with priority in the assignment of criminal trial dates**. It was believed that this could be done within the existing list system or through a special list for cases involving child witnesses. It was also submitted that it would be helpful if provision could be made for specific case management of children cases, in order to ensure that matters such as discovery, applications for separate trials are dealt with in advance of trial to ensure that there are no delays on the date of trial itself.

Reference was made to a UK survey which found that many child witnesses reported having **problems with the language and manner of questioning** in court, both in terms of comprehension and oppression. In that regard it was suggested that it would be useful for judges and lawyers to listen to what other professionals working with children have to say, with the Judicial Studies Institute as a possible facilitator. The suggestion of the Law Reform Commission in 1990 that the legal professions should consider adopting codes of practice relating to representation in, and the conduct of, cases involving children was recalled. Reference was made to the provision for the use of intermediaries in the questioning of child witnesses in section 14 of the Criminal Evidence Act 1992. It was recommended that this should be put into effect.

In relation to children and young people it was submitted that there should be new legislation and a new national protocol regarding interagency cooperation and the exchange of so-called "soft" information which should be unambiguous, transparent; ensure accountability; and be designed in the best interests of the child. It was also submitted that the Children First Guidelines should be placed on a statutory footing to ensure a collective **duty to report concerns of neglect or abuse of a child**. Recommendations by the Special Rapporteur on Child Protection in his reports to the

Oireachtas were supported. They include the enactment of legislation to criminalise the grooming of children.

## **Witnesses**

Submissions underlined the importance of the role played by witnesses in the criminal justice system and acknowledged that **fear of intimidation** can hinder witness cooperation. Better communication by the criminal justice agencies was a theme common to a number of submissions dealing with witness intimidation. Improving awareness of the criminal justice process was seen as central to encouraging witnesses to come forward. It was submitted that if people understood the process and how the act of reporting a crime is likely to affect them, they are more likely to be able to make an informed decision. Emphasis was placed in one submission on the need for better on-going communication in the aftermath of a crime being reported by a witness/victim. Other measures suggested to help witnesses included informal reporting mechanisms, use of restorative practice and a greater presence of Community Gardaí in communities.

Some submissions acknowledged the work undertaken in the system to support and protect witnesses which was considered to have increased their confidence in the criminal justice system. One group observed that the initial contact with the Gardaí when reporting a crime is good, and that they find the Gardaí ‘professional, understanding and sympathetic’. Other submissions were critical of the treatment of witnesses. One said that witnesses are often ‘filed in and out of court’ without concerns for their fears and anxieties. Another said that better witness protection is necessary and that a new Garda Protection programme should be initiated not just for witnesses in gangland murders but for all witnesses where there is a threat to their safety. It was submitted that witnesses need to be confident that whatever structures are in place to support and protect witnesses are effective. One submission suggested that counselling should be made available for all witnesses in cases involving violent/sexual offences. It was suggested that the judiciary should be required to advise witnesses in violent crime cases of the importance of their role and that lawyers on both sides should be instructed by the judge to deal with witnesses in a sensitive manner while continuing to robustly defend and prosecute. One correspondent was disappointed that, in the newly built Criminal Courts of Justice, a witness or victim has to pass in close proximity to the accused person while he or she is approaching the witness box to give evidence. This close proximity can be intimidating to witnesses and victims. It was pointed out that what tends to happen is that members of An Garda Síochána ensure that people are seated in such a manner as to avoid proximity.

## **Juries**

The operation of juries was the subject of comment in a number of submissions. The key role of juries in the criminal justice system was acknowledged and proposals were made to improve their representativeness and effectiveness.

A number of submissions focused on the **provision of information to juries** about their role. One submission said that prospective jury members when summoned should be provided with full information on their role, rights and responsibilities in hard copy. It was acknowledged that while the Courts Service website contains such information, not everyone would know to look there. It was further suggested that jurors should also be provided with either a full briefing on their role on DVD when they first arrive at Court, or the judge should ensure that they are fully briefed on their responsibilities, in relation to confidentiality and in relation to the prohibition on independent research during the trial in particular, as soon as the cohort of prospective jury members is present in court, before selection and swearing in. In a similar vein, another submission stated that the seriousness of the task of juries should be consistently and at various stages in a trial asserted by the judiciary.

In terms of their decision-making, one suggestion was that juries should be legally required to give **written reasons** for their position to the foreman who would summarise for the court the collective jury view on their verdict.

A number of submissions agreed with the **Law Reform Commission** in its 2010 Consultation Paper *Jury Service*, that the range of people eligible should be broadened, and that it should be less easy to be exempted or excused from jury service. Another issue addressed in that Consultation Paper was that of expenses for jury members. One submission considered that they should be reimbursed for any travel or other subsistence expenses, and that those who are unwaged and do not receive any form of social assistance should be paid something for each day of their attendance, as it is viewed as unfair that self-employed people and others should be at a substantial financial loss if they are not excused from jury service.

One submission made the point that very little is known about jurors' experience of criminal trials and that it would be of interest to obtain information about issues such as whether: they fully understand the legal directions they get from the trial judge; they are frustrated/inconvenienced by delays in the trial while legal argument takes place; and whether there are particular aspects of the presentation of evidence they would like to see improved. Possible approaches to obtaining this information were suggested. One was to establish a project involving **questionnaires for jurors** after they have served on a jury for a criminal trial, asking them about their experiences of the system, in order to collect information about what they thought was positive and what negative. Another approach was to have an ongoing system to allow jurors to anonymously post comments on the trial process into some facility after they served on a jury, perhaps to be collated by the Court Service into general suggestions for reform, for discussion in some appropriate forum. It was believed that the views of jurors would be very helpful because they are both neutral participants and key decision-makers in the whole process.

## **Offenders**

A number of submissions addressed the interaction between offenders and the criminal justice system and its implications for the community generally.

**Reintegration** of ex-prisoners into society was considered by a number of contributors in the context of breaking the cycle of re-offending and yielding social and economic benefits for the ex-prisoners themselves and wider society. It was argued that because high risks of re-offending are associated with the period immediately after release from prison, specific and intensive services such as housing, healthcare and social welfare should be targeted at this period. The work undertaken by the Irish Prison Service under the Integrated Sentence Management (ISM) programme and in partnership with voluntary and statutory agencies post-release was endorsed. It is contributing to improving the chances of successful resettlement into the community and is seen as evidence of the ability of the criminal justice system to tackle and prevent crime. One submission noted that the ISM has yet to be extended throughout the prison system for all prisoners.

Access to **employment** was described as a key factor in reducing the chances of re-offending. A small number of submissions referred to the absence of a system of expungement of criminal convictions in Ireland as a major obstacle for offenders wishing to reintegrate effectively, and supported the enactment of spent convictions legislation.

Some referred to the **links between drugs and crime**. It was submitted that addressing substance misuse treatment for those already involved with the criminal justice system would require expanding specialist courts such as the drugs court with links to specialist residential services, offering treatment options and diversion for those with complex substance misuse issues. It was stated that while such an approach would require additional investment it could reduce reliance on more costly and destructive periods of imprisonment and the funding to support drug treatment and community infrastructure could be met from assets seized from drug dealers by the Criminal Assets Bureau.

One submission stated that a feature of criminal justice systems internationally has been the detention in the criminal system of people in need of **medical care** and that in Ireland mentally ill prisoners are over-represented in the remand prison population. It was noted that this problem is currently being addressed in the Dublin area by a Court Liaison programme at Cloverhill Court and by a Prison In-Reach programme at Cloverhill Prison which are run by the Central Mental Hospital. These projects are diverting patients away from prison and from the Central Mental Hospital to appropriate community care settings, with significant cost savings. It was submitted that extending these services nationally would potentially bring even greater savings.

One contributor was concerned about the effect of the current financial situation on reintegration services and programmes, and its effects on the capacity of the Probation Service and community and voluntary organisations to provide **sustained levels of support** for people leaving prison. It was recommended that the Government should ensure that such cuts do not affect such services disproportionately and that the expertise of those service providers is not lost in the longer term.

## Appendix

### Written Submissions in response to White Paper on Crime Discussion Document

#### *The Community and the Criminal Justice System*

##### *Organisations*

AdVIC (Advocates for Victims of Homicide)  
Amen  
Barnardos  
Canal Communities Local Drug Task Force  
Carna Ward Community Association, Ballyfermot  
Community Work Department, HSE South  
COPE Galway  
Crime Victims Helpline  
Disability Federation of Ireland  
Dublin City Business Association  
Dublin Rape Crisis Centre  
Extern Ireland  
HSE Nation Elder Abuse Steering Committee  
Irish Network against Racism  
Irish Penal Reform Trust  
Irish Tobacco Manufacturers' Advisory Committee  
Kerry Community Transport Ltd.  
Nenagh Community Reparation Project  
NEVA, the Network of Ex-Prisoners Voluntary Associations  
New Communities Partnership  
OpenDoor Network  
Pavee Point Travellers' Centre  
Rape Crisis Network Ireland  
Safer Blanchardstown  
Sallynoggin Neighbourhood Watch  
Support after Crime Services  
Transgender Equality Network Ireland  
Turn Off the Blue Light  
Women's Aid