

Victim Support Northern Ireland Annual General Meeting, 10 September  
2005

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*Introduction*

Chair and Members, thank you for inviting me to speak at your Annual General Meeting today.

It is a great pleasure to be invited by a voluntary organization that plays such an important part in the working of the criminal justice system in Northern Ireland.

I want to begin by acknowledging the hard work that you, Chair, and the Directors put in to the running of this association, and by thanking the strong base of volunteer members for the dedication and commitment they show in supporting people through the criminal justice system.

The true importance of this work is only just beginning to be recognized. Victim Support Northern Ireland has been going for a quarter of a century – you are just coming up to your 25<sup>th</sup> anniversary, I understand – and a huge number of people have reason to be grateful to you for your help during such a traumatic time in their lives.

But it has more often been seen as a charitable ‘good work’ on the margins of the justice system, not as an integral part of it. The difference now is that your clients – victims and witnesses – are coming into focus as being of central importance to the administration of criminal justice.

*Agenda*

I want to talk to you today about the review of services to victims and witnesses which the Criminal Justice Inspectorate carried out earlier this year. But before I do that, it may be useful if I say a word about the Inspectorate.

## *CJI*

The Criminal Justice Inspectorate (CJI) is a new organization. It was set up one year ago to inspect all the main parts of the criminal justice system in Northern Ireland. It was one of the measures, like the Human Rights Commission, the Equality Commission, the Patten reforms of the PSNI and the setting up of the Police Ombudsman's Office, that came directly or indirectly out of the Good Friday Agreement. The purpose of the Criminal Justice Inspectorate was to inspect the various agencies for their efficiency and effectiveness, but also to provide assurance that the agencies were working fairly and accountably on behalf of all the citizens of Northern Ireland.

The Act that established the Inspectorate said that it 'must inspect' a list of about 20 organisations, starting with the PSNI and the Public Prosecution Service and going on down to the Tourist Board and the Port of Larne Ltd. It did not say what it meant by 'inspecting', but I have interpreted it in accordance with the spirit of the criminal justice reform programme. With the approval of Ministers I have published an inspection framework which says that CJI will inspect all its agencies under the five main headings of

- Openness and accountability
- Partnership with other agencies in the criminal justice system
- Equality and human rights
- Learning, improvement and the management of change
- Results, including efficiency, effectiveness and value for money.

In addition to inspecting individual organizations CJI undertakes what we call 'thematic reviews', where we take a subject, like sex offending, and look at it in relation to all the different agencies which are involved in dealing with it. The first thematic review we did was on the management of sex offenders. The second was the review of services to victims and witnesses, which we published in July.

CJI does not inspect Victim Support as such, but when we undertook a review of services to victims and witnesses we inevitably had to involve VSNI. To guide the review I set up a steering group with the Police, the Prosecution Service and the Court Service and I invited Susan Reid to join that group on your behalf.

## *The thematic review*

Why did we tackle victims and witnesses as one of the first thematics undertaken by the new Inspectorate?

We chose it because it is a neglected subject, a Cinderella subject, and yet extremely important. Also because it is essentially a cross-cutting subject, which involves all the agencies of the criminal justice system, and so it was a good subject for CJI to tackle and show the value of joined up inspection.

I tried to capture 'how important' in the Foreword to the Report, where I said that victims and witnesses can be thought of as the 'customers' of the CJS. Some people thought that using the term 'customers' was downgrading the importance of victims and witnesses, but on the contrary, if you think of a business, there is nothing more important than its customers.

Victims and witnesses represent all of us, because we are all potential victims of crime and we are all potential witnesses. We are all in principle the customers of the CJS, but the victims and witnesses you deal with are the customers at the sharp end, the customers who are actually waiting for service.

There was huge interest in the subject. We interviewed a great number of people. We tried to reflect all the varied views faithfully.

Findings included the need:

- for a central strategy to develop a "joined-up" service between the statutory agencies and voluntary sector for victims across the criminal justice system;
- to ensure that victims and witnesses issues are actively addressed and kept under review. If necessary a Criminal Victims Advocate for Northern Ireland should be created;

- to develop a Witness Service Strategy to ensure that witness needs are identified and satisfied when required irrespective of which type of court they are due to appear in;
- to improve the quality and promptness of information exchange for victims and witnesses through one central information point;
- to review the referral system, particularly from the PSNI; and
- to evaluate the effectiveness of the working of special measures for vulnerable or intimidated witnesses.

Although agencies have accepted their new responsibilities and there has been worthwhile progress in some areas, the success of the policy initiative has so far been patchy. Victims and witnesses still rank low in the order of priorities for some agencies, and there is insufficient ownership of the policy at senior levels.

The inspection highlighted that victims and witnesses had little knowledge of the Criminal Justice System and indicated what experience they had was more likely based on fictional television programmes rather than information from the official agencies. This may be unfair to the agencies and voluntary bodies who have invested in promotional material, conferences and outreach programmes.

But a clear message was coming across that initiatives to date had not met some of the basic needs of victims.

A particular concern was the lack of success to date in relation to some of the most vulnerable groups in society. Even where, as in the case of the ethnic minority community, agencies believed that they had gone out of their way to be helpful, the perception on the ground was different. The initiatives undertaken had not had the desired effect of raising public confidence among these groups.

Standards of service vary within and across agencies, often influenced by the level of autonomy within organisations, the degree of awareness of policies and procedures, the level of experience of staff delivering the service, and the geographical location.

It was not clear to what extent ownership and accountability for this work had been established either in individual agencies or collectively. There needs to be a greater appreciation that all the agencies share responsibility for victim and witness care.

While agencies are undertaking some good work on the ground and developing local initiatives there is a lack of a joined-up approach within and between agencies. There is confusion about the roles and responsibilities of front line service providers and about the working relationship with other agencies and voluntary sector bodies.

The role of the voluntary sector is vital and needs to be recognised for the added value it delivers. However, to maximise benefits there need to be more effective relationships between the statutory and voluntary agencies, enhanced planning and co-ordination, and improved communication.

*Does it feel like justice?*

When we published our report we wondered whether to call it 'Does it feel like justice?' – the title I see you have adopted for your meeting today. We decided not to, in case it gave the misleading impression that we did not think that justice was being done.

That was not, of course, the intention. The point was that, even if the criminal justice system is functioning well and justice *is* being done it may not **feel** like justice to the victim or witness.

It may not **feel** like justice because the victim is neglected by the system and left uninformed about what is happening.

It may not **feel** like justice because as a witness for the prosecution the victim is put under intolerable pressure by defence counsel, made to doubt their own memory and made to feel that the offence was at least partly their fault.

It may not **feel** like justice because the outcome of the case may not meet the victim's expectations. Prosecutions do not always succeed, despite

everyone's best efforts, and sentences are sometimes more lenient than seems fair to the victim and their family.

Let us take these issues in reverse order.

We cannot do much about sentencing, which is a matter strictly for the judiciary. On that, I would just say that we should never underestimate the difficulty of many sentencing decisions. The judge is trying to balance many conflicting considerations and achieve consistent patterns of sentencing in the face of the reality that every case is different. He has to look at the crime itself, but also at the offender, his age, his circumstances, his offending record and what is most likely to reduce the risk of his re-offending.

Newspapers love to print headlines saying how scandalised the victim's friends and family were by the sentence that was handed down, and often you read the paper and think, 'The judge must have got it wrong'. But I can tell you from my experience of the courts in England and Wales, it is never safe to jump to a conclusion like that unless you have sat through the trial, heard the evidence yourself and listened to the judge's summing up. You may still disagree, but at least you will understand the reasoning. Of course judges can make mistakes, which are sometimes rectified in a higher court, but do not underestimate them. They are clever and conscientious people who are highly paid to take these very difficult decisions.

We cannot do much about the adversarial system of criminal justice, at least in the short and medium term. I said in the report that the criminal justice system is "not friendly to its customers". It puts witnesses through the mill. Many people told us in evidence how stressful it was to have to go to court and be cross-examined by defence counsel. There is no doubt that people are deterred from coming forward as witnesses and even from reporting a crime because they know the psychological pressure they are going to come under. Quite apart from the possibility in some cases that they could face threats outside the courtroom, which is another problem again, but a separate one.

Not all countries have such adversarial systems of criminal justice as we have in the UK and Ireland. In the UK and Irish tradition there is a powerful presumption of innocence until guilt is proved beyond reasonable doubt, based on an implicit belief that it is better that the occasional guilty

person should walk free than that any innocent person should be unjustly imprisoned.

I suspect that the very high burden of proof dates from the days when almost any felony was punishable by hanging or transportation. But even nowadays, to be imprisoned unjustly would be a terrible thing. I am not about to advocate that we should make it easier to secure a conviction in the courts. That being so, witnesses will continue to be put through the mill, subject to the judge protecting them when necessary.

That takes us back the first point: that it may not feel like justice because the victim is neglected by the system and left uninformed about what is happening. And that is where Victim Support and the criminal justice agencies can do something to help.

## *The balance of justice*

I said that the importance of paying attention to victims and witnesses was only now beginning to be recognized. Political rhetoric about the interests of victims and witnesses has been around for a while. But there is often a suspicion that the main point has been to help governments to show that they were being tough on criminals rather than to value victims and witnesses in their own right.

There is a line of argument that says 'We need to redress the balance of the justice system. It does too much to protect the interests of the defendant, and it undervalues the hurt that has been done to the victim.' The unspoken implication is that we ought if necessary to cut corners to secure more convictions – less of this nonsense about reminding defendants of their rights – because victims deserve to receive justice.

The trouble with it is that it is a false antithesis. We actually want to do both things. We want to ensure that those arrested receive a fair trial, which fully respects their rights, *and* to ensure that victims and witnesses are properly looked after and kept informed about the progress of the cases. After all, it is not as though victims and witnesses would want to see anyone wrongly convicted for the offence against them.

The whole purpose of the criminal justice system is to take the burden of securing justice off the shoulders of the victim and his or her family. 'Don't worry', we are saying, 'you don't need to run the risk of retaliating yourselves, just leave it to us'.

There are a lot of advantages of handling justice like that. The full force of the state can be brought to bear against the offender, instead of the limited resources of the victim's family. The state can make sure that any retribution is controlled, proportionate and consistent, so that it looks like what we think of as 'justice', not the law of the jungle.

But there are downsides. Because the responsibility is lifted from the victim the victim is often left to feel that he or she has no role in the case once they have made their statement to the police. The police, for all their best efforts, are unable to clear up a lot of crimes, which leaves victims

feeling dissatisfied. The legal process is slow and complicated and does not give much of a role to the victim.

### *Victim Impact Statements*

For some time victims have been able to submit Victim Impact Statements which the judge can take into account, and there is now the possibility, being piloted in a few courts in England, of victims being able to make a personal statement in court between conviction and sentence. I can see the value of that in terms helping the victim to feel that justice is being done, and it is probably worth doing on those grounds alone.

But I am not sure that we should want judges to be influenced to any significant degree by such testimony. As Victim Support tells me, every victim is different, but the judge has to sentence consistently by reference to the objective gravity of the offence and the broader interests of society, rather than the feelings and wishes of the victim. One victim may be inclined to forgive the offender, while another may demand retribution. Should those differences be reflected in the sentences for similar crimes? That wouldn't feel like justice to me.

### *Victim Support Northern Ireland*

Let us come back to Victim Support and the vital work which this organization does in the three areas of victim support, witness support and assistance with compensation claims.

Victim Support is a voluntary organization. Volunteering is the essence of it, and sets the ethos of the whole organization. Your Directors are not public servants but the trustees of a charity. And yet it is a charity which has been entrusted by Ministers with, and has accepted, significant responsibilities within the criminal justice system. Victim Support Northern Ireland receives substantial sums from public funds each year, and the Government – in the shape of the Northern Ireland Office – is bound to demand certain standards of efficiency and accountability for that money.

That is a difficult situation for a voluntary organization, and I admire Victim Support's ability to handle it. It calls for a careful balance between voluntarism and professionalism. From what I have seen, Victim Support is

able to handle it: you have dedicated volunteers on the one hand and some very competent professionals among your officers. But it is not easy, and I take my hat off to you for managing it as well as you do. Whenever you find yourselves having difficult discussions, whether in the Board or in Branches, do not blame yourselves. What you are doing is genuinely difficult.

I speak with some experience, because for many years I was a trustee of a local charity in South London, in the course of which I had specific responsibility for managing an employment project. The project depended on government funding, but it was a voluntary venture. It functioned extremely well for some years, but in the end the demands of government became insupportable and it folded.

Voluntary agencies need to do their best to understand the requirements of government, but at the same time government needs to be realistic about what it can ask a voluntary body to do. And it needs to be careful not to make impossibly burdensome demands in terms of reporting and accounting, though as we all recognise there will always be a need to account for public funds.

#### *Requests for assistance*

What I think you can be sure of for the future is that Victim Support will continue to be highly valued by the government. Indeed, now that the agencies have 'discovered' victims and witnesses you are likely to receive a steadily increasing stream of requests to help with accessing information about them. It is not easy for the official agencies to conduct surveys of victims and witnesses. Questionnaires don't work well, and all the agencies are now going to want to canvass the views of victims and witnesses on a regular basis.

I hope the agencies will get their act together and try to get feedback on a whole-system basis, not just agency by agency.

Two reasons: in the first place, as our review showed, victims and witnesses do not have a good understanding of the roles of different agencies. They tend to see the system as a whole.

Secondly, if all the agencies start approaching you separately there is a real danger of 'focus group fatigue'.

That said, I hope you will be able to help the agencies if they make reasonable requests for your help. It is after all a reflection of the importance they now attach to this sector.

Madam Chairman and Members, thank you very much for inviting me. It has been a great pleasure to attend your AGM, and I wish you every success in what will be Victim Support Northern Ireland's twenty-fifth year.