

Sexual Violence and Abuse

A thematic inspection of the handling of
sexual violence and abuse cases by the
Criminal Justice System in Northern Ireland

July 2010

Criminal Justice Inspection
Northern Ireland
a better justice system for all





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List of abbreviations

ABE	Achieving Best Evidence interview
ACPC	Area Child Protection Committee
ACPO	Association of Chief Police Officers of England, Wales and Northern Ireland
AIM2	Assessment Intervention Moving on
CA	Compensation Agency for Northern Ireland
CAIU	Child Abuse Investigation Unit
CARE	Child Abuse and Rape Enquiry
CICAP	Criminal Injuries Compensation Appeals Panel
CID	Criminal Investigation Department
CJI	Criminal Justice Inspection Northern Ireland
CJS	Criminal Justice System
CMS	Case Management System (in PPS)
CPS	Crown Prosecution Service (in England and Wales)
DHSSPS	Department of Health, Social Services and Public Safety
DoJ	Department of Justice for Northern Ireland (formerly NIO)
DNA	Deoxyribonucleic Acid
ECHR	European Court of Human Rights
EEK	Early Evidence Kit
FMO	Forensic Medical Officer
FSNI	Forensic Science Northern Ireland
GP	General Practitioner
HMCPSI	Her Majesty's Crown Prosecution Service Inspectorate
HMIC	Her Majesty's Inspectorate of Constabulary
HOCR	Home Office Counting Rules
HSC Trust	Health and Social Care Trust
ICIDP	Initial Crime Investigators' Development Programme
IO	Investigating Officer
JIT	Joint Interview Training
MO	Modus Operandi ('method of operating')
MVP	Missing and Vulnerable Person
NCRS	National Crime Recording Standards
NI	Northern Ireland
NICHE RMS	Records Management System created by Niche Technology



NICTS	Northern Ireland Courts and Tribunals Service (formerly the Northern Ireland Court Service – NICtS)
NIIS	National Investigative Interviewing Strategy
NIO	Northern Ireland Office (now DoJ)
NIPB	Northern Ireland Policing Board
NPIA	National Policing Improvement Agency
NSPCC	National Society for the Prevention of Cruelty to Children
OHW	Occupational Health and Welfare
PBNI	Probation Board for Northern Ireland
PEACE interview	Mnemonic for police interview model (preparation and planning; engage and explain; account; closure; evaluate)
PIP	Professionalising Investigation Programme
PPANI	Public Protection Arrangements Northern Ireland
PPS	Public Prosecution Service for Northern Ireland
PPU	Public Protection Unit
PSNI	Police Service of Northern Ireland
PwC	Policing with the Community
PSR	Pre-Sentence Report
RCU	Rape Crime Unit (in PSNI)
RO	Reporting Officer
RFI	Request for Further Information
SARC	Sexual Assault Referral Centre
SAVI	Sexual Abuse and Violence in Ireland
SCAS	Serious Crime Analysis Section (of NPIA)
SCAIDP	Specialist Child Abuse Investigator Development Programme
SIO	Senior Investigating Officer (in PSNI)
SLA	Service Level Agreement
SO	Student Officer (in PSNI)
SPP	Senior Public Prosecutor
TI	Trainee Investigator (in PSNI)
TIC	Taken Into Consideration
TISO	Therapeutic Interventions for Sexual Offenders
UK	United Kingdom
VCS	Voluntary and Community Sector
VIPER	Video Identification Parades by Electronic Recording
VSNI	Victim Support Northern Ireland
YCS	Youth Conference Service
YJA	Youth Justice Agency



Chief Inspector's Foreword

Being the victim of any crime can be a brutalising and de-humanising experience. Those who have been subject to a crime of sexual violence and abuse can find the experience even more damaging and difficult to recover from. The purpose of this inspection was to examine the effectiveness of the criminal justice system in responding to and handling cases of sexual violence. The inspection report considers the different stages of the justice process from initial reporting of a crime, its investigation, prosecution and eventual court disposal.

Crimes of sexual violence (including rape and sexual abuse) are notoriously difficult to investigate and prosecute successfully, particularly where there is a lack of corroborating evidence. The majority of cases of sexual violence and abuse occur in the home or close to the home of the victim with a perpetrator that is known to the victim. The complexity of some cases becomes compounded where allegations are of a historical nature.

The inspection identified some excellent examples of good practice within the justice system. The inspection team were heartened in the feedback received from victims and witness groups on the good practice evident throughout the system, including the work of the police investigation teams, and the support given by the Police Service of Northern Ireland (PSNI) to developing plans to introduce a Sexual Assault Referral Centre (SARC) in Northern Ireland. Our inspection clearly highlights the improvements that have been made over the past number of years. We found many examples of dedicated staff throughout the system working with victims in a professional and sensitive manner.

Only a relatively small proportion of crimes of sexual violence get reported to the police (research estimates that only between 5% – 25% of rape crimes are reported). The reasons for non-reporting are extensive and relate to many issues outside the control of the criminal justice system. It is incumbent on society in general to encourage victims and survivors to seek help and tackle barriers that currently stop them from doing so.

Of those cases that are reported to the police, a large number drop out as they progress through the justice system. The reasons for the high attrition rates for crimes of sexual violence are well documented. In Northern Ireland, as elsewhere, there are four key stages of attrition. After a crime is reported just over half are sent by the police to the Public Prosecution Service for Northern Ireland (PPS) for a decision. Of this number only a relatively small number (around 25%) proceed to trial. The conviction rate for those cases that go to court is 57%.

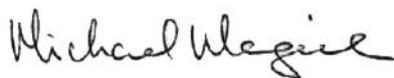
The conviction rate for crimes of sexual violence relative to the number that are reported is however, very low; in relation to rape in Northern Ireland, for example, around seven per cent. The current position in Northern Ireland is not good and whilst it is no worse than elsewhere in the United Kingdom improvements could, and should be made. The inevitable conclusion is that a substantial number of victims do not access the criminal justice system.



With such high rates of under-reporting and attrition, the justice system must take all lawful steps open to it, to ensure that victims of sexual violence and abuse experience the best possible service under very demanding circumstances. Our inspection highlighted a number of areas where the performance of the justice system could be improved. In relation to the needs of victims and survivors three clear messages emerge from the inspection. Firstly, there is a need to provide better support and information to the victim throughout the process as their case progresses and moves from one justice organisation to another. Secondly, the speed with which cases are progressed needs to be accelerated so that the trauma and anxiety – for both victims and accused – is not unduly exacerbated. Finally, there is a need for justice organisations to continually review the reasons why cases do not progress through the justice system and take appropriate action where necessary. Much remains to be done to retain the support of the victim through the justice system.

In addition, the inspection makes reference to the handling of initial calls to the police, elements of the court process, sensitivities around prosecuting and defence counsel in their treatment of victims and the nature of on-going support that is provided.

The inspection was carried out by Rachel Lindsay and Bill Priestley with support from colleagues from Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPSP). I would like to express my thanks to the inspection team and all those who participated in the inspection process, particularly those victims who shared their experiences with us.



Dr Michael Maguire

Chief Inspector of Criminal Justice in Northern Ireland
July 2010



Executive Summary

This inspection was undertaken in support of the Northern Ireland Office (NIO)/ Department of Health, Social Services and Public Safety (DHSSPS) ‘*Tackling Sexual Violence and Abuse*’ strategy, and aimed to investigate the effectiveness of the criminal justice system (CJS) in responding to and handling cases of sexual violence, particularly in cases of rape and attempted rape, up to the point at which those convicted are sentenced by the courts. In 2008-09 1,943 sexual offences were reported to the PSNI, of which 381 were reports of rapes. Sexual offences accounted for 1.8% of all 110,094 reported crimes. As research suggests these types of crimes have high rates of underreporting, this is likely to be only a small indication of the scale of the sexual offending. Between 2007-08 and 2008-09 PSNI statistics show an increase of 6.6 percentage points in the number of reported sexual offences and an increase of 4.2 percentage points in sanction clearance rates to 23.8%. The sanction clearance rate for sexual offences was similar to the sanction clearance rate for crime overall (23.0%).

Since the PSNI teams for investigating sexual offences were re-structured and divided into separate functions for child abuse, and adult and child stranger rapes, difficulties have been experienced in the allocation of calls to the relevant teams which need to be addressed. Training for Student Officers (SOs) had been enhanced and the approach to initial attendance and crime scene preservation was improving. The service provided by Forensic Medical Officers (FMOs) to victims and police was found to be effective.

Specialist training for child abuse investigators had been delivered to national standards and in conjunction with social services staff. Specialist training was also being developed for Rape Crime Unit (RCU) officers. The training, development and support of Trainee Investigators (TIs) was a challenge due to the large numbers of these officers working in the area of sex crime investigation and this needs to be developed to meet national standards. Welfare of staff in this area needs to be managed proactively with a consistent approach. The linkages between Child Abuse Inquiry Units (CAIUs) and the rest of the Public Protection Unit (PPU) varied across Districts and should be improved. Partnership working between social services and police was generally good but the development of methods to improve the quality and consistency of communications between police and social workers is recommended.

Interviews with victims were usually well managed and facilities for interviews and medical examinations were of a high standard. Investigative processes were generally adequate, although delays existed in some parts of the investigation. Issues with the submission of files via NICHE RMS (Records Management System created by Niche Technology) also caused difficulties and this should be addressed urgently.

Public prosecutors had received sexual offences training and specific prosecutors in each region had been identified as sexual offences experts. The training had also included police investigators working in this area and this approach is to be commended. A total of 74% of



cases reviewed in 2007 were directed for no prosecution. Applications for special measures, and the admission of bad character and hearsay evidence were well used and proactive. Primary/initial and secondary/continuing disclosure and third party material were generally dealt with appropriately.

Continuity of prosecutors and counsel was good. Victim credibility was identified as a key issue in decision-making and consultations with victims were common, although no record was made of video-taped victim interviews being used to provide this information. It is recommended that these tapes be used in the first instance. The allocation of a panel for prosecution counsel had enabled the Public Prosecution Service (PPS) to identify barristers with appropriate skills and experience in this, and other areas of prosecution.

Victim conferences prior to trial were also common but could be a source of concern to victims. Cognisance was taken of the needs of victims when listing cases but adjournments were common and caused concerns to victims. Negative perceptions of victims and stakeholders regarding plea bargaining were still evident despite the PPS having taken action previously to address the perceptions of victims and their representatives, and to explain the processes involved in accepting a plea of guilty. The PPS should build on action already taken and continue to address these perceptions through closer engagement with victims and their representatives. Over half of all cases taken forward for indictable prosecution in 2007 had resulted in a guilty verdict. The number of young people receiving a youth conference either via a diversion or a court order was increasing and appeared to be effective. Pre-Sentence Reports (PSRs) produced by the Probation Board for Northern Ireland (PBNI) staff were considered to be of a high standard.

Voluntary and Community Sector (VCS) organisations provided an invaluable service in supporting victims and assisting them in coping with the trauma they have experienced. They supported victims in coming to a decision around whether to report the offences to police, but did not force them to engage with the criminal justice system. Victims and their advocates outlined an improving approach to the response, investigation and prosecution of sexual offences but felt there was more to be done in this area. The main concerns of victims centred on a lack of update from the agencies as to the status of the case. A protocol between the PSNI and the PPS which sets out responsibilities in relation to victims is required to address this. The PSNI had made a significant commitment to the setting up and running costs of the first Northern Ireland SARC (Sexual Assault Referral Centre) which it was hoped would encourage victims to report sexual violence and abuse and provide a supportive environment for them to report it.

The facilities available in court buildings, particularly to support special measures applications were also improving and the court familiarisations run by Victim Support Northern Ireland (VSNI) and the National Society for the Prevention of Cruelty to Children (NSPCC) were well organised. Delay throughout the investigation and prosecution process was a major source of concern to victims and stakeholders, particularly in relation to adjournments requested by the defence and timescales varied widely. This will require further investigation.



Recommendations

Strategic Recommendations

- The Northern Ireland Policing Board (NIPB) take cognisance of child protection issues during the planning process for the next Policing Plan in order to reflect the critical importance of this area of work (*paragraph 2.3*).
- Inspectors recommend that:
 - in the short-term further action is taken to clarify and provide guidance for staff on the remit and responsibilities of the structures in place within the PSNI for dealing with sexual violence and abuse (RCUs, CAIUs, response officers), including on-call arrangements, in order to provide a better service for victims;
 - (*from CJI inspection of Policing with the Community 2009*) longer-term as a matter of urgency the PSNI develop and implement a service-wide call management strategy that reflects advances in technology to enable effective call handling in support of the delivery of Policing with the Community (PwC) (*paragraph 2.12*).
- The PPS should investigate the reasons why the majority of rape cases are directed for no prosecution and, if issues are identified, take action to address these, where appropriate in conjunction with the PSNI (*paragraph 4.20*).
- The PSNI and the PPS should develop a protocol for the investigation and prosecution of allegations of rape and serious sexual offences which outlines responsibilities in relation to the updating of victims (*paragraph 6.13*).

Operational Recommendations

- The PSNI should take steps to improve communication and intelligence sharing between teams within PPU's (*paragraph 3.8*).
- The PSNI should fully adopt the principles and recommended practices of the NPIA ICIDP and appoint appropriately experienced and trained tutor detectives in order to better support and supervise trainee investigators (TIs) appropriately whilst they are undergoing their training (*paragraph 3.10*).
- The PSNI should develop a co-ordinated and consistent approach to the provision of welfare services for officers working in the investigation of sexual offences and consider proactive methods for managing the welfare of staff (*paragraph 3.11*).

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- The PSNI should, in conjunction with Social Services Gateway Teams, develop and implement methods to improve the quality and consistency of communications between police officers and social workers working in the area of child abuse (*paragraph 3.15*).
 - The PSNI should urgently seek to address the issue of files not being submitted expediently from NiCHE to the PPS CMS via the Causeway hub (*paragraph 3.33*).
 - The PPS should ensure that viewing of victim video interviews and consultations with victims are endorsed on the case files by prosecutors and that video-taped interviews are used as the primary tool by which to make an assessment of the victim's evidence (*paragraph 4.18*).
 - In every rape or serious sexual offences case where counsel has been instructed, a conference should always be held between the prosecutor, counsel and the police officer in the case to analyse the evidence and to explore ways of overcoming any difficulties (*paragraph 5.2*).
 - The PPS should take further steps to ensure greater consistency in its approach to communications which address the perceptions of victims and their representatives regarding the perceived practice of plea bargaining (*paragraph 5.7*).



Section



Inspection Report



CHAPTER 1:

Introduction and methodology



- 1.1 On 13 June 2008 the Northern Ireland Office (NIO) and Department of Health Social Services and Public Safety (DHSSPS) launched a five-year regional strategy for tackling sexual violence and abuse in Northern Ireland¹. Through this government departments and statutory agencies began working together as members of the Inter-Departmental Steering Group to oversee the Regional Strategy's implementation and its first strand on Leadership and Direction. The Regional Strategy contained an additional three strands: Prevention; Protection and Justice; and Support. Each strand had a sub-group on which sat representatives from relevant government departments, statutory agencies and voluntary organisations. The Inter-Departmental Steering Group and sub-groups were responsible for working on the relevant key actions arising out of the Action Plan 2008-09² to deliver the objectives of the Regional Strategy and to draw up Action Plans in subsequent years.
- 1.2 A key aim of the Regional Strategy was *“improving responses for victims from the Criminal Justice System”* and to assist in understanding the current level of response an item was included in the Action Plan 2008-09 in Strand 3: Protection and Justice. This action was *“to conduct a review of how sexual violence and abuse cases are handled and managed by the Criminal Justice System”*. Criminal Justice Inspection Northern Ireland (CJI) was commissioned by the NIO³ to undertake this inspection to review current practice and make recommendations *“for improving inter-agency case handling and tackling the rate of attrition particularly in cases of rape and attempted rape”*. CJI therefore included this topic in its inspection programme for 2008-09.
- 1.3 The Regional Strategy defined sexual violence and abuse as *“any behaviour perceived to be of a sexual nature which is unwanted or takes place without consent or understanding”*. It suggested that *“only 15% of serious sexual offences against people 16 and over are*

1 NIO & DHSSPS (2008), *Tackling Sexual Violence and Abuse: A Regional Strategy 2008-13* DHSSPS 141/2007.

2 NIO & DHSSPS (2008), *Tackling Sexual Violence and Abuse: Action Plan 2008-09* DHSSPS 141/2007.

3 From 12 April 2010, responsibility for policing and criminal justice matters was devolved to the Northern Ireland Assembly with the establishment of a new Department of Justice for Northern Ireland. Prior to devolution, responsibility for policing and justice matters rested with the Northern Ireland Office (NIO).



reported to the police and, of the rape offences that are reported, fewer than 6% result in an offender being convicted of this offence”⁴. The Cross Government Action Plan on Sexual Violence and Abuse drawn up for England and Wales states that around 21% of girls and 11% of boys experience some form of child sexual abuse; 23% of women and 3% of men experience sexual assault as an adult and 5% of women and 0.4% of men experience rape.

- 1.4 The issue of low conviction rates and attrition within the CJS for sexual offences, particularly rape, has been the subject of several reviews and research articles. Her Majesty’s Inspectorate of Constabulary (HMIC) and Her Majesty’s Crown Prosecution Service Inspectorate (HMCPSI) carried out a thematic inspection on the investigation and prosecution involving allegations of rape in 2002⁵ and a follow-up review in 2007⁶. Professor Liz Kelly presented a useful overview of the four key points at which attrition occurs in a literature review⁷ undertaken in support of the 2002 inspection stating that; “Current research suggests four key attrition points, and that the majority of cases are lost at the earliest stages of the process. The first stage is the decision to make an official report; estimates of the reporting rate range from a minimum of 5%-25%, depending on the data source.

Even using the highest estimate, three-quarters of cases never make it to the first hurdle. The next stage involves the initial response and investigation - reporting to the police, forensic examination, statement taking, evidence gathering and arrest and/or interviewing of suspects. At least half of all cases in the United Kingdom (UK) are lost at this stage due to a combination of factors: failure to identify the suspect; designation of the case as a false report; victim withdrawal and police decisions to take no further action. The third stage involves the minority of cases that are referred to prosecutors. Whilst only 10%-15% of all cases are discontinued by prosecutors, the proportion is much higher if it is calculated as a percentage of the cases that are referred to them; using this baseline between a third and a half of referred cases are either discontinued or the charge is reduced. Currently one in five reported rape cases reach trial in England and Wales, compared to one in three in Scotland. Of these, half or less result in a conviction for rape or attempted rape, and a third to a quarter result in acquittals; the remaining cases involve convictions for charges other than rape.” There has not been similar specific research to provide an overview of attrition rates in NI to date.

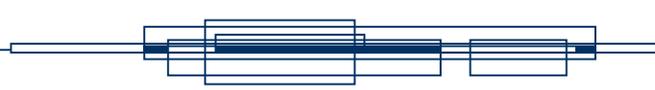
- 1.5 This inspection aimed to investigate the effectiveness of the CJS in responding to and handling cases

4 Source: Cross Government Action Plan on Sexual Violence and Abuse, HM Government, April 2007 and ‘Hidden Crimes, Secret Pain’ consultation paper on a proposed regional strategy for addressing Sexual Violence in Northern Ireland, January 2007 cited in *Tackling Sexual Violence and Abuse: A Regional Strategy*.

5 HMIC & HMCPSI (2002) *A report on the joint inspection into the investigation and prosecution of cases involving allegations of rape in England and Wales*. HMIC/HMCPSI: London.

6 HMIC & HMCPSI (2007) *Without Consent: A report on the joint review of the investigation and prosecution of rape offences*. HMIC/HMCPSI: London.

7 Kelly, L (2001) *Routes to (in)justice: A research review on the reporting, investigation and prosecution of rape cases*. Prepared for HMIC & HMCPSI joint inspection: London.



of sexual violence and abuse, particularly in cases of rape and attempted rape, up to the point at which those convicted are sentenced by the courts. CJI's remit does not include inspection of the judiciary and therefore this inspection did not consider judicial decisions, for example regarding sentencing. The inspection undertook fieldwork within the agencies of the CJS primarily involved in these types of cases; namely the PSNI, Forensic Science Northern Ireland (FSNI), the PPS, Youth Justice Agency (YJA), Northern Ireland Courts and Tribunals Service (NICTS) and the Probation Board for Northern Ireland (PBNI). The fieldwork utilised a qualitative approach with Inspectors carrying out face-to-face individual or focus group interviews with staff at various levels within the organisations. Inspectors also spoke to representatives of victims' groups with a particular interest in these types of offences, to victims who had recent experience of the CJS and to others with an interest in the CJS including defence and prosecution barristers, District Judges, Crown Court Judges, the Compensation Agency (CA) and the Criminal Injuries Compensation Appeals Panel (CICAP). In addition CJI obtained the support of colleagues from HMIC to undertake a review of crime reports and rape case files within the PSNI and of colleagues from HMCPSI to undertake a review of rape case files within the PPS. Further details on the methodology used and the organisations and individuals consulted can be found in Appendix 1. Relevant findings from the case file and crime report reviews are

contained at appropriate sections in this report and the full breakdown of the crime report review can be seen in Appendix 2.

- 1.6 It should be noted that the area of sexual violence and abuse also has links with many other areas of offending which Inspectors heard about during the course of this inspection. Within families who experience sexual violence and abuse there also may be adults and/or children suffering domestic abuse, for example including emotional and physical abuse and child neglect. Child abuse investigators are trained not only to investigate child sexual abuse in isolation, but also other types of abuse against children. There are also links to other areas of police work such as missing persons, vulnerable adults (for example older persons and those with disabilities or learning difficulties), human trafficking and child exploitation. Whilst the focus of this inspection was sexual violence and abuse there are inevitably issues which overlap these areas and therefore we did not exclude them from the scope of the inspection as they arose.
- 1.7 HMIC and HMCPSI in both the 2002 joint inspection into the investigation and prosecution of cases involving allegations of rape in England and Wales, and the follow-up '*Without Consent*' in 2007, looked at these areas in detail across England and Wales but no similar work has been undertaken in NI. A report led by the Office of Social Services in 2006 '*Safeguarding Children*' investigated the work of various agencies involved in child protection including police,



social services, education and local child protection panels. This report does not aim to replicate that inspection and therefore focuses on the work of the CJS following the initial report of an offence. However, that research is critical in identifying the issues in relation to child protection across the system and CJI looks forward to the results of the follow-up review from that inspection.

- 1.8 Table 1 shows the PSNI recorded crime statistics for 2007-08 and 2008-09 to illustrate the extent of sexual offences in NI which are reported. In 2007-08 the PSNI recorded 1,822 sexual offences in total and this rose to 1,943 offences in 2008-09; an increase of 6.6%. Sexual offences equated to 1.7% of all offences (108,468 in total) recorded in 2007-08 and 1.8% of all offences (110,094 in total) recorded during 2008-09. The overall clearance rate⁸ was 19.6% in 2007-08 and 23.8% in 2008-09 which was similar to overall clearance rates for crime as a whole (20.5% and 23.0% respectively). The NIO/DHSSPS Regional Strategy suggests that only 15% of serious sexual offences against people aged 16 and over are reported to the police. The *'Without Consent'* report cites research which estimates between 75% and 95% of rape crimes are never reported to the police. This suggests that, based on the 2008-09 figures for rape offences, there could be between 1,528 and 7,640 rapes committed in NI with only around 380 reported to police.

Whilst these figures are estimates, and the reporting levels in NI may not be directly comparable with those in England and Wales or other jurisdictions, they provide an illustration that a large number of rapes, and therefore in all likelihood other sexual offences, are never reported to police.

- 1.9 A study of Sexual Abuse and Violence in Ireland (SAVI) undertaken by the Royal College of Surgeons in Ireland in 2002⁹ provided some evidence of the prevalence of sexual violence and abuse by undertaking telephone interviews with a random sample of the population of the Republic of Ireland. This found that more than four in 10 (42%) of women and over a quarter of men (28%) reported some form of sexual abuse or assault in their lifetime. The most serious form of abuse, penetration or forced oral sex (defined as rape) was experienced by approximately one out of 10 women, as compared to approximately one out of 30 men, at some point in their lives. Almost half (47%) of the 3,100 adults interviewed in the study who disclosed experiences of sexual violence reported that they had never previously disclosed the abuse to others. Disclosure of sexual violence to professionals was described as 'strikingly low'. Only one man (of 98 abused, i.e. 1%) and 19 women (of 224, i.e. 8%) had reported their experiences of adult sexual assault to An Garda Síochána (i.e. 6% overall of those abused). Patterns were similar regarding experiences of child sexual

⁸ See Table 1 footnote for an explanation of clearances

⁹ McGee H, Garavan R, deBarra M, Byrne J, Conroy R. (2002) *The SAVI Report: Sexual Abuse and Violence in Ireland: A national study of Irish experiences, beliefs and attitudes concerning sexual violence*, Liffey Press: Dublin.

Table 1: Recorded crime statistics from PSNI: Sexual offences recorded and cleared 2007-08 and 2008-09

Offence*	Total offences recorded			Overall** clearance rate	
	2007-08	2008-09	% change	2007-08	2008-09
Rape	382	381	-0.3	15.7%	20.2%
Attempted rape	38	23	-39.5	26.3%	34.8%
Sexual assault/ sexual activity	993	1,134	+14.2	14.8%	19.7%
Exposure	299	270	-9.7	28.1%	28.1%
Other sexual offences	110	135	+22.7	50.9%	57.8%
Total sexual offences	1,822	1,943	+6.6	19.6%	23.8%
Total overall crime	108,468	110,094	+1.5	20.5%	23.0%

* New sexual offence legislation was introduced to Northern Ireland on 2 February 2009. The sexual offence categories have now been revised to enable comparability of the new offences with those recorded under the previous legislation. The categories of rape and attempted rape remain unaffected.

** Clearances (or detections as they may alternatively be known) are, broadly speaking, those crimes that have been 'cleared up' by the police. Crimes are counted as 'cleared or detected' in accordance with strict counting rules issued by the Home Office. They are counted on the basis of crimes rather than offenders. For example, if six offenders are involved in a robbery and are all arrested and charged, then this counts as one clearance (i.e. the robbery is deemed to be 'cleared'). Alternatively if only one of the six is identified and charged while the other five remain unidentified and at large, this also means that the robbery can still be deemed as 'cleared'. The following methods of clearance involve a formal sanction:

- charging or issuing a summons to an offender;
- issuing a caution to the offender;
- having the offence accepted for consideration in court; and
- the offender is a juvenile who is dealt with by means of an informed warning, restorative caution or prosecutorial diversion.

abuse. Ten men (of 178) and 28 women (of 290) reported their experiences to the Gardaí (i.e. 8% overall of those abused).

1.10 Both these sets of figures indicate that there are a substantial number of victims who will never access the CJS and perpetrators who will never be subject to any criminal sanction. The SAVI study also found that reasons given by interviewees for non-disclosure to the Gardaí included that they thought the case was too trivial, that they were too young to do

anything about it, that they felt ashamed, blamed themselves or feared family reactions and that the Gardaí "couldn't do anything to help". Several of these reasons given indicate a role for the use of media campaigns and support for victims in raising awareness of issues within sexual violence and abuse. The manner in which victims who do report such offences are dealt with by the CJS is therefore critical in order to encourage other victims to come forward.



CHAPTER 2:

Initial response to reports of sexual violence and abuse



Strategy and policy

2.1 In March 2008, the PSNI restructured its operational response to the investigation of rape, serious sexual offences and child abuse (see para 2.4). Responsibility for policy and procedure in relation to these areas of work lay with the Criminal Justice Department. The PSNI had several relevant policies and service procedures in place including those relating to child protection, missing persons, response to domestic incidents, investigation of historical/institutional abuse and notification to educational establishments of allegations of sexual assault/child abuse against teaching or other staff. In December 2008, a service procedure had been issued in respect of PPU's and in 2008-2009 a Rape Strategy, Standard Operating Guidelines and a Service Level Agreement (SLA) had been developed regarding the work of the RCUs. In addition the Criminal Justice Department provided the police representation on all matters of policy and procedure in relation to the investigation of child abuse and strategic direction and guidance to the service in public protection areas.

2.2 In addition the PSNI were required to adhere to multi-agency policies and procedures in relation to child protection, including the Area Child Protection Committee (ACPC) Regional Policy and Procedures produced by Health and Social Care (HSC) Trusts, DHSSPS guidance on 'Cooperating to Safeguard Children', guidance on 'Safeguarding Vulnerable Adults', information sharing with agencies working with families and children in NI and the 'Protocol for Joint Investigation between Police and Social Workers of alleged and suspected cases of child abuse – Northern Ireland' ('Joint Protocol'). This Protocol was being reviewed at the time of the inspection along with the 'Achieving Best Evidence (ABE)'¹⁰ guidance particularly in terms of the PSNI's engagement with victims. A 'Protocol for Joint Investigation of Alleged and Suspected Cases of Abuse of Vulnerable Adults' was published during the inspection in July 2009 which set out the roles and responsibilities of agencies and provided guidance about joint working arrangements and investigation, although it was too early to say what impact this would have on this area of work. Finally,

10 Home Office Communication Directorate (2002), *Achieving best evidence in criminal proceedings: Guidance for vulnerable or intimidated witnesses, including children*, Home Office: London.



the PSNI had also adopted national guidance produced by the Association of Chief Police Officers (ACPO) in relation to 'Investigating Serious Sexual Offences' and 'Investigating Child Abuse and Safeguarding Children'. During the fieldwork for the inspection the guidance on 'Investigating Serious Sexual Offences' had been updated and re-issued as joint guidance by ACPO and the Crown Prosecution Service (CPS) on 'Investigating and Prosecuting Rape'. Detectives working in the investigation of sexual offences spoken to stated that they did not readily have access to the ACPO guidance, although indicated that due to pressure of work they would be unlikely to have time to read it if they did. However, examination of the PSNI documents above identified that many of these contained relevant extracts from ACPO guidance which may be appropriate to their needs.

- 2.3 A Superintendent in Criminal Justice Department had been appointed as the 'champion' for CAIUs. Child protection however, whilst such a critical and high risk area of the PSNI's work, was not identified within the current policing plan as an organisational objective, although it was included in the section on 'ongoing and emerging trends'. Rape and serious sexual offences generally were also not included in the policing plan. Two out of the five forces identified as the PSNI's Most Similar Forces (MSFs)¹¹ included references to child protection work in their policing plan as did the Metropolitan

Police Service. In light of recent media attention surrounding the tragic death of Baby Peter this area of police business has once again been thrust into the spotlight. Officers working in child abuse teams told Inspectors that they felt less valued than officers working in RCU's due to high workloads and what they perceived to be a lack of prestige in the service, despite the critical nature of their work. It is appreciated that a comprehensive and robust process is undertaken by the NIPB and the PSNI to identify policing objectives that are strategically important from several sources and that, to date, these have not identified child protection as a priority in Part 2 of the Policing Plan. Inspectors believe that this issue is of significant importance and worthy of inclusion. Therefore **Inspectors recommend that the NIPB take cognisance of child protection issues during the planning process for the next Policing Plan in order to reflect the critical importance of this area of work.**

Structure of PSNI teams

- 2.4 Prior to April 2008 the PSNI had, for a number of years, utilised a centralised structure for sexual violence and abuse investigations where all child and adult serious sexual abuse, including rape, were investigated by Child Abuse and Rape Enquiry (CARE) teams but stranger rapes were investigated by local District Criminal Investigation

11 For each police force Her Majesty's Inspectorate of Constabulary (HMIC) has determined a set of 'most similar forces' (MSFs), which have similar social and geographic characteristics to the force in question. The PSNI's MSFs are Greater Manchester, Merseyside, Northumbria, South Yorkshire and West Yorkshire.



Departments (CID). Difficulties were experienced under this structure which led to a backlog of cases, particularly in relation to historical child abuse. On 31 March 2008 the structure was changed so that the investigation of child abuse fell to CAIUs based in local police Districts and the investigation of adult and child stranger rape was centralised into RCUs. At the time of the inspection the new structures had been in place for about a year but the PSNI was still adapting to the changes.

2.5 The CAIUs were part of the PPU in each District which was responsible for not only investigating child abuse (sexual, physical and emotional abuse and neglect), but also included officers working in the areas of domestic abuse, missing and vulnerable persons (MVPs) as well as violent and sex offender management. The structure and composition of the PPUs varied across police districts. In most the PPU was led by an Inspector or Detective Inspector, although a couple had a Detective Inspector solely responsible for the CAIU with a uniform Inspector in charge of the rest of the PPU. PPU Inspectors reported to the Crime Manager, who was of Chief Inspector rank and also managed the District CID. All Districts had a Detective Sergeant responsible for the CAIU and a number of Detective Constables working as child abuse investigators within it, although the number varied from five to 10 at the time of the inspection. This variation existed because no minimum staffing levels had been set when the PPUs were formed and therefore staffing

numbers and the make-up of teams was at the discretion of each District Commander (DC). This led to differences in workloads of officers across Districts depending on the number of cases being reported to police. Whilst some variation in staffing levels would be expected, depending on the size and workload of the individual CAIUs, the lack of a corporate approach to staffing levels had led to some evidence of inequalities in the workload across Districts. It is suggested that a corporate minimum standard is set for staffing levels in CAIUs.

2.6 There were three RCUs, based in Belfast, Portadown and Ballymena, to provide coverage across all police Districts. The RCUs were part of Crime Operations Branch (C2) and centrally managed by a Detective Superintendent and a Detective Chief Inspector. Each RCU was led by a Detective Inspector and staffed by a number of Detective Sergeants and Detective Constables. The RCUs dealt with all adult rapes and attempted rapes, serious sexual assaults and rapes against children committed by strangers. The RCUs utilised a team-based approach, where a number of officers would attend a crime scene, to maximise evidence gathering in the initial, crucial, 24 hours. Some officers raised concerns that child stranger rapes were investigated by RCUs rather than CAIUs and felt this could lead to a perception of inequality whereby incidents dealt with by RCUs were perceived to receive a high level of attention and resources compared to CAIUs.



2.7 The RCUs managed the Sexual Crime Suites which were used for medical examination and video interview of victims, including children. The most frequently used suite was located at Garnerville Police Training College in Belfast, which had recently been refurbished, but there were also suites in Portadown and Maydown. The suite at Maydown was not as frequently used due to shortages of doctors to provide a full time call out rota for sexual assault cases, therefore most victims from the North and North West were brought to Belfast. In addition officers did not feel the Maydown suite was as pleasant an environment as Garnerville. Facilities at Garnerville included pregnancy testing and provision of hormonal post-coital contraception. The Garnerville suite had links with local family planning clinics and genitourinary medicine clinics, where delayed emergency contraception could take place.

Call handling

2.8 The structural changes implemented by the PSNI as outlined above had been communicated to the service via email and a SLA had been drafted in February 2009 between Crime Operations and District Command Units (DCU) in relation to the investigations of sexual crime and child abuse. However, it was clear that the impact of these changes was not fully understood at operational level. For example, there was a continuing practice, both within and outside the service of referring to both RCUs and CAIUs as 'CARE Units'. In addition officers in both

RCUs and CAIUs cited examples of inappropriate allocation of calls by call handlers, indicating a lack of understanding of how the roles and remits of the units had evolved.

2.9 Officers from within CAIUs also expressed frustrations with the allocation of work between themselves and response officers and felt that sometimes any issues involving children were passed to CAIUs by default, without sufficient evidence of risk assessment. In one CAIU the PPU Inspector had implemented a local policy of reviewing cases (once a pre-assessment interview had been undertaken in conjunction with Social Services to obtain further information) and determining which could be appropriately dealt with by uniform officers and which required specialist child abuse investigation. This approach had addressed the issue, ensuring that cases were allocated and investigated appropriately. In another, all calls were reviewed by a Detective Sergeant to ensure cases had been allocated appropriately. These procedures are commended as good practice and should be replicated in other Districts in the absence of a corporate approach to call handling that reflects advances in technology delivered by appropriately trained and informed staff.

2.10 The issues experienced by officers in CAIUs regarding call handling were magnified when performing on-call duties and there appeared to be a lack of clarity about the on-call procedures. The Sergeants on-call rota was usually shared between the



Detective Sergeant CAIU and other Detective Sergeants in the Districts, usually from CID, which often meant that there was no child abuse specialist supervising the calls. This, on occasion, resulted in the supervising Sergeant being bypassed and contact being made directly with the on-call Detective Constable from CAIU regarding a suspected case of child abuse, or Detective Sergeants from CAIUs being contacted by other Districts. This contradicted on-call procedures which aimed to ensure on-call was performed within the District, not as a shared resource across Districts. Detective Constables felt they were being contacted initially to deal with calls which should have been allocated by the Sergeant, particularly as few calls necessitated a response from the CAIU and should have been allocated to an RCU or response team. Proper on-call arrangements need to be adhered to in order to prevent this occurring so that units can focus on those cases correctly allocated to them.

- 2.11 A number of difficulties in making prompt contact with appropriate police personnel were also highlighted by external stakeholders. For example, in one instance, a member of staff from a stakeholder organisation reported being passed between the call handler and several different police departments, and having to persist with the call, before finally making contact with an appropriate individual with whom to discuss a child abuse concern. In another, a victim reported having to

ring several different areas of the PSNI in order to identify to whom she could disclose to that she had suffered sexual abuse as a child. It is essential, therefore, that call handlers are clear on the roles and remits of specialist units, together with points of contact, particularly outside office hours. It is also important the PSNI ensures that its stakeholders and partners are fully aware of the restructuring and how this may have impacted on notification and referral procedures.

- 2.12 Clearly, as sexual violence generally, and rape in particular, is considered the most under-reported crime, the initial contact between a victim and police is of critical importance in supporting the victim and encouraging them to disclose details of the incident. This may be with call handling staff responding to a 999 call or a telephone call to a local station or with the member of staff working on the front desk of the station. Inspectors heard some examples from stakeholders where PSNI staff with whom initial contact was made did not provide a high level of service to the victim or their advocate in terms of the attitude of officers or ability to deal with the victim effectively. The issue of call handling has previously been discussed in the CJI inspection of *Policing with the Community*¹² and a recommendation has been made regarding call handling which would also address the issues raised in this inspection. Inspectors would repeat this recommendation but also suggest action that can be taken in the shorter term to address

12 CJI, *Policing with the Community; An inspection of Policing with the Community in Northern Ireland*, March 2009.



the issues raised above.

Inspectors recommend that:

- **in the short term further action is taken to clarify and provide guidance for staff on the remit and responsibilities of the structures in place within the PSNI for dealing with sexual violence and abuse (RCUs, CAIUs, response officers), including on-call arrangements, in order to provide a better service for victims;** and
- **(from *CJI inspection of Policing with the Community, 2009*) longer term as a matter of urgency the PSNI develop and implement a service-wide call management strategy that reflects advances in technology to enable effective call handling in support of the delivery of Policing with the Community (PwC).**

Resource handling and allocation

2.13 The review of rape crime reports undertaken enabled some initial identification of the time and day that offences are carried out and reported. This type of scrutiny of crime data demonstrates the importance of analysis in, for example, identifying demand and ensuring that resources meet demand and provide key information for resources planners. The review found that there was an identifiable peak at weekends and over half of the recorded offences of rape occurred between 00:01 and 06:00 hours. The results for time of offences should be treated with caution as some crimes

occurred over a longer period of time and were, therefore, counted twice, but it does provide an indication of the times when incidents may occur. Data regarding when rape offences were actually reported to police suggested that there were identifiable peaks in reporting on Tuesday, Friday and Sunday. The 'peak' on Tuesday is suggestive of delays in reporting, but consideration also needs to be given to the fact that there were a number of historical offences. A total of 76% of the crimes were reported between 09:00 and 21:00 hours. In identifying demand on resources, the PSNI also needs to give consideration to the availability of FMOs and other support, such as Crime Scene Investigators (CSIs), at these key times.

2.14 Having an understanding of the age profile of victims helps police understand the different types of response they need to have in place, for example having a tailored response for children. The largest proportion of victims were aged 17 to 21 years (21%) but this was only slightly more than those aged 15 to 16 years (19%) and those aged 22 to 35 years (19%). The data has to be treated with some degree of caution however, because it includes historical offences. Specific victim vulnerabilities could also be identified from the crime reports in 13 cases (14.6%), such as in relation to mental health issues and special needs, learning and/or behavioural difficulties.



Generic training

2.15 All new police recruits received an input on sexual offences during their initial training. This had been limited in the past and focussed on the sexual offences legislation, but recently a training needs analysis had been undertaken and the course had been updated to a more skills-based approach. This was centred around a case study focussing on the initial tasks which a response officer would be required to undertake on attending a scene as the 'first responder'. The emphasis was on training the officer regarding the actions to be undertaken and information to be obtained prior to handing over to a specialist officer. FSNI had been consulted regarding the updates to this course in relation to the relevant forensic issues which should be covered. Partners from the Voluntary and Community Sector (VCS) had been involved to varying degrees in the initial training of Student Officers. For example the NEXUS Institute (a service providing counselling for victims of sexual abuse) had previously attended evening sessions at Garnerville to provide information to students and Women's Aid continued, at the time of the inspection, to attend events on specific topics and provided talks for Student Officers – although the time commitment required to provide such an input at every course intake was prohibitive. The Rainbow Project reported that they had inputted into some District training on the subject of domestic and sexual violence. Stakeholders believed that such input into training had raised awareness of

their work and the issues their clients faced. Inspectors would encourage the continuation and development of such partnerships.

Initial attendance and scene preservation

2.16 Inspectors heard from specialist officers that the initial management of sexual offences scenes had improved in recent years and confirmed that appropriate steps were generally taken to preserve forensic evidence and avoid contamination. FSNI confirmed that improvements in scene preservation was particularly evident where the initial report from the victim was made soon after the incident, in cases of stranger rape and outdoor scenes, where there was greater likelihood of obtaining evidence from the scene. FSNI staff reported that they were called out to assist at scenes approximately twice a month which they felt was appropriate. CSIs also confirmed that the performance of officers in appropriately preserving crime scenes had improved as a result of increased training on forensic awareness. Victims and victims groups generally felt that the response received initially when police arrived at the incident had improved in recent years. The case file review provided evidence of the use of CSIs, photography and mapping services to recover evidence at rape scenes and in the vast majority of cases, indications suggested that no evidence was missed. This is a welcome improvement in the approach to scene preservation by the PSNI. In one case, a victim



described how after preserving items within their house as a scene and removing several items for forensic evidence, the PSNI replaced all these items promptly.

- 2.17 In order to improve levels of consistency and handover between response officers and RCU investigators FSNI, at the request of the PSNI, were in the process of developing Early Evidence Kits and Rape Investigators' Logs. Both were designed to be placed in every response car for use should officers be called to the scene of a serious sexual offence. The kits provided equipment for the taking of initial non-intimate samples from the victim which could be used during the investigation. The log was designed to assist response officers in recording every relevant detail when initially attending the scene before passing on the log to the specialist officer for further completion. This would provide an audit trail and could be used as prosecution evidence. FSNI and the PPS had been consulted on these developments and their impact. These had been due to be rolled out during the inspection, but had been postponed due to some difficulties identified with them. Inspectors would suggest that these are rolled out as soon as possible.
- 2.18 Developing an understanding of where offences are taking place can help to identify what is required in terms of forensic response. The crime reports showed that 36% of offences took place in either the suspect's or victim's home address, 19% took place in the open air and 16% took place in the family home.

The Modus Operandi (MO) was also examined in the crime report review to determine whether there was a particular issue with offenders targeting victims by befriending them or gaining their confidence, particularly in social situations such as pubs and clubs. This was identified as part of the offender's MO in 17% of the reports examined, with social situations involving alcohol featuring in half of these. However, the resulting low numbers should be treated with caution, as the extent of under-reporting in these circumstances is not known.

Medical examinations

- 2.19 Medical examinations were conducted by Forensic Medical Officers (FMOs) who had received additional training and experience in sexual offences examinations over and above that of a typical FMO who provided medical services to detainees in police custody. FMOs were employed on a contractual basis by the PSNI and were generally currently employed or retired General Practitioners (GPs). The PSNI provided some training to FMOs in relation to the specifics of the role, but they were primarily responsible for their own self-development as health professionals. FMO rotas operated to ensure a doctor could be called upon to undertake an examination at any time. As outlined above, Inspectors were told that the majority of the examinations were undertaken in the Sexual Crime Suite in Belfast. The suites were equipped with appropriate facilities for undertaking examinations and storing samples for



onward transmission for forensic testing. The case file review confirmed that in almost all cases victims were taken to a Sexual Crime Suite after reporting. Inspectors visited the Suite at Garnerville and found it to be clean and of a high standard. The PSNI should continue to ensure that contamination procedures are adequate and adhered to, particularly between cases.

- 2.20 Although doctors themselves did not routinely receive feedback as to the quality of their work, police officers' feedback to Inspectors was very positive. Occasional difficulties were reported in the more rural areas in terms of FMO availability out of hours. However Inspectors were told that FMOs were generally extremely supportive of both the police and victims in this area of work. This was confirmed by the case file review which highlighted few difficulties in relation to either access to FMOs (including female FMOs) or timeliness of medical examinations. Research has shown that, on many occasions, when a victim has been raped, no injuries are found. This was again supported by the case file review, in that there were no apparent injuries in approximately half of the cases examined. This reinforces the importance of dispelling any misconceptions that the crime of rape must involve force and injury. There were however two cases where the victim's injuries were such that, in the Inspector's view, they should have received immediate medical treatment, but this was delayed in both cases until after

the forensic medical examination. Medical treatment in such cases should always be a priority.

- 2.21 'Co-operating to Safeguard Children' (DHSSPS, 2003) states that in cases where a child is believed to have been abused "*where appropriate, the medical examination should be conducted jointly by a FMO and a Paediatrician*". However, difficulties were reported by CAIU officers in accessing Consultant Paediatricians qualified and willing to undertake medical examinations of children due to a lack of suitable doctors and an on-call rota. At the time of the inspection Consultants were undertaking these examinations as a goodwill gesture, though work was in progress to develop such a rota. There is also a concern regarding the plans for the first NI SARC and will need further future consideration to avoid skills shortages in this area as the opportunity for victims to attend the SARC may increase the number of times a Consultant Paediatrician is called out.
- 2.22 CJI commented on and recommended the review of the current arrangements for provision of healthcare services to persons in police custody in 2009¹³. This review would cover the work of the FMOs, including those who undertake medical examinations. In England and Wales there are plans in progress to develop legislation to enable the transfer of responsibility for healthcare provision within police stations to the National Health Service, as has been previously

13 CJI, *Police Custody: The detention of persons in police custody in Northern Ireland*, August 2007.



undertaken with prison healthcare. Should this legislation be passed and enacted then legislators in NI may also seek similar legislation. This would help to ensure consistency of healthcare provision both in the community and in custodial services. Inspectors would welcome this development.

CHAPTER 3:

Investigation and file preparation



Specialist training

- 3.1 During the inspection fieldwork the PSNI held its first Rape Investigators' Course for officers working in RCUs. Until the course in March 2009 there had been no specific training for RCU officers and this was the first of its kind in the UK. The course included inputs from representatives from St Mary's SARC in Manchester, a FMO, PPS prosecutors and an experienced barrister. The PPS and the barrister provided a case example and held a discussion around the issues arising out of it. Feedback from attending officers was extremely positive and all welcomed further training. It may be helpful if consideration is given to the inclusion of FSNI representatives in this training in the future to further develop officers' knowledge of forensics and evidence preservation. Some officers had also benefited from training provided by the PPS to their prosecutors in each region (see Prosecutor Training, Chapter 4) and were keen to attend further joint training in order to learn from their partners and gain a better understanding of prosecutor decision making.
- 3.2 Concerns were raised however that few officers in RCUs were trained to

Tier 3 level of the National Investigative Interviewing Strategy (NIIS) and that courses were difficult to access. Previous ACPO Guidance on 'Investigating Serious and Sexual Offences' stated that "significant or vulnerable witnesses should be interviewed by officers trained and competent to Tier 3 of the ACPO (2004) Investigative Interviewing Strategy". However the 2009 ACPO/CPS Guidance on Investigating and Prosecuting Rape has been amended from this and states that specially trained officers (those conducting interviews with victims) should be competent to conduct interviews in serious and complex investigations (formerly NIIS Tier 2) as recommended by ACPO (2009) NIIS. In order to ensure that the PSNI has appropriate skills within its investigators, in future it would be advisable that an assessment of demand is made to ensure that an appropriate number of officers are trained to Tier 3 to deal with more complex interviews and that skill levels are maintained.

- 3.3 CAIU staff required specialist training in order to undertake work with child victims and vulnerable adults. PSNI Crime Training had consulted with Crime Managers responsible for



PPUs, when they were initially formed, in order to identify the proportion of officers who would require training in each course and had delivered this requirement. The trainers responsible for this delivery kept details of officers who had completed relevant training in order to track numbers trained and identify future training needs. This register also contained names of officers who had received specialist training, but had subsequently changed roles and were no longer working in the area of sexual offences. This should not mean however, that these skills are lost and Districts should be able to draw on their expertise when necessary to support staff in rape or child abuse teams although, this must be in addition to having appropriately resourced units and not to overcome staffing shortages. Districts would benefit from possessing and utilising this information in order to draw on officers with relevant skills to support the work of specialist teams. Again the development of a dynamic skills profile for each PPU would be helpful in order for the District to maintain levels of trained staff and manage its skills base appropriately.

- 3.4 The PSNI had adopted the National Policing Improvement Agency (NPIA) national programme for specialist child abuse investigators (Specialist Child Abuse Investigator Development Programme; SCAIDP) with delivery commencing approximately 18 months to two years previously. The programme was modularised into three day blocks to enable officers to be released more readily and the majority of CAIU officers had undertaken the course,

which was again positively received. At the time of the inspection fieldwork some officers were being trained in interviewing suspects who were sexual offenders. A minimum skills profile had not been set for officers working in CAIUs and, as outlined above, this would be beneficial to identify critical training needs.

- 3.5 In addition the PSNI Crime Training was responsible for delivering training to both police and social services in relation to undertaking joint investigations into child abuse or abuse of vulnerable adults. These courses prepare staff for working with the Achieving Best Evidence interview (ABE) model which enabled steps to be put in place in preparation for special measures applications. There were two key joint interview training (JIT) courses for officers undertaking this work; JIT1 (training in the process pre-ABE interview), and JIT2 (training in the ABE interview process). These courses were arranged by the PSNI Crime Training as demand required. Half the places on it were filled with police officers with the remaining places offered to Social Services Trusts for social workers in their Gateway Teams. The courses provided officers with the knowledge and skills to undertake joint investigations between police and social services and to conduct pre-interview assessments and ABE interviews with children or vulnerable adults in relation to suspected abuse. Whilst refresher training was offered on an annual basis this was not mandatory and therefore places on the course were



less well utilised than for the initial courses. Inspectors would suggest that the PSNI make refresher training compulsory for these courses in order that police officers' and social workers' skills are kept up-to-date.

3.6 The ABE supervisor's course was for officers involved in supervising staff conducting ABE interviews and, at the time of the inspection, nearly all Sergeants in CAIUs had attended this course as well as SCAIDP. Sergeants were able to bid for places on courses for themselves and their staff when emails were circulated offering courses from Crime Training. The majority of PPU Inspectors had also undertaken the ABE supervisor's course and/or SCAIDP. PPU Inspectors, especially those who were not Detectives, welcomed the ability to access these courses to provide them with the relevant knowledge and skills. Crime training had also provided investigative training to these officers, again particularly those who did not have a detective background. These officers had been offered the opportunity to undertake the NPIA Initial Management of Serious Crime course at the Professionalising Investigation Programme (PIP) Level 2, which is the national course for Detective Sergeants, in order to provide them with the basics of investigation supervision. This was a positive course of action as there are risks associated with non-Detectives being responsible for managing detective functions when they are not properly trained and uniform Inspectors could feel vulnerable in these posts. They would then progress to the NPIA Senior Investigating Officer (SIO)

Development Programme at PIP Level 3 in order to undertake the SIO role when necessary. It is critical that effective supervision is in place to properly supervise specialist, potentially serious and complex investigations, and therefore the PSNI should ensure that all supervisors have completed the appropriate courses.

3.7 A large proportion of officers in both RCUs and CAIUs were TIs (officers who had completed their initial probationary period and who had passed the National Investigators' Examination and were undergoing a period of training and assessment to become a substantive Detective). The PSNI had selected a large number of TIs in recent months in order to fill posts vacated by officers who had retired. Crime Training therefore had a large number of requests for officers to undertake the seven week Initial Crime Investigators' Development Programme (ICIDP) and PEACE 2 interview course (the police interview model; preparation and planning; engage and explain; account; closure; evaluate). The numbers requiring training had led to a backlog which was due to be cleared by March/April 2010 with the result that some officers were working as an investigator for seven to eight months prior to undertaking the ICIDP course and officers raised this as a concern. This is clearly not an ideal situation and does not fit with the NPIA national model. It was suggested to Inspectors that officers without previous experience of CID or similar, especially those junior in service, benefited from gaining extra



experience in an investigative environment before gaining the knowledge provided on the course. Inspectors would encourage the PSNI to clear the training backlog as soon as possible and adopt the national model from then on.

Supervision and support

3.8 Difficulties existed for some CAIUs in gaining regular access to the PPU Inspector and contact with the rest of the PPU. These were largely due to accommodation shortages which, in some Districts, meant that the PPU was split into two geographical locations. Some CAIU Sergeants reported feeling isolated from their line manager and the rest of the team, which left them feeling vulnerable. One of the reasons behind the setting up of the PPU structure was to promote cross-communication and sharing of intelligence between the different teams, particularly between the Domestic Abuse Officers, MVP Officers and CAIUs, due to the well established links between the different areas of police work. Staff from several PPUs reported that this regular contact was not occurring and officers were still tending to work in silos. The exception to this was where PPU officers were all co-located in one office and regular communication was the norm or where specific efforts had been made to encourage communication. For example, in one PPU the Inspector held a morning meeting with the three Sergeants in the PPU to review cases, share intelligence and discuss issues. Inspectors would commend this as good practice. **Inspectors**

recommend that the PSNI should take steps to improve communication and intelligence sharing between teams within PPUs.

3.9 In some Districts Sergeants, Inspectors and, on occasions, Chief Inspectors ‘dip sampled’ cases on a regular basis to check progress and identify issues. Some Sergeants were however concerned about their role in relation to checking files prior to submission to the PPS. They had been informed that once files were inputted onto NiCHE RMS the Sergeant did not need to check the file for quality purposes but that the officer should submit it to the Occurrence and Case Management Team (OCMT) who would then check it, request any amendments be made by the Investigating Officer (IO), and forward the file through Causeway to the PPS. This led to concerns about accountability and quality with Sergeants unclear about how responsible they were for the content of such files. Inspectors would suggest that clarification is provided on this issue and that all files are quality assured by a supervisor prior to submission, with appropriate feedback given to IOs, particularly those files produced by less experienced investigators. It was unclear from the case files that policy logs were routinely used for RCUs or CAIUs, but their use should be encouraged to provide support for IOs and an audit trail for investigations.

3.10 The PSNI had not introduced the role of Tutor Detective to mentor the work of the TIs, as recommended



in the NPIA ICIDP. This left responsibility with Detective Sergeants to mentor, develop and manage their work in addition to managing the work of more experienced Constables. The PSNI was criticised for placing too much responsibility on, and failing to support, a TI who had undertaken the investigation of a rape case which ended in the defendant being acquitted at trial in October 2008¹⁴. The judge claimed the standard of investigation was unacceptable and that “*serious criminal allegations should only be investigated by experienced officers and in this case it was unacceptable to the court to have a rape allegation investigated by a junior officer halfway through her training*”. This case illustrates the need for careful support and appropriate supervision of Detectives undergoing training which could be addressed by the appointment of Tutor Detectives. **The PSNI should fully adopt the principles and recommended practices of the NPIA ICIDP and appoint appropriately experienced and trained tutor Detectives in order to better support and supervise TIs appropriately whilst they are undergoing their training.**

3.11 The nature of the work involved in the investigation of sexual offences, particularly those involving children, can have an impact on officers emotionally and psychologically. PSNI Occupational Health and Welfare (OHW) was available for officers who wished to self-refer or were referred by supervisors

and a commitment was given by an Assistant Chief Constable (ACC) at a meeting of PPU staff in one District, that appropriate welfare and support was available to officers should the need arise, including the ability to attend one of the police convalescent homes in England or Scotland. In one District three officers had been referred to OHW. **It is recommended that the PSNI should develop a co-ordinated and consistent approach to the provision of welfare services for officers working in the investigation of sexual offences and consider proactive methods for managing the welfare of staff.**

3.12 One of the main difficulties for officers within PPUs in terms of progressing with investigations, was the number of referrals and live investigations that Constables were responsible for which Inspectors heard varied widely from six to 45 across Districts at the time of the inspection. One Constable who had a manageable workload of six cases had benefited from the CAIU review policy introduced by the Inspector as outlined above. The ACPO guidance does not include reference to a maximum number of files. However, this is something that is being considered in light of the Baby Peter tragedy. It would be advisable for the PSNI to put in place appropriate case management, combined with minimum staffing levels and maintained skills profiles, to ensure officers have a manageable workload and ensure all cases are thoroughly investigated.

14 BBC News Northern Ireland, *Rape investigation 'unacceptable'*, 6 October 2008, available on-line at http://news.bbc.co.uk/1/hi/northern_ireland/foyle_and_west/7655317.stm



3.13 Most officers admitted that historical cases of child abuse tended to take longer to investigate than current cases due to the high priority afforded to current high-risk cases. A difficulty had been experienced when PPU's were initially created as there were a vast number of unresolved cases of historical abuse transferred from the old CARE units (for example in one District 83 cases had been inherited). But Inspectors were advised that, in the main, this backlog of cases appeared to have been nearly all cleared. However it was still suggested by police and victims and victims' groups that there were delays between receiving the initial complaint and submission of a file to the PPS, particularly for victims of historical abuse. One stakeholder commented that they were supporting victims who had disclosed abuse three years ago and were still in the criminal justice system. For example, it was suggested that prior to the creation of PPU's a case of historical abuse could take nine or 10 months to obtain a detailed account of the case and although this is improving, such delay is still an issue. The PSNI needs to ensure that backlogs as experienced by CARE teams are not allowed to become a feature of sexual offences investigations again. Delay is discussed further in Chapter 6.

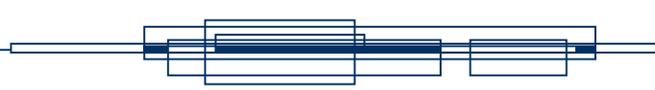
Joint working

3.14 Under the Joint Protocol police officers and social workers were required to work together in undertaking investigations involving

children or vulnerable adults. Some stakeholders felt that there was a need for agreed criteria for referral between police, social services, education and the VCS. Generally CAIU officers and social workers felt that good relationships existed between the two organisations in most areas and that the Joint Protocol process worked adequately, although some difficulties existed in terms of communication, resources and turnover of staff in both organisations. For example, some social services staff commented that some police officers and Social Services staff were unclear as to what a Joint Protocol required in practice, despite receiving the relevant training. Police also pointed to difficulties on occasions in accessing trained social workers to undertake clarification or ABE interviews which may delay investigations, particularly for issues arising outside of normal working hours where an emergency response may be needed. The independent review by Henry Toner QC into the tragic deaths of the McElhill family in Omagh in November 2007¹⁵ also highlighted "*the need for better communication between the police and Trust social workers involved in child protection and a clearer understanding between the agencies as to their respective roles in child protection*". Whilst this specifically related to the issues arising in Omagh and the Western Trust, this could be said to be relevant in all Trust areas.

3.15 In the South-Eastern Trust area Inspectors were advised that consideration was being given to a

15 Toner (2008), *Independent Review Report of Agency Involvement with Mr Arthur McElhill, Ms Lorraine McGovern and their children*, June 2008. DHSSPS.



pilot domestic violence project in which a social worker and a police officer would be co-located to improve communication. This would be anticipated to provide benefits for both police and social services working in the area of child abuse. The feasibility of widening this to other Trust areas would be an appropriate next step but will require considerable commitment of both HSC Trusts and police Districts at a strategic level. This is also something that the Toner review commented upon recommending that *“the PSNI in collaboration with the Boards and Trusts should consider the secondment of a Social Services staff member, as appropriate, to each of the eight PSNI Public Protection Units operating across Northern Ireland”*. The practice of co-location of police and social workers has already been implemented in other parts of the UK and agencies in NI will hopefully be able to learn lessons from their experiences. In the meantime, in order to improve the critical interface between the two organisations **it is recommended that the PSNI should, in conjunction with Social Services Gateway Teams, develop and implement methods to improve the quality and consistency of communications between police officers and social workers working in the area of child abuse.**

Interviews and investigations with victims

3.16 Interviews in relation to serious sexual offences and child abuse were always undertaken by two specially trained interviewers and were usually

video-taped which facilitated early preparation for special measures applications (see special measures, Chapter 6). These interviews usually took place in the Sexual Crime Suites. Inspectors visited the suite in Garnerville and found it was well designed for this purpose with comfortable and non-threatening rooms in which to undertake interviews with built-in video and audio recording. Interviews with children were nearly always conducted jointly between police and social services in line with the Joint Protocol.

3.17 Inspectors heard that generally interviews were of a good standard and had improved in recent years, although some comments were made that the interviews could be lengthy and repetitive on occasions. Some stakeholders commented that, at times, the technique used during the interviews needed improving in order to avoid any allegations that police were leading or prompting the victim, for example by ensuring they did not praise them during the interview. This is obviously difficult to do with children or vulnerable females who have suffered a traumatic experience, but failure to maintain a completely neutral approach means that the video then has to be edited and the final copy is of lesser quality. However, the balance between an empathetic and professional approach can be achieved, as illustrated by one victim who commented that she was very sensitively treated by the officers at the suite in Garnerville. The approach taken by police and other criminal justice organisations who conduct face-to-face interviews with



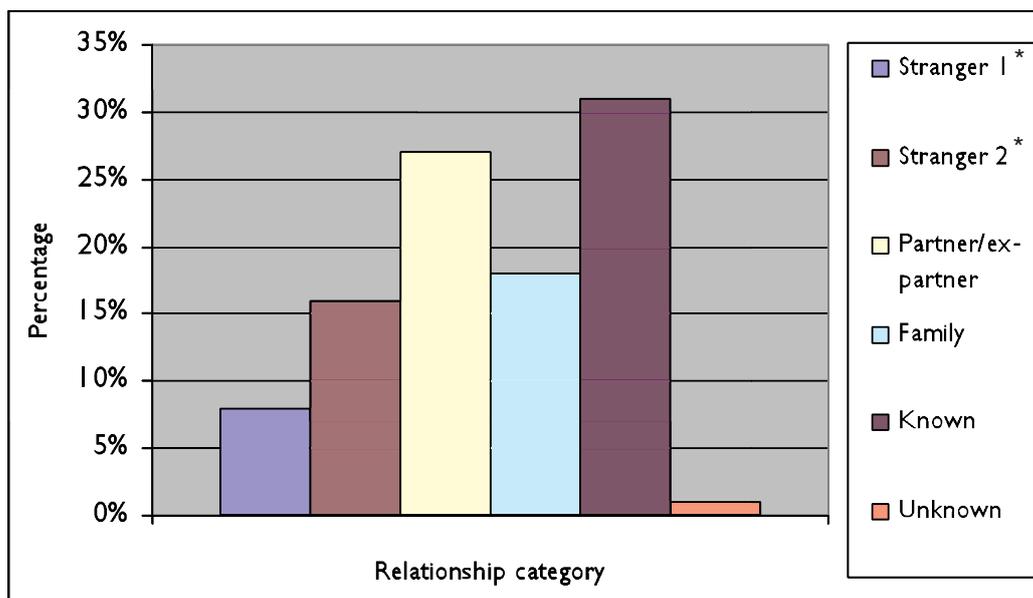
victims is explained to victims by advocate and support organisations. To encourage further reporting and support of the prosecution process it is important that these organisations can consistently report such a balanced approach.

3.18 Figure 1 shows the category of relationship between the victim and suspect recorded in the crime reports; with the most common being that of 'known' which includes a range of relationships where the victim and suspect are known to one another beyond the level of an acquaintance such as friends, longer-term acquaintances, work colleagues, neighbours and those in positions of trust (babysitters, teachers, etc). The same pattern was evident for non-prosecuted and prosecuted cases in the case file sample.

This and the finding that in the crime report sample, 36% of offences took place in either the suspect's or the victim's home address, also assists in dispelling the myth that rapes are committed by total strangers on victims who find themselves in vulnerable situations.

3.19 The case file review identified that victim vulnerabilities (such as age, mental health issues, learning difficulties etc.) were not routinely recorded by officers and had to be obtained by trawling through the files. Similarly in the majority of files there was no information about the victim's demeanour at the time of reporting; in some files this was included in the officers statements but not all (particularly for prosecuted cases). This could provide important background information for the PPS in order to be prepared for the case of the defence and should be included as a matter of course.

Figure 1: Suspect/victim relationship recorded in crime reports



* See page 79 for definition of stranger 1 & 2 categories.

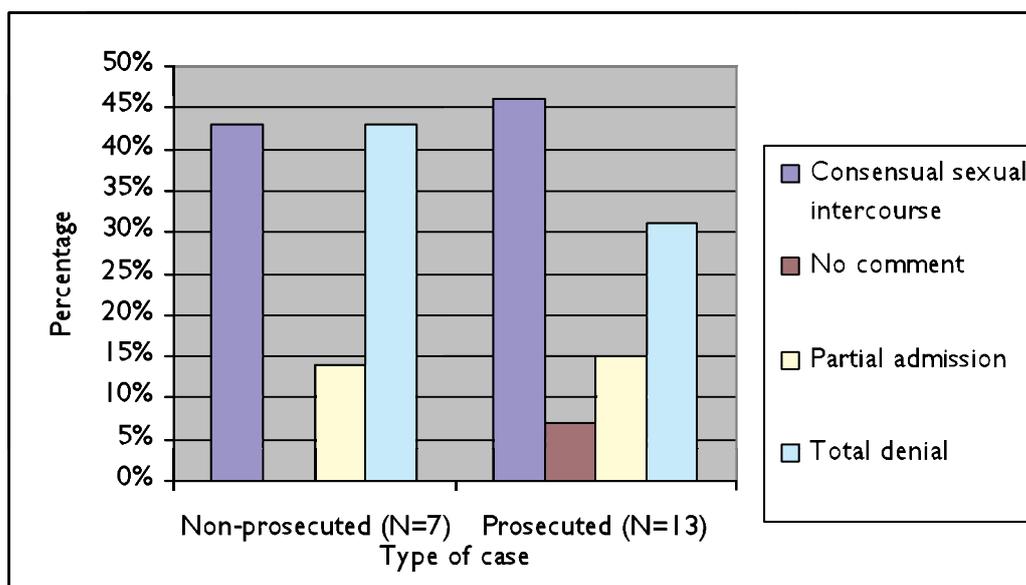
Interviews and investigations with suspects

- 3.20 Some victims and victims' groups commented that in cases of historical child abuse the suspect was 'invited' for interview rather than being arrested and that there could be a delay between the victim reporting to police and the interview taking place. The case file review identified an apparently unnecessary delay in arrest in three prosecuted cases (23%) and one case directed for no prosecution (14%). Police always need to ensure an effective investigation has been undertaken and sufficient evidence is available to make an arrest, but in such cases where time has elapsed between the offence and the report, this may be more difficult.
- 3.21 Analysis of data regarding the age profile of suspects contained in the crime reports, assists in identifying any tailored response that is required

in relation to suspects (for example child suspects). It also shows that there was a difference between the age profiles of victims and suspects. Of those suspects whose ages were known to police the largest proportion were aged 36 to 50 years (20%) and then aged 26 to 35 years (11%). In 20 cases (22%) the crime report indicated that the suspect was a named person or known to the victim but in none of these cases was the suspect identified and recorded in the suspect field of the crime report. Only one suspect had a specific vulnerability recorded (1%). Three suspects in the prosecuted case sample required the services of an appropriate adult.

- 3.22 Figure 2 shows the breakdown of the suspect's account of events which shows that for both the non-prosecuted and prosecuted cases, most suspects claimed consensual sexual intercourse.

Figure 2: Suspect's account of events when interviewed





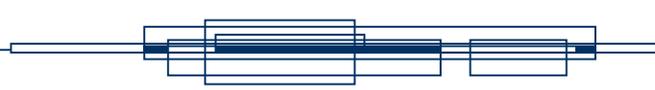
In the majority of both case file samples the suspect was granted bail although this was slightly higher for those suspects whose case was subsequently directed for no prosecution rather than for prosecution (86% and 62% respectively).

Evidence gathering and forensics

3.23 In all cases in the file sample the IO was a Detective Constable although in some cases there was a lack of continuity of the IO (two non-prosecuted cases, 29%; four prosecuted cases, 31%). There was a delay in notifying the IO in one of the seven non-prosecuted cases (14%) and two of the 13 prosecuted cases (15%). These delays can cause difficulties in undertaking an effective and timely investigation. In all of the non-prosecuted cases the SIO was a Detective Sergeant but in the prosecuted cases the rank of the SIO was mixed including a Detective Constable (1, 8%), Detective Sergeant (7, 54%) and a Detective Inspector/Inspector (2, 15%) with the remainder unknown (3, 23%). It was inappropriate for the Detective Constable to be the SIO in the case and this caused difficulties during the investigation. Where evidence was available from the case files this indicated that the majority of interviews were video-taped and in all cases where the victim was interviewed more than once this was reasonable. In most cases IOs made efforts to take all witness statements and a variety of methods were used to identify and trace the suspect, including the use of Video Identification Parades by Electronic

Recording (VIPER). In the majority of cases the suspect was arrested without delay, although in the cases where there was a delay this ranged from one week to eight months.

3.24 The initial securing of forensics and identification of sources of forensic evidence had improved in recent years, as outlined earlier. Photography services were reported to be good. Analysis of computer hard-drives through e-crime services (for example in cases where indecent images were reported) was reported as being generally delayed due to a backlog of cases which needs to be addressed. Good relations were reported between the PSNI and FSNI staff with open communications between investigators and ROs regarding advice on specific cases, and FSNI providing helpful advice when requested. In addition, the PSNI had agreed reduced turnaround times for rape cases and these were treated as a priority within FSNI. FSNI staff reported that there were often delays between the incident occurring and samples being submitted to FSNI for forensic testing, however it was not possible to obtain evidence on this from paper files in the case file review. An example was provided where a report of rape was received on the 7 June but swabs taken on the 8 June were not sent for testing to FSNI until the 23 December which is a cause for concern. Whilst procedures are in place to ensure samples are kept frozen and therefore are still suitable at a later date for testing, this obviously can lead to delays in the system and could lead to further evidential opportunities being missed or



impeded. In addition, statements from forensic scientists which were contained in the case files were undated and therefore it was impossible to tell whether there were delays in their production. It would be helpful for audit and investigation purposes, if the original received from FSNI (rather than those produced directly from Causeway by PSNI officers) or a scanned version of the original from Causeway which is signed and dated could be included in case files in the future.

3.25 PSNI, PPS staff members and prosecuting counsel all reported positively about the quality of information and evidence presented by FSNI in sexual offences cases. Difficulties occurred on occasion in terms of accessing forensic services through the PSNI Submissions Unit, which approves items submitted for forensic examination. This created a number of issues for both the PSNI and FSNI. On occasions officers were told that submissions of a specific item could not be made as the quota for that month had been met. The submission of mobile telephones were primarily given as an example of an item which was difficult to have accepted, which could be extremely useful in a rape case in order to check evidence from both victim and accused. Whilst it is appreciated that processes need to be in place to enable submissions to be managed, it would be advisable if a more flexible approach is adopted in such situations in order to ensure the detection and prevention of serious crime is not hindered by these procedures. This should be built into the SLA between

the PSNI and FSNI as well as agreement as to the most appropriate methods for retrieving such evidence.

3.26 The procedures utilised by the Submissions Unit meant that FSNI staff only received a list of items that had been approved for submission, not a list from the IO of all the forensic evidence available at the scene which could be tested. Therefore FSNI scientists were sometimes unaware as to whether further items, which they may have wished to advise testing to assist in providing forensic evidence for the case, had been collected by the IO. In addition, background details on the case provided by the IO were sometimes scant and did not provide the scientist with a full picture of the case with which to understand the context of the alleged offence. These are issues which Inspectors would encourage the PSNI to rectify.

Intelligence

3.27 A central database had been set up for the RCUs to record case information and details to enable intelligence to be shared amongst officers. Child protection issues and rape intelligence fed into monthly Tasking and Co-ordination Group/Tactical Tasking and Co-ordination Group meetings and occasionally were taken to District intelligence. Analysts were used to pick up patterns and trends in order to target resources. The PSNI intelligence fed into national databases such as that used by NPIA Serious Crime Analysis Section, where appropriate, and into the Child Exploitation and On-line Protection



Centre for indecent images, particularly in support of Operation Ore, a British police operation which had been running since 1999 and intended to prosecute thousands of users of websites reportedly featuring child pornography.

3.28 Inspectors were also told of occasions where information from the VCS had fed into local intelligence, particularly where victims did not wish to report to police directly and support a prosecution, but were happy for a third party to report confidentially on their behalf. This provides important information and formalised procedures for sharing information should be encouraged to continue and develop, particularly with hard to reach groups. Some VCS organisations raised concerns however about police appropriately responding to intelligence regarding children in care who are at risk of sexually harmful behaviour. This is an example of where links between response officers dealing with absconders from care homes, PPU officers dealing with MVPs and CAIUs are critical in sharing information and intelligence to identify children and young people who are at high risk of absconding and becoming a victim of sexual abuse or trafficking. Response officers in particular, usually being the first response to a report of a missing child (whether missing from home or a care establishment), need to be alert to the fact children may be at risk while missing or may have run away to escape from abuse. The PSNI needs to ensure officers recognise that, whatever the behaviour of the

young person and their apparent compliance with any high risk individuals and activities, they remain a vulnerable victim who should be afforded appropriate protection.

Crime recording, file preparation and file transfer

3.29 In 'Without Consent' HMIC and HMCPSI highlighted a distinction between 'retraction' and 'withdrawal' by victims. Retraction was defined as being where the victim makes or confirms the complaint but subsequently states that the crime did not take place or that the report was fabricated. Withdrawal was defined as being where the victim declines to complete the initial process or withdraws support for the investigation or prosecution, but maintains that the crime did take place. In only one case in the PSNI crime report sample did the victim retract her original statement, indicating that she had made the complaint to get attention from her partner (although the crime report was not 'no crimed' which may indicate, for example, that the investigating officer felt the retraction had been made under duress from the partner). In 24 cases (27% of the overall crime report sample) the victim chose not to complete the initial process or withdrew support for the investigation or prosecution. This highlights the importance of making sure that everything possible is done to assist victims in remaining engaged in the process, for example, by keeping victims updated, continuing to encourage them to support the prosecution, outlining the benefits of supporting the prosecution etc.

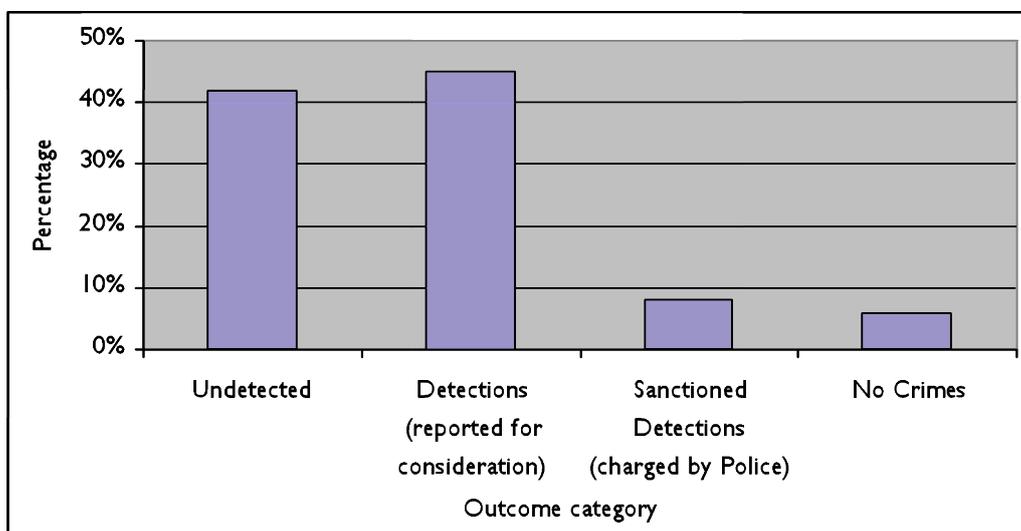
- 3.30 Under the Home Office Counting Rules (HOCR), a recorded crime should be 'no crimed' if one of the following criteria applies:
- it was committed outside the jurisdiction of the recording force;
 - it constitutes part of a crime already recorded;
 - the reported incident was recorded as a crime in error; or
 - there is verifiable information that no crime was committed.

Evidence from the review of PSNI crime reports showed the 'no criming' rate was low and there was a very high level of compliance with the National Crime Recording Standards (NCRS) on 'no criming'. In contrast, evidence showed there was a high level of non-compliance with the NCRS in terms of timeliness of the crime being recorded (75% were not recorded within three 24-hour periods as required by the NCRS). At the time of the inspection crime reports were hand written and then submitted centrally for inputting.

Whilst this process clearly impacted on the length of time it took for the crime to be recorded on the PSNI systems (as the hand-written crime reports had to travel through the mail system) further examination of timeliness revealed that 73% had not been inputted within seven days. At the time of the inspection, the PSNI were piloting emailing of crime reports to improve efficiency and timeliness.

3.31 Figure 3 shows the outcomes of the incidents in the crime reports (see Table 1 for an explanation of these). This illustrates that the majority were detections reported for consideration by the PPS (i.e. that the PSNI did not charge the suspect before sending a file to the PPS). It also shows the low level of 'no crimes'. The ultimate outcome of these crime reports (in terms of crime clearances) could not be determined as information on the cases directed for prosecution by the PPS was not available.

Figure 3: Outcome of crime reports





The PSNI Rape Strategy Update produced in March 2009 reported that the adult and child stranger rape clearance rate had increased from 14.6% (2007-08) to 21% (from April 2008 to beginning of March 2009) for RCUs since the appointment of a Detective Chief Inspector as a Clearance Champion. This is an improvement on the overall clearance rate for rape for 2008-09 as outlined in Table 1 (which includes both adult and child rape) at 20.2%. Due to differences between NI and England and Wales in terms of both decision-making regarding charging suspects and determining clearance rates, it is not possible to make direct comparisons between the PSNI and police forces in other jurisdictions.

3.32 PPS prosecutors reported that PSNI officers were often keen to discuss and receive advice on sexual offences cases with them. PSNI officers reported that they generally had access to directing prosecutors in the PPS and many had built good relations and open communication with individuals in their local PPS region. PSNI officers could request advice on a specific file or contact individual prosecutors to discuss issues. Generally however PSNI officers felt that the reaction to their request for advice was often that no response could be given without a full file being submitted. Recent discussions had been held between the PPS and the PSNI to agree whether a full transcript of an interview was required or a tape summary, but it was too early to say whether this had resolved this ongoing issue.

3.33 Files were prepared electronically on NiCHE RMS and all officers spoken to expressed concerns about the difficulties in inputting, reviewing and accessing information in the system. It was felt to be unsuitable for use with serious crime cases which usually contained numerous statements, evidence and lines of investigation including on occasions a number of victims/witnesses and suspects. Sergeants reported that when reviewing files the system was cumbersome and difficult to navigate. For example, when trying to undertake a simple task like reviewing witness statements the system did not provide a list of these ordered by date or name to make access easy which then necessitated trawling through each statement individually. The issue of file quality and quality assurance procedures is being considered in an inspection of the PSNI/PPS Interface which is incorporated within CJI's report on Avoidable Delay. Whilst some of these issues were things that would, and had, reduced with time and experience, concerns were raised by officers at all levels regarding files submitted to the central Causeway hub from NiCHE for onward transmission to the PPS Case Management System (CMS) 'disappearing into cyberspace' with no warning to the IO. The disappearance of the file was often only alerted by the PPS when no file was forthcoming or when enquiries were made by the IO. In the most extreme cases this had led to files becoming statute barred. **The PSNI should urgently seek to address the issue of files not being submitted expediently from NiCHE to the PPS CMS via the Causeway hub.**

CHAPTER 4:

Review, decision-making and case building



Strategy and policy

- 4.1 Responsibility for policy and procedure in relation to domestic and sexual violence lay with a Senior Public Prosecutor (SPP) in Policy Section in the PPS. This SPP provided representation on the Tackling Sexual Violence Regional Steering Group and the relevant sub-groups arising from the Strategy Group. At the time of the inspection there was no policy specifically in relation to rape cases, but one was in the process of being drafted. Policies in relation to 'Victims and Witnesses' and 'Prosecuting Cases of Domestic Violence' made references to sexual violence cases, for example, in relation to special measures. There was evidence of communication between the PSNI and the PPS for the purposes of consultation on planned developments, for example, the introduction of the Rape Investigators' Log.

Prosecutor training

- 4.2 The SPP in Policy also had responsibility for designing and organising the delivery of training for all prosecutors on the Sexual Offences (NI) Order 2008 which updated the sexual offences legislation, bringing it into line with

England and Wales. The training was designed with the benefit of training provided by the CPS for use in England and Wales, but developed as a bespoke package for the PPS. Prosecutors and Senior Prosecutors from the regions with experience in prosecuting complex sexual offences cases, along with the SPP from Policy, Assistant Director for Policy and the Regional Prosecutor for Belfast, delivered the training in a series of workshops across all the PPS regions. The training was compulsory with follow-up sessions held for those who were unable to make the initial date in their region. Subsequently, the training material was made available on the intranet and was planned to be used for inducting new recruits.

- 4.3 By the end of January 2009, 130 prosecutors had been trained in the new legislation. In addition, consultation with the PSNI led to the workshops being opened up to PSNI Sergeants and Inspectors working in the area of sexual offences from local police Districts. Police officers spoken to by Inspectors were extremely complimentary about the value of this training with its opportunity to discuss example cases with prosecutors and would welcome similar sessions in future. The only



frustration expressed with this training was that more officers, particularly Constables working as IOs, were not able to attend the sessions. There was an overwhelming demand from the police, which the PPS were not able to meet, as obviously their primary objective was to provide training for prosecutors. Inspectors would welcome further joint training of this nature in the future.

4.4 Over 150 prosecutors and PPS staff had attended forensic awareness workshops to enhance their understanding of the forensic environment. All prosecutors had received recent training on special measures, hearsay and bad character as well as disclosure. They had also received a departmental instruction regarding compliance with the *'Protocol for Third Party Disclosure in Prosecutions of Sexual Offences or Serious Assaults'* issued by the office of the Lord Chief Justice (as well as a copy of the Protocol in April 2007).

4.5 Although the PPS had not adopted the specialist prosecutor model for rape and serious sexual offences cases, as had been introduced in the CPS, they had identified prosecutors as experts for sexual offences cases, to whom more complex cases could be allocated by Regional Prosecutors or who could give advice to other prosecutors. These prosecutors were those who had delivered the Sexual Offences (NI) Order 2008 training as outlined above and who had been involved in the development of the training programme content by giving feedback to the Policy SPP. One of these prosecutors had, alongside the

Policy SPP, attended a recent sexual offences conference and it was anticipated that, in future, further training opportunities would be opened up to these individuals. It may be helpful to these prosecutors if they were provided with further specific training by the FSNI to increase their expertise. The Policy SPP had also attended the PSNI Rape Investigators' Course, along with a barrister who frequently prosecuted sexual offences cases and a PPS Regional Prosecutor, to talk through a case example with investigators to enhance their knowledge of the prosecution decision making process. The PPS were due to provide similar input in a further two courses scheduled before the end of 2009. The PPS were aware however of the implications to the welfare of prosecutors dealing predominantly with serious sexual offences cases, often including child abuse.

4.6 The Bar Library was responsible for providing training to barristers on all types of law and practice and counsel were required to undertake continuing professional development every year, although this did not necessarily have to be linked to their main areas of practice. There was limited training provided by the Bar Library in relation to sexual offences. In May 2009 training was provided on criminal evidence but no training had been provided specifically on the Sexual Offences (NI) Order 2008. Counsel were therefore responsible for keeping themselves professionally updated in the relevant areas and one commented that she had used the PPS training package for this purpose. Whilst the PPS were not able to



influence training provided by the Bar Library, they were considering the possibility that they would be able to provide relevant training to those barristers recently appointed to the prosecution panel (see Appointment and Direction of Counsel 4.22). Inspectors would welcome such a development.

Case review and decision-making

- 4.7 Cases were allocated to prosecutors on the basis of their complexity and taking into account the experience of the prosecutors. For example, complex historical child abuse cases were generally allocated to the expert prosecutors as outlined above. Sexual offences which were more straightforward from a prosecution perspective, for example an attack by a stranger where there was witness and forensic evidence to support the case, could be allocated to any SPP in the region, although these were usually a sexual offences specialist. These allocation decisions were made by the Regional Prosecutor once cases had been submitted by the PSNI.
- 4.8 Prosecutors undertook prosecution decisions for sexual offences in the same way as other types of offence; i.e. in accordance with the *Code for Prosecutors* (which also contains the *PPS Code of Ethics*). The *Code for Prosecutors* is a public document which sets out clearly the evidential and public interest tests that prosecutors must apply in each case. In every case the prosecutor must consider whether the evidence is sufficient to provide a reasonable prospect of conviction (the Code evidential test). If the Code evidential test is met the prosecutor must go on to consider whether prosecution is required in the public interest (the Code public interest test). A prosecution must ensue only if there is sufficient evidence to provide a reasonable prospect of conviction and, if so, if the circumstances are such that a prosecution is in the public interest (a decision not to prosecute a rape case because of the public interest is extremely rare). In applying the tests the prosecutor must adhere to the obligations set out in the *Code of Ethics*, which also sets out clearly the expected behaviour of a Public Prosecutor.
- 4.9 In the case file review of non-prosecuted cases Inspectors found that there was sufficient evidence and background information in 10 out of 15 cases (67%) for the decision to be made. The decision was in accordance with the evidential test in the Code in all 15 cases. In three of the 15 non-prosecuted cases there was sufficient evidence to prosecute but the prosecutor determined that it was appropriate for there to be a diversion (caution or youth conference). All three cases met the public interest test. In terms of prosecuted cases the decision was in accordance with the evidential test and the public interest test in the Code in all 18 prosecuted cases.
- 4.10 In four of the 15 non-prosecuted cases (27%) Inspectors determined that the decision to take no prosecution was made prematurely. In these cases there was further information that could have been



requested which may have assisted in building the case, for example, bad character evidence, previous allegations made against the suspects and statements from potential witnesses who may have supported the victim's account. At the decision making stage, the prosecutor explored all avenues to enhance the prospects of a prosecution in only two out of 11 relevant cases (18.2%). Prosecutors tended to concentrate on the negative aspects of the case rather than highlighting the supporting evidence. This was particularly evident in cases where the victim had consumed large quantities of alcohol, where assumptions were being made about credibility based on lifestyle and there was evidence of some stereotyping. These findings support observations made in the CJI/HMCPSI 2007 baseline inspection of the PPS¹⁶ which stated that: "*Although the vast majority of the decisions were justifiable by reference to the Code we also found that prosecutors adopted a cautious approach in some cases and a different decision (for example a direction to prosecute) could have reasonably been taken.*" An element of caution was found to be present in all categories of case. In the current inspection where rape cases were later directed for prosecution, the prosecutors were better at exploring all avenues to enhance the case. In 14 out of 16 cases (87.5%) action to further build the case was taken by the prosecutor.

4.11 The PPS, counsel, judges and the case file review confirmed that the prosecution made good use of

consideration of, and applications for, admission of hearsay and bad character evidence. In the case file review, Inspectors identified that there was one non-prosecuted case where hearsay should have been considered but was not. However hearsay was appropriately considered in all 16 relevant prosecuted cases. Overall, evidence from the review showed that prosecutors were proactive in making applications to adduce hearsay evidence in a timely manner in all relevant cases. An application to adduce hearsay was properly made in all 16 relevant cases and proper procedures were followed at court in all eight relevant cases. In addition, in the case file sample there were four non-prosecuted cases where the defendant's bad character should have been considered; but there was no evidence it had been considered in any of the cases. The previous bad character of a defendant cannot be used to bolster an evidentially weak case but Inspectors were of the view that the prosecutor should have considered whether or not the bad character was relevant, and if so whether it could form part of an application to the court, in each of the five cases. In prosecuted cases, however, bad character was appropriately considered in seven out of 10 cases (70%). Overall, applications to adduce bad character were properly made in five out of six cases (83.3%). Generally, prosecutors were proactive in making applications to adduce bad character in a timely manner and proper procedures were followed at court in all four relevant cases.

16 CJI & HMCPSI, *An inspection of the Public Prosecution Service for Northern Ireland*, August 2007.

Disclosure

4.12 Disclosure was considered by Inspectors when undertaking the case file review. Primary disclosure¹⁷ was dealt with correctly in 16 out of 17 cases (94.1%). The one negative assessment related to the failure to refer to a previous complaint made by the victim on the non-sensitive schedule. This was not disclosed to the defence until they had gleaned the information from the witness statements and requested it. In addition disclosure documents were not filed separately in any of the files examined. The 2007 CJI/HMCPSI baseline inspection of the work of the PPS made a recommendation that prosecutors fully endorse and sign all disclosure schedules. The follow-up inspection undertaken in 2009¹⁸ identified that some progress had been made and that the PPS now require that a disclosure record sheet be used in all indictable cases, but also found that the level of compliance needed to be improved, as well as being extended to include contested magistrates' courts cases. As many of the files used in this case file review pre-date this requirement, it would be inappropriate to comment on this further but it is something that the PPS should continue to improve.

4.13 Secondary disclosure¹⁹ was dealt with correctly in 10 out of 14 cases (71.4%). Third party material (such as a victim's GP's details and whether they had undergone therapy) was dealt with properly in all relevant cases insofar as there is a Crown Court protocol and the victim's consent to disclosure of relevant material has to be sought. However, prosecutors appeared not to consider whether the material was relevant and disclosable, and seemed to put the onus on the victim to object to disclosure. There was a lack of recording by prosecutors as to whether they had objected to disclosure when the material was placed before the judge.

4.14 There was continuity of prosecutor in 17 out of 18 prosecuted cases in the case file review. In the one 'judge ordered acquittal' from the sample the victim had made three separate allegations, which were dealt with by three different prosecutors but there was no liaison or consultation in the decision making process. As outlined above, sexual offences experts were primarily allocated complex sexual offences cases but where prosecutors were not experts, they were able to seek advice regarding specific cases from either one of the experts or from their Regional Prosecutor.

17 In the course of an investigation the police may have collected information that is not subsequently used by the prosecution. Primary disclosure is the duty placed upon the prosecutor to disclose any such material to the defence if in his or her opinion the material might undermine the prosecution case. The prosecutor must also give to the defence a list of all the non-sensitive material that might be relevant to the case but which is not used as part of the prosecution case.

18 CJI & HMCPSI, *The Public Prosecution Service for Northern Ireland - A follow-up inspection of the 2007 baseline inspection report recommendations*, June 2009.

19 Secondary disclosure is the procedure whereby a prosecutor must disclose any information in his or her possession where the information might assist the defence case.



Decisions were made by a sexual offences expert in 14 out of 15 non-prosecuted cases (not known in the 15th). The direction to take no prosecution was discussed with a second sexual offences expert in two out of 14 cases (not known in three cases). Relevant decisions were made by a sexual offences expert in all 18 prosecuted cases. There was discussion with a second sexual offences expert in four prosecuted cases. Such discussion took place in the judge ordered acquittal but not in the two cases where pleas were accepted to alternative charges. Inspectors were also advised that Regional Prosecutors undertook dip sampling across all types of case to check prosecution decisions and case building and sexual offences cases had featured within this.

- 4.15 Although prosecutors' decisions were appropriately recorded and the police were notified of decisions to prosecute or not prosecute, review endorsements and advice to the police lacked detail of the reasoning. This does not assist in enabling lessons to be learnt by staff and the organisations. This was an issue identified in the 2007 CJI/HMCPSI inspection of the PPS which led to the following formal recommendation; *"We recommend directing lawyers should explain fully their reasoning to the agency in cases where they direct no prosecution or where their decision is different from that recommended by the investigator"*. This was reviewed in the follow-up inspection in 2009 and 'some progress' was deemed to have been made. This is clearly an issue the PPS needs to continue to address. Similarly in cases which proceeded

to prosecution the recording of continuing review decisions was poor. The relevant evidential factors were recorded in three out of 14 cases (21.4%); there were no cases where the relevant public interest factors were recorded at each review.

- 4.16 One of the issues which prosecutors took into account in making decisions whether to take a case forward for prosecution, was that of victim credibility (although prosecutors need to consider ways of building the case rather than focusing on the victim's credibility). Prosecutors outlined to Inspectors how the consistency and plausibility of evidence provided by the victim was critical in determining whether the case was suitable for prosecution. Although the PSNI provided video-taped interviews of the victims (taken in order that the evidence can be presented in that form in any subsequent trial, as part of the special measures procedure) prosecutors still met with the majority of victims to be able to assess their credibility. There were six non-prosecuted cases and 14 prosecuted cases in the sample where the victim gave their statement by video interview, but there was no endorsement on the files to show whether the prosecutor had viewed the video and made an assessment of the quality of the video or the victim's credibility as a witness. This was also an issue previously identified in the CJI/HMCPSI baseline inspection of the PPS which needs to be addressed.
- 4.17 In England and Wales CPS guidance has been introduced to enable such victim consultations (pre-trial witness



interviews) to take place for the purpose of assisting a prosecutor to assess the reliability of a witness's evidence or to understand complex evidence. Recent guidance has been issued to ensure that as part of the decision making in every rape case, prosecutors consider whether a pre-trial interview is appropriate and provide reasons in the charging decision form. This does not, however, detract from the requirement for CPS prosecutors to consider the evidence in the case file and to watch the video-taped victim interviews provided by the police.

4.18 A PPS Regional Prosecutor estimated that 75%-85% of victim consultations held by the PPS related to sexual offences cases. However, the case file review only enabled Inspectors to ascertain that there had been a consultation with the victim in two of the non-prosecuted cases and one of the prosecuted cases. Comments made by members of the PPS, counsel, victims and their supporters would suggest that the majority of prosecuted cases and many non-prosecuted cases utilise a victim consultation. A victim consultation to assess a victim's credibility appeared to be the preferred method used by prosecution counsel. Inspectors spoke to barristers who stated that

if the PPS had not undertaken an assessment of the victim at the decision making stage, they would arrange, once instructed, to meet the victim for this purpose. This was a difficult process in which to manage victim expectations as victims tended to assume that a failure to proceed with a prosecution after this interview was an indication that prosecutors thought they were lying, when in fact Inspectors were told this was not the case in the majority of instances. The use of video interviews enables prosecutors to make an objective assessment of the victim and reduce the likelihood of stereotyping.

The PPS should ensure that viewing of victim video interviews and consultations with victims are endorsed on the case files by prosecutors and that video-taped interviews are used as the primary tool by which to make an assessment of the victim's evidence.

4.19 PPS figures for decisions made in respect of rape cases for 2007 are contained in Table 2. As this shows in 2007 the PPS made a decision to prosecute 23.4% or just less than one in four cases by way of summary or indictable prosecution.

Table 2: PPS decision types for suspects in Rape and Rape (Common Law) cases received by the PPS during 2007

No Prosecution	Diversion	Summary Prosecution	Indictable Prosecution	Total
188	5	3	56	252
74.6%	2.0%	1.2%	22.2%	-





4.20 The exact reasons why almost three-quarters of cases are not taken forward for prosecution is not clear. However this is obviously an issue which is of concern for victims and their supporters. The PPS and the PSNI had already established a Steering Group in relation to cases involving rape. One of the actions being undertaken by the group was to identify no prosecution cases and the reason for the decision taken to clarify issues to be addressed including training needs for both police and prosecutors. Inspectors welcome this piece of work and would wish to build upon this. Therefore **Inspectors recommend that the PPS should investigate the reasons why the majority of rape cases are directed for no prosecution and, if issues are identified, take action to address these, where appropriate in conjunction with the PSNI.**

Diversion

4.21 Since the Youth Justice Agency's inception in 2003 the PPS had directed 31 cases involving sexual offences for diversion to a youth conference. The majority of these were for indecent behaviour (for example a young man exposing himself to the police whilst drunk) which did not always require an AIM2²⁰ assessment, but also included sexual offences of indecent assault, unlawful carnal knowledge and gross indecency. There were good relationships reported between prosecutors and Youth Conference

Service (YCS) staff and Conference Co-ordinators stated that, although they would not challenge the legal views of prosecutors, they were able to provide feedback regarding the progress of young people who had previously received a youth conference in order to inform decisions surrounding their suitability for another conference. The work of the YJA with young people receiving a diversionary or court-ordered youth conference is covered further in the section on youth conferencing in Chapter 5.

Appointment and direction of counsel

4.22 The PPS had recently run a selection process for a prosecution panel to which they had appointed a number of junior and senior counsel. Selection of counsel to prosecute cases was made initially from the panel which provided a level of continuity for the PPS in terms of being able to access counsel with experience of prosecution. Some prosecuting counsel had developed a large amount of experience and expertise in sexual offences and reported that these types of offence made up the majority of their workload. There were concerns raised by stakeholders about the perception of inequality that sometimes was experienced by victims when a case was being prosecuted by one junior barrister compared to a junior and a senior barrister representing the defendant. Inspectors spoke to victims' representatives who sometimes felt

20 'Assessment Intervention Moving on' is used to evaluate juveniles with sexually harmful behaviours and assess their areas of concern and strengths.



that the offence against them was not given as high a value as the rights of the defendant, which they perceived to be unfair. Equally it was difficult for victims to understand why financial considerations impacted on the prosecution, but did not appear to for the defence.

4.23 Consideration was given during the case file review as to the equality of level of counsel, in terms of whether the barristers appointed by the PPS were of the same level (i.e. junior or senior) as those appointed by the defence. Prosecution counsel was of sufficient experience and skill in comparison with defence counsel in 10 out of 16 cases (62.5%), although in some of these the defence may have included senior counsel where this may not have been required. Interviewees from the CJS described some junior counsel as being equally capable of prosecuting these types of cases as senior counsel. Judges reported that generally prosecuting counsel were of a comparable standard to defence counsel but they did recognise the perception of inequality experienced by victims. The perception of victims regarding inequality of counsel may warrant further explanation and awareness raising of the relevant issues by the PPS. The use of counsel was covered extensively in the CJI/HMCPSI baseline inspection of the PPS. It commented: *“The main driver for the level of prosecution fees in Northern Ireland appears to be the remuneration paid to defence advocates – which is also mainly out of public funds. We recognise the need for parity within Northern Ireland but nonetheless remain concerned that the rates paid in respect*

to publicly funded criminal work may differ so significantly to other parts of the United Kingdom without there being a sound basis for the distinction”. A recommendation was made regarding steps the PPS needed to take in order to address the management of counsel fees including that *“senior counsel are only instructed where appropriate”*.

4.24 In response to this recommendation the PPS policy was amended in February 2008 so that the instruction of Senior Counsel required the written consent of the Regional Prosecutor/Assistant Director, except in relation to the cases of homicide/attempted murder, rape/attempted rape and fatal road traffic accidents. The following factors were taken into account in concluding whether Senior Counsel representation was warranted; *“cases where complex or novel legal issues are likely to arise that the instruction of Senior Counsel will bring added value”*; and/or *“cases of such factual complexity, seriousness, sensitivity or significant public interest that the instruction of Senior Counsel will bring added value”*. Whilst it may not be necessary to appoint senior counsel for every rape case, when an experienced junior counsel could in many circumstances prosecute the case adequately, some sexual offence cases which do not include an offence of rape, may warrant the appointment of senior counsel due to their complexity and therefore the appropriate implementation of this policy should ensure this occurs in practice. Inspectors look forward to seeing the longer-term impact of this policy.



4.25 Instructions to counsel were generally reported to be of an acceptable standard by barristers spoken to. However, Inspectors undertaking the case file review found that in the file sample, instructions to counsel were generally inadequate compared to what would be expected. In only four out of 17 cases (23.5%) the instructions contained a summary that adequately addressed the issues in the case, such as the strengths and weaknesses in the evidence. Continuity of counsel was found to be good both from reports from interviewees and in the case file review, with the latter identifying that the counsel at arraignment prosecuted the trial in seven out of eight cases (87.5%) and trial/plea counsel attended the sentencing hearing in all 12 relevant cases. In most cases papers were received in sufficient time before the date of arraignment or trial and counsel reported being involved from an early stage in complex cases of adult rape or child sexual abuse. Date information which enabled Inspectors to calculate the number of days between papers being sent to counsel and the eventual trial date was available for 11 of the 18 prosecuted cases reviewed in the sample. This calculation revealed an average of 201 days from papers being sent to counsel to the trial with a minimum of 17 and a maximum of 471. Of course this does not illustrate the time between the papers being received by counsel and the initial stages of the prosecution process (for example arraignment, case conference etc) but does give an overall picture. It is still suggested however, that further

efforts should be made to ensure counsel are briefed at the earliest possible opportunity to ensure they are able to thoroughly familiarise themselves with the case and clarify any outstanding issues.

CHAPTER 5:

The trial

Preparation for trial

5.1 All prosecuting counsel confirmed that they would make efforts to meet the victim prior to the trial and that they were cognisant of the specific needs of victims in sexual offences cases. In the majority of cases this was achieved, although issues such as delays in receiving papers impacted upon this. As outlined previously however, several prosecuting counsel reported that this meeting also provided them with an opportunity to 'assess' the victim, particularly if no meeting had been held between the victim and the PPS. One barrister commented that they had, on a few occasions, recommended that the PPS discontinue the case on the basis of meeting victims who they felt were 'insufficiently credible'. This type of outcome from a consultation can prove distressing for victims, particularly if it is undertaken very close to the trial date.

5.2 Inspectors identified from the case file review that a formal conference to discuss the case was held with counsel and the police, before arraignment in two out of 18 cases (11.1%). It was clear, however, that prosecutors were meeting with counsel, in particular when there is consultation with the victim. This type of conference can be a valuable tool in the prosecution of such offences, but it is advised that all conferences should be formally recorded in the case file when they have taken place. It is recommended that **in every rape or serious sexual offences case where counsel has been instructed, a conference should always be held between the prosecutor, counsel and the police officer in the case to analyse the evidence and to explore ways of overcoming any difficulties.**

5.3 The granting of bail applications was a source of concern to victims'

Victim A reported that she was 'interrogated' by counsel in a consultation room on the morning of trial. She stated that she was asked details which she had never been asked before by police or prosecutors. The reason she believed this happened was that the barrister was concerned that her evidence was weak.



groups and victims themselves as often defendants were granted bail, particularly in cases of historical child sexual abuse, and therefore the victim may come into contact with them again. This was a particular difficulty when attending court as the layout of most court buildings meant it was virtually impossible for victims and defendants to enter via different entrances or avoid coming into contact with each other prior to trial and at lunchtimes. Victims advocates such as VSNI, Rape Crisis and Sexual Assault Centre (RCSAC) and NSPCC made valiant efforts to attempt to limit such contact but this was often difficult and could not be entirely eliminated. For example, one victim reported seeing her abuser in the street when he was out on bail before the trial and on the morning of the trial on the steps of the court building and he was also released between pleading guilty at the trial and sentencing. A victim's organisation also described how a victim became hysterical upon seeing her abuser in the courthouse and they had great difficulty in convincing her to give her evidence. The possibility of such incidents happening is rightly communicated to victims by advocate and support groups to properly prepare the victim for difficult experiences. The possibility of such incidents and other factors already impacting on victims contributes to the high attrition rates in sexual violence cases. It is important therefore that as much as possible is done to avoid unnecessary contact between victims and alleged perpetrators.

The prosecution process

- 5.4 Judges advised, and prosecutors confirmed, that sexual offences cases, particularly rape cases, were usually listed on Monday mornings in order to enable cases to be heard in the course of a week, thus avoiding the added stresses for all concerned of a gap in the trial for a weekend. Listings of rape cases to be heard in Laganside Court provided to Inspectors also confirmed that in the vast majority of cases rape and serious sexual offences or child abuse trials were listed for Monday mornings.
- 5.5 Adjournments were reported to be an issue by interviewees from both criminal justice agencies and stakeholders which caused delay in the prosecution process. These were often due to requests by the defence, which some victims' groups perceived to be delaying tactics. The main issue regarding adjournments was where victims had prepared themselves psychologically for the trial being unaware that an adjournment would be requested, which then led to disappointment and further distress, plus wasted time for them and their family in attending court, taking time off from work or study and making care arrangements for any dependents. Similar wasted time was also experienced by prosecutors, counsel, police and other professional witnesses along with a feeling of frustration. This was heightened when they perceived that the adjournment was unnecessary.



5.6 Counsel confirmed that they had excellent access to PPS staff, during the course of the trial, particularly the Regional Prosecutor, with whom they could consult on issues arising and discuss any pleas (to fewer or alternative offences) offered by the defendant. In the case file sample there were six cases where a caseworker covered the trial and in each of these the same caseworker covered each day of the trial. The notes of the trial were generally of a good quality although for some cases there were no notes in the file. Some concerns were raised as to the treatment of victims, and language used, in the court room and the ability of prosecutors to challenge inappropriate cross-examination of victims by the defence. One District Judge had attended training on these issues in England and suggested more training for legal professionals was needed in this area. Prosecutors in an adversarial legal system have a difficult path to tread in terms of ensuring the victim gives honest and reliable evidence whilst preventing them from being further traumatised by the court process. This may be something the PPS wish to consider in a quality assurance process for panel counsel or discuss further with the judiciary.

5.7 The issue of plea bargaining was subject to media scrutiny again during the course of this inspection in relation to a high profile murder case. The PPS *Code for Prosecutors* outlines the process for accepting guilty pleas to lesser offences. This states “*The defence may on occasion approach the Prosecution Service with an offer to plead guilty to only some*

of the charges that they are facing, or to a lesser charge or charges, with the remaining charges not being proceeded with. While the prosecutor is under a duty to consider any such formal offer from the defence, ‘plea bargaining’ has no place in the practice or procedures of the Prosecution Service.” The Code then sets out the factors to be considered when deciding to accept an offer from the defence. PPS staff spoken to reiterated that they do not support the practice of plea bargaining and that prosecution barristers are not permitted to make such decisions or agreements with the defence. In such circumstances the barrister must refer the issue back to the Regional Prosecutor for review and decision by the PPS. Inspectors did not find any evidence that counsel accepted a plea from a defendant without consultation with the PPS. The PPS has taken action previously to address the perceptions of victims and their representatives including the release of a press statement in May 2009 entitled ‘*Accepting Pleas Of Guilty To Lesser Offences: PPS*’. This acknowledged that on some occasions when the prosecution accept a plea of guilty from a defendant to a lesser offence, there is public concern, and explained the basis upon which an offer made by a defendant to plead to a lesser offence was accepted. In addition the PPS stated that PPS prosecutors and prosecuting counsel are required to explain to victims the basis upon which a plea may be accepted, including in cases of a sexual nature. Despite this approach being adopted by the PPS many stakeholders that Inspectors spoke to claimed that plea bargaining was practiced in NI



contrary to the comments of the PPS. Inspectors welcome initiatives already taken to address these perceptions and recommend that **the PPS should take further steps to ensure greater consistency in its approach to communications which address the perceptions of victims and their representatives regarding the perceived practice of plea bargaining.**

5.8 Professional witnesses such as FMOs and FSNI staff were reported to be effective in the provision of their evidence. The time delay between the medical examination being undertaken and the FMO giving evidence in court could create some difficulties in FMOs recalling the case sufficiently. It was therefore suggested that FMOs should be updated by police regarding the case as to subsequent evidential issues such as evidence of drugs/alcohol or Deoxyribonucleic Acid (DNA) and should be given the opportunity to serve a second statement if necessary. In addition, the FMOs and FSNI staff should be included in the conferences, where possible, with the PPS, counsel and the officer in the case as recommended above. Issues were raised regarding the time spent by FSNI staff waiting to give evidence at court, often without being called, but a recommendation in the recent CJI inspection of FSNI²¹ aims to address this.

5.9 Concerns were raised, particularly by legal representatives, about the

ability of juries to make accurate judgements around the guilt or otherwise of defendants in these types of offences. This is important particularly when most revolve around issues of consent and the key evidence frequently revolves around one persons word against another, generally without medical or forensic evidence to support either party. Difficulties have been experienced by prosecutors trying to dispel ‘rape myths’; for example by explaining the different ways a victim may react, the fact that not all rapes leave physical injury and so on. In such circumstances they are often open to challenge by the defence for leading the jury or providing information outside their area of expertise. In England and Wales judicial directions have recently been drawn up to enable judges to address popular misconceptions about rape with jurors but the outcome of this is as yet unknown²². A recent study as to whether juries in England and Wales are fair²³ stated that: “*Contrary to popular belief and previous government reports, juries actually convict more often than they acquit in rape cases. Other serious offences (attempted murder, manslaughter, grievous bodily harm) have lower jury conviction rates than rape.*” They also found that juries convicted defendants more often than they acquitted in all rape cases (55% conviction rate) and that most jury verdicts for rape involved female complainants, where juries convicted 54% of the time.

21 CJI, *Inspection of Forensic Science Northern Ireland*, July 2009

22 Times On-line, *Beware rape myths, judges to tell jurors*, 15 June 2009

23 Thomas, C. (2010), *Are Juries Fair?*, February 2010, Ministry of Justice Research Series 1/10: London.

Conviction or acquittal

5.10 Table 3 shows the outcomes for suspects in indictable cases of rape prosecuted by the PPS in 2007. Of the 52 suspects which had been taken forward to indictable prosecution over half (57.1%) resulted in a conviction (excluding the four cases which were still awaiting trial). This was similar to the figures available for England and Wales which stood at 54.5% for 2006-07 and 57.7% for 2007-08²⁴. Calculations of figures provided for NI reveal a total conviction rate of all cases reported to police (including those which did not result in a case file being sent to the PPS) of 7.2% which is slightly higher than the figure provided recently for England and Wales by Vera Baird, QC, the Solicitor-General; standing at 6.5% in 2009 and 5.2% in 2007. These figures must be treated with caution. PSNI figures regarding numbers reported for rape are based on the primary offence at case level (as determined by the PSNI); however the offence of rape may not apply to all persons reported. It is also possible that some cases may include several defendants and the primary offence of rape recorded against the

case may not apply to all concerned. However it provides an indication of the attrition rates for rape offences and enables comparisons to be made with other jurisdictions.

5.11 The recent review by Baroness Stern²⁵ identified issues around the reporting of the 6% 'conviction rate' for rape cases and highlighted that this figure refers to attrition i.e. that out of every 100 offences that are recorded by the police as a crime, six of them will lead to a suspect being convicted of rape. The factors contributing to this attrition are varied and complex. The Stern review recommended that the Home Office and Ministry of Justice should work with the National Statistician to find a way of presenting criminal justice data that enables comparisons to be made of the outcomes for various offences and makes clear what conclusions can and cannot be drawn from those data. Inspectors would welcome clearer explanations behind the presentation of such statistical data but believe that the use of this attrition figure provides a useful method of comparing Northern Ireland and its most similar jurisdiction, England and Wales.

Table 3: Outcomes for suspects in Rape and Rape (Common Law) cases prosecuted by the PPS during 2007

Awaiting Trial	Acquitted	Crown Offered No Evidence	Left on File	No Bill	Convicted*	Total
4	7	7	6	1	27	52
7.5%	13.2%	13.2%	11.3%	1.9%	52.8%	-

* Of those convicted, 12 persons pleaded guilty to a lesser charge and 11 persons pleaded guilty to rape.

²⁴ Crown Prosecution Service, *Violence against women crime report 2007-2008*, December 2008, CPS: Bolton.

²⁵ Baroness Stern CBE (2010), *The Stern Review: A report by Baroness Vivien Stern CBE of an independent review into how rape complaints are handled by public authorities in England and Wales, March 2010*, London: Home Office.



Whilst the use of this figure should not be allowed to dominate the debate around the issues regarding sexual violence and abuse, it is important that organisations continue to strive for improvements in conviction rates and reduction in attrition.

- 5.12 In the case file sample there was one case where no evidence was offered and two cases where the charges were reduced. In the one judge ordered acquittal, there was no record of the prosecutor's decision to terminate the case, although this decision was considered appropriate by Inspectors. The decision to reduce the charges was appropriate in one of the two cases but not in the other. In addition there was no written report from counsel or the reviewing prosecutor in any of the three acquittals in the file sample. This issue was identified in the CJI/HMCPSI baseline inspection of the PPS and led to the following issue to be addressed: *"To enable prosecutors to improve the quality of their decision making, the Management Board should ensure:*
- *that accurate and full case reports which identify the issues in the case are completed in all appropriate cases;*
 - *a cohesive system is in place to enable staff to learn from experience; and*
 - *lessons to be learned are shared between the regional offices and with the police."*
- The implementation of actions to address this issue, on which some progress had been made in the 2009 follow-up, should assist in learning lessons from acquittals in sexual violence and abuse cases.

- 5.13 In one case in the file sample a plea (to unlawful carnal knowledge where the initial charge was rape) was accepted inappropriately. The plea was accepted because the 12 year old victim had provided inconsistent evidence, but Inspectors felt there were strong reasons to continue with a prosecution of rape. It was accepted by barristers spoken to, that nearly all decisions made by juries as to the guilt of the defendant were appropriate based on the evidence presented.

Youth conferencing

- 5.14 Since the YJA's inception in 2003 the courts had ordered the defendant to complete a youth conference in 18 cases involving sexual offences. As with the diverted youth conferences the majority of these were for indecent behaviour, which did not always require an AIM2 assessment, but also included indecent assault and gross indecency (AIM2 is an initial, holistic, evidence based tool that addresses both concerns and strengths for use with young males who display sexually harmful behaviour). The numbers of conferences ordered for sexual offences had increased over time, which the YJA saw as an indication of an increasing confidence from judges in their use. The majority tended to be from the Belfast area. At the time of the inspection no young people had been brought before the court for a breach of their youth conference and the YCS were able to seek amendments or variations should they feel they were necessary.
- 5.15 All conference co-ordinators who



worked in the area of sexual offences had undertaken AIM2 training and had done an additional day on the Manchester AIM2 model on sexually harmful behaviour. Co-ordinators had also recently received training on 'normal' sexual development as part of the Northern Ireland Sex Offender Strategic Management Committee training. Co-ordinators always worked in pairs on these types of conferences with one taking the lead post-conference. Sexual offences conferences used the same process as other types of conference although generally had a longer preparation period due to the sensitive and difficult nature of the offences and the need to work at the level of ability of the young person. The YCS were planning to provide training in sexual offences for PSNI Youth Diversion Officers who worked with them on the conferences as they had received no training in this area to date.

- 5.16 The YJA had good links with Barnado's and the NSPCC who provided therapeutic interventions for young people who displayed sexually harmful behaviour, although there were delays in accessing their services. YCS staff suggested that the youth conference approach provided better outcomes for both offenders and victims than a court case: it provided everyone with a 'voice' and enabled the offender to understand their behaviour, and the harm it had created, as well as the subsequent impact on the victim. Delays were a particular difficulty in dealing with young people displaying sexually harmful behaviour as often several years had passed between the offence

and the conference, sometimes resulting in them being too old to be able to access therapeutic interventions. The YCS co-ordinators provided good examples of on-going contact with victims and their families in assisting them to seek amendments to orders and in working with offenders on other aspects of their life, such as employment, education and training which are factors that can help to reduce risk.

Preparations for sentencing

- 5.17 In 2008-09 the PBNI produced 110 Pre-Sentence Reports (PSRs) for defendants convicted of a sexual offence which was slightly less than in 2007-08 (127 reports). Both these figures represent two per cent of the total number in the report produced by the PBNI. All probation officers who produced PSRs for convicted sex offenders were required to undergo specific training. Reports for all types of offence were delivered in line with a comprehensive set of probation standards which outlined the information sources which input into the PSR, the format of the report and the timescales by which reports should be delivered. Interviewees considered PSRs to be valuable, comprehensive and of a high standard, with the vast majority provided within the four week timescale as requested.
- 5.18 Victim impact/personal statements were frequently provided to the judge and outlined the victim's views on the effects the offences had had on them. Victim impact reports were also often requested in these types of cases and provided a view from a



professional (for example, a psychologist, psychiatrist or a doctor) as to the impact the offences had on the victim psychologically, emotionally and/or physically, up to the point of trial and the likelihood of this impact continuing longer term. There was a victim impact report in 11 out of 16 cases (68.8%) in the case file review. Judges commented that victim impact reports were particularly useful.

Defendants

5.19 During the fieldwork for this inspection CJI Inspectors consulted some stakeholders on their views of the treatment of defendants during the prosecution process in terms of protecting their human rights and adhering to the principle of ‘innocent until proven guilty’. In addition, CJI Inspectors were able to meet with a defence solicitor who had represented defendants in sexual offences cases. In general all those spoken to felt that the rights of defendants were upheld during the prosecution process. Defence counsel were considered to be good and able to challenge the evidence presented. The defence were able to access all information relevant to the case prior to the trial and there was continuity of prosecution which enabled the defence to keep track of the ownership of the case. One defence solicitor suggested that judges should grant reporting bans on the media in all sexual offences cases, preventing them from publishing the name and details of any defendants during the trial (not just to protect the identity of the victim where it is a case of child abuse) in order to protect those who are subsequently

acquitted from being subject to a continuing stigma in the community. This was attempted in England and Wales through legislation introduced in 1976 but was subsequently repealed. There is a need to deal carefully with information about suspects in sexual offences cases because of the nature of the offences and the media interest surrounding these types of offences. The NI Judicial Studies Board and the Office of the Lord Chief Justice have issued guidance to the NI judiciary on reporting restrictions.

5.20 Concerns were raised around the processes surrounding defendants who claimed they were unfit to plead to the charges made against them. Judges confirmed that there was an increasing recognition that many defendants in these cases suffer mental health problems (although not all would claim to be unfit to proceed). This was an issue that was just beginning to be addressed though there continued to be some difficulties with obtaining psychiatrist’s reports and this created delays. The need to provide the opportunity for both sides, if necessary, to obtain evidence such as psychiatric reports, could also lead to the case becoming protracted. One victim Inspectors spoke to was experiencing this difficulty at the time of the inspection. The suspected abuser had been admitted to a psychiatric hospital and there had already been several reviews held in court with no clear indication for the victim as to when a resolution would be reached or whether she would ever have the opportunity to give evidence in court in criminal proceedings.

CHAPTER 6:

Victim support and care



Victim support

6.1 The VCS provides an essential service for supporting victims, victim care and providing access to specialist services such as counselling. Where a victim had reported the crime to the police they also provided support through the criminal justice process. Such organisations, however, are also often a source of support before and long after the involvement of criminal justice organisations, and all VCS organisations reported a high demand for their services. For example, the Rape Crisis and Sexual Abuse Centre reported receiving around 3,000 calls and 350 new clients a year; Women's Aid reported receiving 24,000 calls a year (of which, although primarily related to domestic violence, it was estimated that about a third would include some element of sexual violence); Childline NI received calls from 950 children in 2008 (albeit not all of these calls are made by children and young people living in NI) primarily relating to sexual abuse; and The NEXUS Institute reported receiving over 5,000 calls a year and offered 14,000 counselling sessions each year (all relating to sexual

violence and abuse). Inspectors were impressed by the commitment and dedication of the staff working in this difficult and emotionally challenging area.

6.2 Inspectors heard that PSNI staff, in particular, were supportive of victims and treated them professionally. The professional approach of police officers was felt to have improved in recent years. In order to compare the issues experienced by victims of sexual violence with those experienced by victims as a whole a comparison was undertaken between relevant recommendations and findings of the CJI inspection and follow-up review on Victims and Witnesses²⁶ and the findings of this inspection. The full comparison is contained in Appendix 3 but broadly speaking this identified that there are similar issues facing victims of sexual violence to those facing victims as a whole. This inspection found further supporting evidence of issues in the provision of care for victims in the CJS which require development such as in the areas of contact with victims, updates regarding outcomes and the status of victims.

26 CJI, *Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System in Northern Ireland*, July 2005 & CJI, *Improving the Provision of Care for Victims and Witnesses within the Criminal Justice System in Northern Ireland: A Follow-Up Review of the July 2005 inspection recommendations*, March 2008.



Reporting and initial response

- 6.3 Inspectors were advised that in NI, as in the rest of the UK and internationally, sexual offences are frequently under-reported. A number of studies have explored the reasons for not reporting, and a wide range has been documented, for example, fear of being disbelieved, blamed or judged; distrust of the police, courts or legal process; and fear of family or friends knowing. The PSNI advised that the number of reported rapes had recently reduced from between 420 and 430 per year to approximately 350. Representatives of victim's organisations spoken to provided an essential role in supporting victims of sexual violence and abuse and helping them to deal with the feelings of fear, anger and shame they were experiencing. Most organisations stated that whilst they would not force or coerce victims to report to police the violence or abuse they had suffered, or breach their confidence (except in cases where a child was potentially in danger), they would outline the options available to them and the processes of the CJS. Organisations outlined to Inspectors the difficulties they experienced in encouraging victims to report the incident, in order to prevent further offences against themselves or others, whilst providing them with a realistic preview of the experience of the criminal justice process and prepare them for the likely outcome (i.e. that the case probably would not result in a conviction). Until such time as prosecution and conviction rates increase, these organisations will continue to have to strike a difficult balance between supporting victims and encouraging them to report, but not giving them false hope of a satisfactory outcome.
- 6.4 Many interviewees spoken to expressed their hopes that the introduction of the first SARC in NI would improve the service provided to victims, with specialist facilities available, and encourage victims to report offences. The SARC was a key proposal of the Regional Strategy. The SARC was planned to offer services to all victims of sexual violence and abuse whether or not they choose to report the offence to police. It is also expected to assess the victim's needs and provide immediate medical and other aftercare services as well as facilitating the collection of forensic evidence to support a subsequent prosecution, should the victim choose to report the offence. The PSNI was very supportive of the plans for a SARC and had been involved in the planning and development of the service, including a financial commitment to it. The PPS were also represented on the SARC Project Group.
- 6.5 A number of VCS organisations also advised of additional reasons for not reporting. For example, The Rainbow Project indicated that whilst sexual violence was a significant issue for the gay and bi-sexual community, gay or bi-sexual men in particular, often did not recognise they had been a victim of sexual violence, particularly where the perpetrator was a partner or ex-partner. Other issues exist around young people placing themselves in what are considered to be 'risky'



situations. The Barnado's 'Safe Choices NI' project was working to raise the awareness of statutory agencies and to improve approaches to addressing the sexual exploitation. Whilst traditionally these young people have often been regarded as difficult to manage and responsible for placing themselves in risky situations when going missing from care homes the project aimed to reduce the risk of young people being sexually exploited by reducing the number of missing episodes from care. Studies have also highlighted the "*failure of cases involving women with learning difficulties and mental health problems to progress through the system*" (Harris and Grace, 1999, and Lea et al, 2003).

6.6 Feedback from victims and their representatives on the initial response to a report of a sexual offence was varied. Where difficulties were experienced with the initial reporting process (such as front-line officers and front-desk staff appearing not to know what action to take, victims being required to give details publicly over the station counter or staff directing victims to the wrong department) this could affect the victim's decision to continue with the report. Most officers were aware of the support available to victims from organisations such as NEXUS and Rape Crisis and stated that they would refer victims to their services, although in reality many victims, particularly those who had suffered historical abuse, had already been involved with the services of these organisations prior to reporting to police.

6.7 The PSNI RCU had recently

embarked on setting up a 'critical friend' group to guide the police on the service they provide and advise them on how to address victim issues. The members of this group were representatives from Women's Aid, NEXUS, The Rainbow Project and Rape Crisis. Work was ongoing on specific methods to improve confidence in the police with these organisations; for example an interview with the Detective Inspector from the Belfast RCU, which outlined the work of the unit, had featured in an issue of The Rainbow Project's magazine. These recent activities were positive steps forward in building relationships with victims' advocates for these types of offences and seeking feedback on the PSNI's performance in this area and victims groups welcomed the progress that had been made. At the time of the inspection Skills for Justice had just developed National Occupational Standards on '*preventing and tackling domestic and/or sexual violence/abuse*' for those working in this area, and had produced a proposal to develop training based on these. Skills for Health were also developing similar standards for staff working in the health professions. The introduction of such standards should assist agencies in identifying the skills required for all staff working in this area. For example one unit standard was entitled "*Address callers regarding domestic and/or sexual abuse/violence with sensitivity*" which clearly includes the work of call handling and addresses the issues outlined above.

6.8 There was a general lack of research and knowledge around the issues of



sexual violence and abuse in diverse communities. Issues such as sexual exploitation, trafficking and gender mutilation have become an increasing focus of attention in England and Wales. This is likely to become an increasing cause for concern in Northern Ireland as the population becomes more diverse with individuals from different cultures, where these issues can be more prevalent. This is a matter which the Northern Ireland Council for Ethnic Minorities (NICEM) were aware of but had not yet investigated. Victims from minority ethnic groups form a small proportion of reported cases (for example 90% of rape offences reported to the PSNI in 2008 were from a 'White European' background, with 0.08% unknown and only 0.02% recorded as non-White European) and it is likely there is even greater under-reporting than in the general population. Victim ethnicity was not recorded on the PSNI crime reports but should be.

- 6.9 In addition, interviewees reported limited experience of cases involving victims who had learning difficulties or a physical disability. A large proportion of sexual violence and abuse cases centre on the victim's word against the perpetrator's (for example, 71% of non-prosecuted cases and 50% of prosecuted cases in the case file review). Inspectors were advised by many stakeholders that in such circumstances, the issue of victim and perpetrator credibility became more critical and therefore it was unlikely that many of these cases would be directed for prosecution or result in a successful conviction. Stakeholders recognised that this was

a significant problem for victims but that they needed to continue to work within the system. The issue of vulnerable adults in the CJS generally was a concern for some interviewees but hopefully the development of the protocol for investigations involving vulnerable adults will improve this. The exploitation of commercial sex workers was also raised as an increasing issue which had not yet been addressed.

- 6.10 Some victims' groups commented that police were generally sensitive to victims who made an initial report and then withdrew it at a later date. Figures provided by the NIO in 2005-06 showed that 35% of cases reported to police did not proceed due to the victim withdrawing support for the investigation.

Investigation, case building and review

- 6.11 Victims and their representatives generally reported high levels of satisfaction with specialist officers responsible for investigating sexual offences. They were found to be sensitive to the issues and supportive of victims during the difficult process of disclosing the offences against them. Some victims evidently came to rely on the police officer investigating their case as a source of support and information throughout the prosecution process, despite this not being the officer's role. Some issues were raised around the quality of the investigation process but this largely centred on timeliness, which is discussed below.
- 6.12 The lack of updates provided by some officers was a source of



concern for some victims and their representatives who wished to be given more regular updates as to what was happening with the case. Police officers also raised concern about lack of updates on the case provided to them by the PPS, despite, what they perceived to be a reliance by the PPS on police officers to provide updates to the victim and keep them informed during the case. For example, one officer commented that the victim often knew that no prosecution would be taken before the IO did. This lack of timely information caused difficulties for IOs as often victims had come to rely on them as a source of support during the investigation but they sometimes felt unable to provide them with accurate information due to a lack of knowledge as to what was happening with the case. One victim Inspectors spoke to was experiencing great difficulties in finding out the progress of the case hearings from the courts and the IO in the case had rung to ask if she had any further information. The *Code of Practice for Victims of Crime* produced in 2005 by the Office for Criminal Justice Reform in England and Wales states that: “*If no suspect is arrested, charged, cautioned, reprimanded, given a final warning or subject to other non court based disposal in respect of relevant criminal conduct, the police must notify the victim, on at least a monthly basis, of progress in cases being actively investigated up until the point of closure of the investigation*”.

- 6.13 Difficulties such as these illustrate the need for better communication and working practices between the PSNI and the PPS overall, rather than just

relationships between individuals. In England and Wales a protocol was developed between the police and the CPS for the investigation and prosecution of rape offences as a result of the HMIC/HMCPSI ‘*Without Consent*’ joint inspection report, which all CPS areas and police forces signed up to individually by the end of 2008. This was based on a prosecution team ethos and took a victim focussed approach, including setting out responsibilities for both the police and CPS in relation to victims and witnesses. It also outlines methods for sharing lessons learned between the agencies. **It is recommended that the PSNI and the PPS should develop a protocol for the investigation and prosecution of allegations of rape and serious sexual offences which outlines responsibilities in relation to the updating of victims.**

Victim input to prosecution decisions

- 6.14 Where the PPS concluded that a case passes the Evidential Test, they then considered the Public Interest Test in reaching their decision on whether to prosecute. In addressing the latter test, the PPS considered the consequences for the victims of the decision whether or not to prosecute and any views expressed by the victim or the victim’s family. The prosecutor was then required to write to the victim to advise them on the outcome of these considerations in very general terms and whether a prosecution would be taken. In the majority of case files reviewed it was not possible to determine the date on which the letter was sent to



the victim. However, where this information was available it was apparent that victims were usually written to immediately. At the time of the inspection, the letter sent by the PPS provided very limited information and did not offer an opportunity for victims to discuss with prosecutors the reasons for directing no prosecution. The case file review indicated that letters written to victims to explain decisions not to prosecute were poor and where they were present were addressed 'Dear Sir/Madam', contained standard paragraphs and were cold and impersonal. The example below illustrates the issue with standard letters giving no indication of reasons for the decision not to prosecute.

The case of Victim B was a child abuse case where a man had abused his three year old daughter. The decision to take no prosecution was accepted by Inspectors as inevitable given that there was no realistic prospect of a conviction as the victim did not have the level of understanding necessary to enable a video recorded interview to take place and there was no other direct evidence. However what was of concern was that the mother received an impersonal standard letter addressed 'Dear Sir/Madam' in response to such a distressing issue. A note on the CMS stated that a police officer would inform the mother as it was important she was informed in person rather than by letter.

6.15 At the time of the inspection a pilot was being undertaken in Southern Region to improve the information provided in certain types of cases, including serious sexual offences. This was in response to a recommendation made in the 2007 baseline inspection by CJI/HMCPPI which was deemed to have made 'some progress' in the 2009 follow-up. Inspectors would welcome review and roll-out of this pilot at an early opportunity and the ability for prosecutors to offer a meeting to victims to discuss the reasons for decisions not to direct a prosecution. This would enable victims to gain a better understanding as to why their case is not directed for prosecution, particularly given the relatively high number of cases directed as such.

6.16 The case file review also identified that where a victim withdrew their complaint, a copy of the withdrawal statement was not always present on the file. The approach of prosecutors appeared to be to accept that there was then insufficient evidence to proceed rather than attempting to see what support could be offered to assist the victim in continuing. Prosecutors considered compelling the victim to attend court in one out of five cases (20%). Police did not submit their comments on the veracity of the withdrawal statement and their views in any of the five relevant cases.

6.17 The PPS *Victims and Witnesses Policy* stated that in cases where a decision may be taken not to proceed with the original charge directed or to accept a plea to a lesser offence "the PPS will, whenever possible, and where the victim



wishes, explain to the victim why this is being considered and listen to anything the victim wishes to say”. Inspectors heard evidence of this being undertaken in practice and victims being consulted with at court, and in the one judge ordered acquittal in the case file sample, the victim was consulted before the case was dropped. However, Inspectors were advised by victims’ representatives this did not happen in every case. The PPS advised that, in principle, a family member, friend or victim advocate would be permitted to attend the consultation, should the victim so wish, provided it would not be prejudicial to the case, although in practice Inspectors heard that this did not always happen.

Special measures

6.18 The grounds on which a prosecutor can apply to the court for special measures are set out within the Criminal Evidence (NI) Order 1999 and were introduced to NI during 2003-04. The measures aim to assist vulnerable or intimidated witnesses to give their best evidence in criminal proceedings and include screening the witness from the accused; evidence by live link; video-recorded evidence-in-chief and evidence to be given in private. All child victims/witnesses and victims of a sexual offence acting as a witness, are eligible for an application to be made for special measures to assist in giving their evidence unless they do not wish to have them. The application must be granted by the court for child witnesses, subject to a very limited discretion. Therefore in these types of cases, police and prosecutors were

responsible for considering special measures applications from the outset.

6.19 Victims and victims’ groups were generally satisfied with the approach taken by the police during video-recorded interviews. They also felt that the police were well organised in terms of making arrangements and keeping victims informed about special measures applications. The case file review considered the approach to special measures adopted by the PPS. Inspectors found that in non-prosecuted cases the background information about the victim’s needs and capabilities was considered in one out of 11 cases (9.1%). There were three non-prosecuted cases where special measures should have been considered, but there was no evidence of them having been considered in any of them. In prosecuted cases, special measures were considered appropriately in 16 out of 18 cases (88.8%). Applications were made in a timely manner. Meetings were held with victims to discuss special measures in seven out of 12 cases (58.3%) but it was not always possible to tell from the file what measures were used at the trial.

6.20 Most interviewees confirmed that the majority of applications for special measures were granted although some, from both the CJS and victims’ groups, stated that they felt victims who gave evidence in person had a greater impact on the jury than those who gave evidence by video-link. For this reason some victim advocates and counsel had encouraged victims to give evidence in person, if they felt



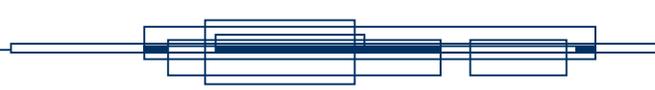
capable, either in open court or behind screens rather than rely on video evidence. A consultation regarding special measures was being carried out by the NIO at the time of this inspection. The CPS had conducted a monitoring exercise between April 2003 and March 2006 and published research, '*Special measures for vulnerable and intimidated witnesses: An analysis of CPS monitoring data.*' The research concluded that the use of television link or video-recorded evidence-in-chief had no adverse effect on the number of guilty pleas or convictions after trial, and that the provision of special measures assisted witnesses who otherwise might not have given evidence at all.

- 6.21 The court buildings varied in quality, due to the age of the estate, but a refurbishment programme was underway and interviewees reported excellent facilities in some courts. In some, particularly older magistrates' courthouses, the layout of the courtroom was not conducive to enabling special measures to be implemented, for example, screens to shield the victim from the defendant, but the majority were able to accommodate the requirements. On occasions where difficulties did occur however, this could have an impact on both the prosecution and the victim in terms of having to make last-minute alternative arrangements or, at worst, to change courthouse.
- 6.22 Upgrades to technology services in the courtrooms, for example, the provision of large television screens and additional smaller screens for the jury, had improved facilities for the

use of video recorded evidence. NICTS staff confirmed that the facilities for special measures were checked before each court and the Court Service offered a pre-case visit to the PPS to ensure that required equipment was working and compatible, although this offer was not always taken up by the PPS. Whilst counsel and judges confirmed that in the majority of cases special measures were in place, there were still occasions reported where difficulties arose. At the time of the inspection there was a protocol in development between the NICTS and PPS regarding equipment. In Londonderry/Derry there was an excellent example of partnership working with the NSPCC to support vulnerable victims and witnesses. The NSPCC building was located opposite the Crown Court and an agreement had been reached with NICTS and the judiciary to use their premises for victims to give evidence via video-link to the court without having to enter the court building.

Court familiarisation

- 6.23 VSNI was responsible for the adult witness service and NSPCC for the young witness service. Interviewees reported high levels of satisfaction with the service provided by these organisations. Court familiarisations were organised and run by VSNI and the NSPCC in order to prepare victims for a court appearance and familiarise them with the courthouse. These appeared to be well managed with extra support provided to vulnerable victims. NICTS staff advised that in the absence of the NSPCC accompanying



officer, some NICTS staff were trained to undertake the role. There were 14 cases in the PPS case file review where a court familiarisation visit would have been appropriate but either a visit did not take place, or it was difficult to establish from the file that one had occurred. It would be advisable that such familiarisations were undertaken in every case and confirmation of the visit recorded on the file.

The trial process

6.24 Most of the victims Inspectors spoke to had not had the opportunity of seeing their case through to trial and therefore did not have direct experience of the courtroom process. Generally the victims spoken to did not appear to have a full awareness of the process once the case had reached a courtroom. One example of this was when a victim and her parents attended the sentencing of her abuser, who had pleaded guilty, but she was not aware that the details of the case would be read out in court. This caused her considerable distress as she had not wanted her parents to know these details. Issues were raised by victims' representatives which have already been discussed in Chapter 5, including those around bail of the defendant, cross-examination and plea-bargaining. It was noted that some barristers displayed sensitivity and understanding when dealing with the victim, even in terms of removing their wig to speak to victims, and an acknowledgement of the nature of the offences, however others did not behave in such a way. A notable

example of good practice and concern for victims' welfare was outlined by one victim. She reported that counsel who had prosecuted her case made a specific request to police that she be in attendance at the sentencing of her abuser in order that she obtained some form of 'closure'.

6.25 All agencies were aware of the need to be mindful of victims when dealing with the court proceedings in terms of listings, as mentioned above, transfer of court venue and allocated times for victims to attend court, although acknowledged that these were difficult to manage. Changes in court venue were rare for Crown Court cases although transfers could sometimes occur in the Magistrates' courts to facilitate the speed of hearings but when this did occur, albeit infrequently, this would usually be relating to requirements for special facilities or equipment.

6.26 The security at court buildings was managed by Resource on behalf of the NICTS and they were responsible for ensuring there were no difficulties during contentious cases or altercations between defendants, victims and their families. There were also protocols in place between the NICTS, PPS and PSNI for contentious cases to ensure that the NICTS could request extra security if required. The nature of the offences means that it is critical victims are protected from possible repercussions or emotional distress caused by interaction with defendants and/or their family and friends.



Delay

- 6.27 The issue of avoidable delay in the CJS has previously been the subject of a CJI report²⁷ and therefore this inspection will not attempt to replicate its extensive. However, delay was an important issue which arose during this inspection and was a source of frustration, particularly to victims and their representatives. Many examples were given by stakeholders of lengthy periods of time experienced by victims to process the case through the CJS and the impact this had on them, with victims waiting two or three years for a case to come to court. Some victims' advocates commented that when outlining options for victims regarding reporting to police and embarking on the prosecutorial process, the length of time taken for the process was a key issue that they outlined so that victims would be aware it could take years to get some form of justice. The PSNI have a time-limit of three months between charging a suspect and submitting a file to the PPS, although in cases of historical abuse where suspects were not charged until later in the investigation process, this could make the process much longer. The PSNI should ensure, when a suspect is charged, that notifications are made to their partners as appropriate, for example to FSNI when forensic information has been requested, in order that they can prioritise the file accordingly. The review of the PSNI crime reports identified that there was a delay in submission of the reported cases (of over 91 days) in 11 cases (12%). There was also evidence of one submitted at 93 days and one submitted at 97 days.
- 6.28 The case file review provided evidence to support comments made by officers about delays in investigating cases. However the sample size was small and therefore the results should be read with caution. In two non-prosecuted cases (33%) and two prosecuted cases (15%) there was a delay in taking a statement from the victim and this delay ranged from two days to three months. In 86% of non-prosecuted cases (six out of seven cases) and 46% of prosecuted cases (six out of 13 cases) there was an unnecessary delay during parts of the investigation. Figure 4 shows the parts of the investigation process in which delay occurred.
- 6.29 Figure 5 shows the reasons for the delay included awaiting forensic results, awaiting medical results and awaiting typing of interview transcripts, with the reason unknown in the remainder. Whilst these are small sample numbers and should not be over-emphasised they provide an indication of the nature of the delay experienced.
- 6.30 Analysis was undertaken into the number of days taken by police to carry out stages of the investigation process as contained in Table 4. Cases which were ultimately directed for prosecution took, on average, slightly longer from the report of the incident to the suspect being arrested

27 CJI, *Avoidable delay: A thematic inspection of delay in the processing of criminal cases in Northern Ireland*, May 2006

Figure 4: Part of the investigation process in which there was a delay

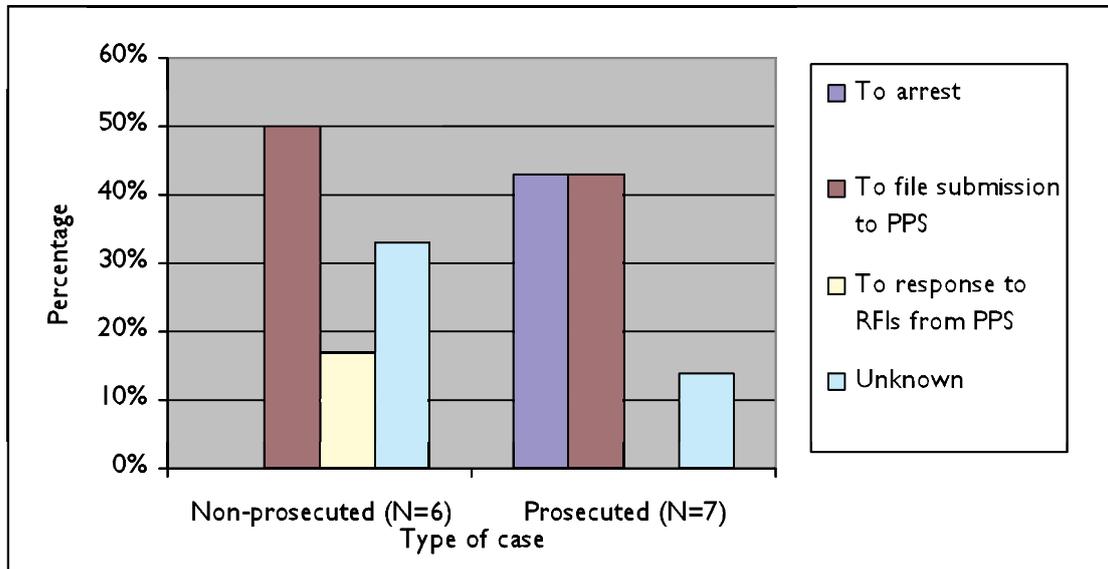
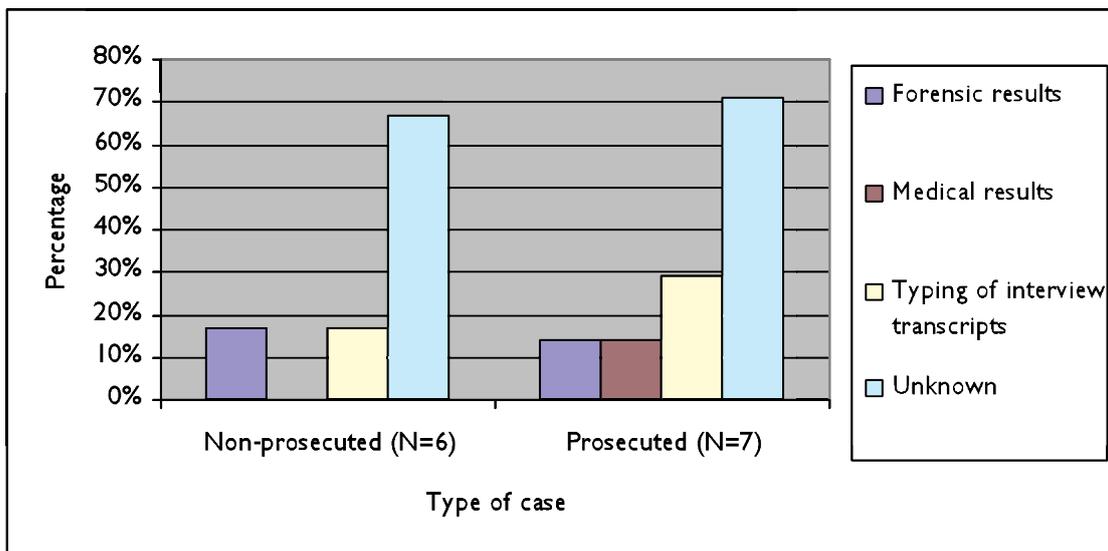


Figure 5: Reasons for delay in the investigation process



or voluntarily attending for interview than cases which were eventually directed for no prosecution (although these figures may be slightly skewed by the one case which took 259 days). In several cases suspects were arrested on the same day or the day after the incident occurred. Similar

figures were obtained for the number of days taken from arrest of the suspect to charge for the prosecuted cases; again one case took significantly longer than the others (if this case was excluded the number of days fell to an average of four).



Table 4: Number of days for stages of police investigation

Direction decision	Number of days from incident being reported to police and suspect being arrested by/attending for voluntary interview with police*			Number of days from arrest of suspect to charge by police**		
	Mean	Min	Max	Mean	Min	Max
No prosecution	16	0	50	n/a	n/a	n/a
Prosecution	43	0	259	31	0	306

* Data available for 6 non-prosecuted cases and 13 prosecuted cases

**Data available for 11 prosecuted cases

6.31 Analysis was also undertaken of the number of days between stages of the police investigation and the receipt of the file by the PPS and this data is contained in Table 5. There was little difference between the average times taken to submit the files which were subsequently directed for no prosecution compared to the files which were subsequently directed for prosecution (142 days vs. 151 days). There was a large difference between the minimum and maximum number

of days taken to submit a file from only 52 days at the very least to 442 days at the most, which equates to almost 15 months. Non-prosecuted cases took slightly longer from the interview/arrest of the suspect to the file being received by the PPS (131 days vs. 108 days) and similarly there was a large difference between the minimum and maximum number of days (16 vs. 296 for non-prosecuted; 42 vs. 197 for prosecution).

Table 5: Number of days between police stages of investigation and file being received by the PPS

Direction decision	Number of days from incident being reported to police to file being received by PPS*			Number of days from suspect being arrested by/attending for voluntary interview with police to file being received by PPS*		
	Mean	Min	Max	Mean	Min	Max
No prosecution	142	64	296	131	16	296
Prosecution	151	52	442	108	42	197

* Data available for 6 non-prosecuted cases and 13 prosecuted cases



6.32 The PPS did not have such stringent timescales as the police but did have targets to work to. The target for the average days required for issuing of indictable prosecution decisions (charge cases only) was 116 days in 2007-08 and 106 days in 2008-09. These targets mirrored the CJSNI Standards agreed by the Criminal Justice Board. The PPS had achieved both the 2007-08 and 2008-09 targets (104 days and 98 days respectively). Although most interviewees agreed that timescales for the PPS to make a decision on the case had improved, there were still occasions where this process could become protracted and it could take six months or more for a decision to be made. There could be a variety of reasons why such delays could occur and not all of these were under the control of the PPS, for example the time taken for the PSNI to respond to a Request for Information (RFI).

6.33 Details of the timescales between the different stages of the prosecution process were ascertained via the case file review for each of the cases in the sample and are outlined in Table 6. As with the police figures above, there was little difference between the average times taken to make a decision on a file directed for no prosecution compared to a file directed for prosecution. There was a large difference between the minimum and maximum number of days taken to make a decision from only four days at the very least to 282 days at the most; which equates to approximately nine months. The mean number of days taken to issue a decision in this sample of cases was less than the average number of days

for the issue of a decision for all indictable prosecution cases as reported in the latest PPS Annual Report, which was 125 days in 2007-08 and 116 days in 2008-09. Whilst the timescales are not entirely comparable this provides an indication of the timeliness of decision making in rape cases when compared to all types of indictable cases.

6.34 Similarly whilst the minimum number of days from a decision being made by the PPS to prosecute, to the defendant being convicted or acquitted at trial, was only 51 days (less than two months) the maximum was 490 days (approximately 16 months). This illustrates the lengthy period victims and defendants are required to wait until the conclusion of the case. The case file review considered the timeliness of advice provided to the PSNI in respect of the 15 cases which were subsequently directed for no prosecution. Of these the decision was determined to be timely in seven cases (47%) but not in eight cases (53%).

6.35 Finally, analysis was undertaken of the number of days between the date of conviction and the date when the defendant was sentenced for the 14 cases which resulted in a conviction (either by jury or a guilty plea). Dates were available for 12 of the 14 cases which resulted in a successful outcome. The mean number of days between conviction and sentence was 71 (just over two months), with a minimum of zero days (in one case where the defendant was a young person) and a maximum of 172 days.



Table 6: Number of days between stages of prosecution process

Direction decision	Number of days from receipt of file by PPS to issue of direction*			Number of days from decision to prosecute by PPS to conviction/acquittal of defendant**		
	Mean	Min	Max	Mean	Min	Max
No prosecution	89	4	282	n/a	n/a	n/a
Prosecution	82	7	215	201	51	490

*Data available for 15 non-prosecuted cases and 18 prosecuted cases

**Data available for 17 prosecuted cases

Table 7: Number of days from conviction to sentencing

Direction decision	Number of days from conviction to sentencing		
	Mean	Min	Max
Prosecution	71	0	172

The 2006 CJI Inspection of *Avoidable Delay* commented that: “*The operation of sentencing was not found to be adding undue avoidable delay to cases...*” This was also found to be the case in this inspection.

6.36 Some dates were not evident from the case files, particularly in terms of when, if at all, victims had been informed of the decision made, which made it difficult to ascertain the relevant timescales. For example, in terms of cases which were directed for no prosecution, the mean time taken to inform the victim was two days, but this calculation was only based on six out of the 15 cases. It is advisable that prosecutors record such information to enable them to demonstrate that actions are being undertaken expeditiously.

6.37 In addition, delay could also have a significant impact on defendants, particularly those whose case was directed for no prosecution or who were acquitted, due to the stigma of the nature of the offences. Finally, delay could particularly have a major effect on young offenders who may, as a result, be impeded or denied access to early intervention and therapeutic services to assist in reducing risky behaviour. One example provided by the YCS was of a child who was given a youth conference for three charges of indecent assault. The offences had occurred when the child was aged six or seven years old but was 11 years old by the time the case reached the YCS. Inspectors were informed that one District Judge in Belfast had made efforts to regularly set aside time in court to deal with cases involving children and young people



(not just specifically sexual offences cases). In addition the NICTS had appointed Case Progression Officers (CPOs) who had responsibility to ensure the progression of cases and to work with victims and witnesses and deal with their specific needs. Whilst this was felt to be having a positive impact from the NICTS perspective it was felt that more could be done by police and prosecution to support this work.

- 6.38 Some interviewees commented that the defence sometimes attempted to delay proceedings as much as possible as this may lead to the victim withdrawing support for the prosecution which would then be reflected in the final sentence of any conviction. Additionally, a young victim may change considerably in appearance over a couple of years which can impact on the view of the jury. The delay in cases once they reach the courtroom is obviously an issue for judges to manage in terms of permitting adjournments, holding regular reviews of the case and listing of cases. However, there is much the PSNI and the PPS can do to address the issue of delay before the case reaches the trial stage. As mentioned above, delay in the CJS is an issue which has been the subject of a previous CJI inspection with a number of recommendations made to address the issues. A follow-up review was being carried out at the time of writing this report which aimed to identify the progress made towards these areas for improvement and therefore it would be inadvisable, and impossible, for one or two individual recommendations to be reiterated here. Avoidable delay is

still an area in which improvements are required as illustrated in the box below, which outlines one of the worst examples that Inspectors heard regarding delay.

Victim C suffered abuse as a child which she reported to police, as an adult, in September 2006. She was interviewed by police in January 2007 but the suspect wasn't interviewed until June that year. In December 2007 she was advised by police that the PPS would take the case forward for prosecution. The trial date was set for September 2008 but then adjourned until October. A trial was finally held in December 2008 at which time the defendant pleaded guilty to some of the charges. Sentencing was originally listed for January 2009 but was adjourned twice until March 2009. In total it took C's case 2 years and 3 months to get to trial and an additional three months for her abuser to be sentenced. Between each stage several months passed without update to C.

Non-adjudicated offenders

- 6.39 Some victims and their families, for various reasons, do not wish to advise the police that child abuse has occurred and wish to seek solutions outside the CJS. Some of these non-adjudicated offenders may be known to agencies involved in child protection and subject to Public Protection Arrangements for Northern Ireland (PPANI)



arrangements, but the majority have never been convicted of a crime due to the lack of evidence from victims to support a prosecution. The Therapeutic Interventions for Sexual Offenders (TISO) project in the Western HSC Trust was being run, at the time of the inspection, in conjunction with the Cosc (The National Office for the Prevention of Domestic, Sexual and Gender-based Violence) in the Republic of Ireland and covered the North West border corridor. The project provided programmes for the prevention of sexual abuse for perpetrators and their families; the majority of whom were non-adjudicated (Inspectors were advised that about 80% of those engaging with the Western Trust had spent or no convictions at the time of the fieldwork).

6.40 Most referrals to the project were received from child protection teams, criminal justice organisations, GPs and mental health teams. A review of the TISO project overall in September 2008 found that the un-convicted men did not appear to be significantly different from the convicted men with regard to a variety of factors including demographic, victimological and offence details, dynamic risk, risk level or psychological factors that are known to contribute to risk. Therefore this project provided an important service in preventing further abuse by non-adjudicated offenders.

6.41 Generally offenders engaged with the programme for about 18 months to prevent further abuse and prevent

cycles of abuse within families. The project also worked with families of offenders to provide them with the tools to better protect young people within the family. TISO enabled perpetrators to remain with their families whilst engaging with the services provided to reduce their risk level, but any withdrawal from the programme resulted in this permission being removed.

Compensation

6.42 Victims of all types of offence are eligible for financial compensation and this process is managed by the Compensation Agency (CA). CJI has previously conducted an inspection on the work of the Agency²⁸ and therefore again this inspection will not attempt to replicate that work. Inspectors were advised that, on occasions, the fact that a victim has made a claim for compensation is raised by the defence as an issue in support of the defendant, but as the PSNI have a duty to advise victims of crime that compensation is available, this is rightly regarded as an irrelevant issue. In 2007-08 the CA received 236 applications for compensation for sexual abuse cases, which rose slightly to 268 in 2008-09. As a result of the decision making process of the Agency in 2007-08, 57% of applicants were offered compensation, which reduced slightly to 51% in 2008-09.

6.43 Due to the number of sexual violence and abuse cases which do not result in a prosecution, the CA has a difficult task in assessing

28 CJI, *Inspection of the Compensation Agency (Northern Ireland)*, January 2006.



applications by victims, particularly in cases of historical abuse. However, the offer of compensation can sometimes give reassurance to victims that they are believed, even though they may not have been able to obtain a conviction. The CA review the details of the case to assist in their decision making, particularly information from the police, medical professionals and whether the applicant has attended an organisation like NEXUS to seek counselling. A further impact of delay in bringing a case to a conclusion is on the ability of the victim to receive compensation. One victim explained that she had submitted an application for compensation in respect of sexual abuse against her by her father when she was a child. She had made the application to obtain money to support her mother who could no longer rely on the father, who was the primary earner in the household, to provide financial support for her and the younger children in the house. However due to the fact she would be unable to receive compensation until the outcome of the court case, she feared her mother would lose her house.

desire to have a decision made on the day, sexual violence and abuse cases care is given additional allocated time for the hearing. In particular, efforts were made in all sexual violence and abuse cases to ensure that at least one panel member was female, and the CICAP members confirmed that they would not expect young children to give evidence, but be represented by a parent. For both compensation claims and any subsequent appeals, VSNI provide assistance to victims, including advice on making applications and whether there is merit in appealing decisions. However despite this free support Inspectors were told that many victims obtain the services of a solicitor who will obviously take a proportion of any compensation offered as their fee which is seen as an unnecessary cost.

6.44 The CICAP provides a mechanism by which victims can appeal compensation decisions; either where an offer has not been awarded or they are unsatisfied with the amount offered. An appeal is made to the Panel once an offer has been declined and the CA internal review process has not resulted in an agreement. Around a third of cases dealt with by the CICAP were sexual offences cases. Inspectors were told that, due to the sensitivity of the issues and the



Section



Appendices



Appendix 1: Inspection methodology

Desktop research and development of inspection Terms of Reference and question areas

Research literature and guidance documentation was reviewed in relation to sexual violence and abuse. Inspections undertaken by HMIC and HMCPSI in England and Wales on the topic of the investigation and prosecution of rape provided guidance in determining the scope of the inspection and topic areas within which questions were developed. Other relevant documents included ACPO Guidance on '*Investigating Serious Sexual Offences*' and '*Investigating Child Abuse and Safeguarding Children*', ACPO/CPS Guidance on '*Investigating and Prosecuting Rape*', the CPS policy on prosecuting rape, inspection of child protection arrangements in Northern Ireland, Social Services guidance on safeguarding children and joint working arrangements as well as the NIO/DHSSPS '*Regional Strategy on Tackling Sexual Violence and Abuse*' and associated Action Plan.

Document review

A review was conducted of documentation and data provided by the agencies and of research material and inspections in relation to other jurisdictions such as that produced by the Home Office, HMIC and HMCPSI. Copies of all policies, procedures and other documentation relating to sexual violence and abuse issues were requested and received from the relevant agencies in the inspection. A review was undertaken of this documentation to cross-reference information against the topic areas and later obtained during the fieldwork. This was used also to inform interview questions during the fieldwork phase.

Fieldwork

The questions used during the fieldwork for this inspection were informed by the areas of investigation undertaken by HMIC and HMCPSI in both the 2002 report on the joint inspection into the investigation and prosecution of cases involving allegations of rape in England and Wales and the follow-up '*Without Consent*' in 2007. Desktop research on rape investigation and prosecution and analysis of documentation was provided by the inspected agencies. The key areas considered, which form the chapters of this report, were:

- initial response to reports of sexual violence and abuse;
- investigation and file preparation;
- review, decision making and case building;
- the trial; and
- victim support and care.

One-to-one and focus groups interviews were conducted with a range of personnel within the relevant agencies. Interviews were also conducted with stakeholders who had an interest in sexual violence and abuse, particularly from a victim's perspective.

Representatives from the following areas were interviewed during the fieldwork:


FSNI:

- Reporting Officers (x2); and
- Reporting Officer Team Leader (x1).

NICTS:

- Business Development Group (x1); and
- Court Managers/Case Progression Officers (x6).

PBNI:

- Assistant Chief Probation Officer (x1).

PPS:

- Public Prosecutors (x2);
- Regional Prosecutor (x1);
- Senior Assistant Director (x1);
- Senior Public Prosecutors (x3);
- Senior Public Prosecutor Policy (x1); and
- Sexual Offences (NI) Order 2008 Trainers (x5).

PSNI:

- Crime Scene Investigators (x4);
- Crime Training (x2);
- Detective Inspector Criminal Justice Department (x1);
- Detective Superintendent in charge of RCU (x1);
- Detective Chief Inspector RCU (x1);
- Detective Inspectors RCU (x3);
- Detective Sergeants RCU (x4);
- Detective Constables RCU (x4);
- Detective Chief Inspectors (Crime Managers) (responsible for PPU) (x2);
- Detective Inspectors PPU (x2);
- Detective Sergeants PPU CAIU (x3);
- Detective Constables PPU CAIU (x7);
- Foundation Training (x3); and
- Forensic Medical Officer (x1).

YJA:

- Youth Conference Co-ordinators (x3); and
- Youth Conference Assistant Director (x1).

Stakeholders:

- Barnado's Safe Choices Project (x2);
- Childline (x1);
- Compensation Agency (x5);
- Criminal Injuries Compensation Appeals Panel for Northern Ireland (x6);
- Crown Court Judges (x3);
- Defence Counsel (x1);



- Defence Solicitor (x1);
- DHSSPS Sexual Violence Unit (x1);
- District Judges (x2);
- Education and Training Inspectorate (x1);
- Education Welfare Officers (x6);
- Include Youth (x1);
- NEXUS Institute (x1);
- Northern Ireland Council for Ethnic Minorities (x1);
- Northern Ireland Commissioner for Children and Young People (x3);
- NIO DoJ Criminal Policy Unit (x2);
- Northern Ireland Women's Aid Federation (x4);
- NSPCC (x3);
- Prosecution Counsel (x4);
- Rape Crisis and Sexual Abuse Centre (x2);
- Social Services (x3);
- The Rainbow Project (x1);
- Victim Support Northern Ireland (x3); and
- Victims of sexual violence and abuse with experience of the criminal justice system (x3).

In addition a visit was conducted to the Sexual Crime Suite in Garnerville.

Case File Review

The review of crime reports and of PSNI case files were undertaken by colleagues from HMIC. The review of the PPS case files was undertaken by colleagues from HMCPSI. Inspectors who undertook the review had previously undertaken similar reviews of the HMIC/HMCPSI inspections in England and Wales. The rape case file review considered two case file samples of cases which were ultimately directed for prosecution or no prosecution by the PPS and therefore data is broken down by these two cases types to identify any similarities or differences.

PSNI

A review was undertaken by colleagues from HMIC of 100 crime reports of rape entered onto the crime recording system and 20 rape case files which had been investigated by the police. The crime reports were the last 100 crime reports where an offence of rape was reported dating back from March 2009. Eleven crime reports were removed from the final sample as they did not fit the criteria (primarily due to recording issues) leaving a total sample of 89 crime reports which represented approximately one quarter of all recorded crimes/no crimes in the year ending 31 March 2009. These reports included incidents dealt with by both CAIUs and RCU. The case files used were taken from the sample used by HMCPSI.

A breakdown of the data collated from the crime report review can be seen in Appendix 2.



PPS

A review was undertaken by colleagues from HMCPSP of 33 rape case files which had been forwarded by the police to the PPS for a prosecution decision. Of these 15 were cases which did not result in a prosecution (12 were directed for no prosecution, one was diverted to a caution and two were diverted for youth conferences; one of the cases had two defendants of which one was not subject to prosecution and one received a youth conference). The remaining 18 were cases in which a charge was made by police which were directed for prosecution by the PPS; these resulted in one judge ordered acquittal, three jury acquittals and 14 convictions (of these six were guilty pleas and two were mixed pleas). These files included the 20 case files reviewed by HMIC. The case files were selected from across the five regions. The files directed as no prosecution were the most recent files from the regions dating back from March 2009. The prosecution files were the most recent completed files dating back from March 2009. In addition, five files which were directed for diversion to the Youth Conference Service were reviewed.



Appendix 2: Data from Crime Report Review in PSNI

Figures have been rounded up to the nearest whole number and therefore not all percentages may equal 100%. For some questions totals may add up to more than 89 (for example where there was more than one suspect in the case).

Figures relating to incident and victim details include crime reports which have subsequently been 'no crimed'. Figures relating to suspects do not include crime reports which have subsequently been 'no crimed'.

1. Outcome

	Recorded crimes/no crimes (N=89)	
Undetected	37	42%
Detections* (reported for consideration)	40	45%
Sanctioned Detections** (charged by Police)	7	8%
No Crimes	5	6%

* The rules for detecting a crime are laid out in the HOCRs. These outline to forces the requirements that need to be satisfied before they can claim that an offence has been detected:

- a crime (i.e. notifiable offence) has been committed and recorded;
- a suspect has been identified and made aware that the offence will be detected against them;
- there must be sufficient evidence to charge the suspect with the crime; or
- one of the methods of detection applies.

**There are two 'types' of detection: sanction and non-sanction. These terms refer to the different methods of detecting crime. HOCRs enable offences to be classified as sanction detections only if there is a:

- charge or summons;
- issue of a fixed penalty notice or PND;
- caution, including reprimands;
- formal warning for the possession of cannabis; or
- taken into consideration outcome (TIC).

Because of slight differences in legislation and processes in Northern Ireland the clearance types for the PSNI differ from those applicable in England and Wales. PSNI sanction detections clearance types are:

- charge or summons;
- adult caution or informed warning;
- juvenile restorative caution, informed warning or prosecutorial diversion; or
- taken into consideration outcome.

2. Day of offence

	Recorded crimes/no crimes (N=89)	
Monday	3	3%
Tuesday	5	6%
Wednesday	4	7%
Thursday	3	3%
Friday	8	9%
Saturday	10	11%
Sunday	11	12%
Tues/Wed	2	2%
Wed/Thurs	2	2%
Fri/Sun	1	1%
Sat/Sun	1	1%
Sun/Mon	3	3%
Not Applicable*	36	39%

*Not applicable = historical or where a series of offences took place over a period of time

3. Time of offence

Note: Some crimes occurred over a longer period of time and were, therefore, counted twice i.e. they add up to more than 89 and more than 100%.

Hours (24hr period)	Recorded crimes/no crimes (N=89)	
0001 to 0300	28	31%
0301 to 0600	20	24%
0601 to 0900	12	13%
0901 to 1200	12	13%
1201 to 1500	9	10%
1501 to 1800	11	12%
1801 to 2100	9	10%
2101 to 0000	12	13%



4. Day of reporting

	Recorded crimes/no crimes (N=89)	
Monday	9	10%
Tuesday	18	20%
Wednesday	8	9%
Thursday	8	9%
Friday	16	18%
Saturday	11	12%
Sunday	19	21%

5. Time of reporting

Hours (24 hour period)	Recorded crimes/no crimes (N=89)	
0001 to 0300	6	7%
0301 to 0600	9	10%
0601 to 0900	1	1%
0901 to 1200	14	16%
1201 to 1500	21	24%
1501 to 1800	18	20%
1801 to 2100	14	16%
2101 to 0000	6	7%

6. Scene of offence

	Recorded crimes/no crimes (N=89)	
Open air*	17	19%
Victim's dwelling	15	17%
Various	2	2%
Suspect's friends dwelling	2	2%
Suspect's dwelling	17	19%
Family home	14	16%
Victim's relative's/friend's/neighbours dwelling	6	7%
Suspect's vehicle	2	2%
Other*	5	6%
Unknown	9	10%

* Open air includes alleyways, street, car park, bushes, bus depot, hotel grounds, grassy bank, cricket pitches and near leisure centre

* Other includes public toilets, workplace, hospital, caravan park, derelict house

7. Intoxicants used by victim

	Recorded crimes/no crimes (N=89)	
Alcohol	34	38%
Alcohol and drugs	1	1%
Unknown	54	61%

8. Victim age at offence

If there were a series of offences that took place over number of years, the first age has been recorded.

Age	Recorded crimes/no crimes (N=89)	
0 – 5 years	0	0%
6 – 9 years	6	7%
10 – 14 years	14	16%
15 – 16 years	17	19%
17 – 21 years	19	21%
22 – 35 years	17	19%
36 – 50 years	14	16%
51 years and over	1	1%
Unknown	1	1%

9. Victim sex

	Recorded crimes/no crimes (N=89)	
Female	84	94%
Male	4	5%
Unknown	1	1%



10. Victim vulnerabilities

Specific vulnerabilities relating to the victim could be identified from the crime reports in 13 cases (14.6%). Figures below show percentages within the different types of vulnerabilities and of the crime reports as whole.

	Recorded crimes/no crimes (N=13)	
Mental health	3	23% (3% of whole sample)
Special needs/learning/behavioural difficulties	5	38% (6% of whole sample)
Vulnerable adult	2	15% (2% of whole sample)
Physical disability/frailty/health issues	3	13% (3% of whole sample)

11. Suspect age at offence

If there were a series of offences that took place over number of years, the first age has been recorded.

Age	Recorded crimes/no crimes (N=90)	
6 – 9 years	0	0%
10 – 14 years	3	3%
15 – 18 years	8	9%
19 – 21 years	12	13%
22 – 25 years	3	3%
26 – 25 years	10	11%
36 – 50 years	18	20%
51 years and over	4	5%
Unknown	27	30%
Not applicable (no crimes)	5	6%

NB: Two suspects identified in one case

12. Suspect sex

	Recorded crimes/no crimes (N=91)	
Multiple suspects	2	2%
Male	84	91%
Not applicable (no crimes)	5	5%

13. Suspect/victim relationship

Categories are as follows:

- stranger 1 - the suspect is completely unknown to the victim;
- stranger 2 - the victim and suspect have met for the first time; (including those who were previously known to each other only via the internet) or are known on first-name terms only or are known only through third parties such as mutual friends;
- partner/ex-partner - includes all partner relationships (irrespective of whether this is or has been sexually intimate);
- family - all family relationships, including step-relationships; or
- known - includes a range of relationships where the victim and suspect are known to one another beyond that defined under 'stranger 2', such as friends, longer-term acquaintances, work colleagues, neighbours and those in positions of trust (babysitters, teachers, etc).

	Recorded crimes/no crimes (N=84 cases/90 suspects)	
Stranger 1	7	8%
Stranger 2	14	16%
Partner/ex-partner	24	27%
Family	16	18%
Known	28	31%
Unknown	1	1%

14. Suspect identified

	Recorded crimes/no crimes (N=89)	
Yes	50	56%
No (circumstances below)	34	38%
Victim unable/unwilling to make/did not make complaint	9	26%
		(10% of total sample)
Victim withdrawal/asking police not to proceed	5	15%
		(6% of total sample)
Stranger rape	3	9%
		(3% of total sample)
Victim knew the suspect*	13	14%
		(15% of total sample)
Details of offence not available	1	3%
		(1% of total sample)
Call related to an abandoned call – no details of any rape	1	3%
		(1% of total sample)
Not known why not identified	2	6%
		(2% of total sample)
Not applicable	5	6%

*Victim knew the suspect - only two of these cases did not relate to a historical report and it may be that there were difficulties in tracing the suspect



15. Suspect charged by police

	Recorded crimes/no crimes (N=92)	
Yes	7	8%
No	40	43%
No but reported to PPS for decision	40	43%
Not applicable	5	5%

16. Was the crime recorded within 3 x 24 hour periods?

	Recorded crimes/no crimes (N=89)	
Yes	21	24%
No	67	75%
Not applicable	1	1%

17. If no, within 7 days?

	Recorded crimes/no crimes (N=67)	
Yes	18	27%
No	49	73%



Appendix 3: Victims and Witnesses Report and follow-up - comparisons with Sexual Violence inspection

The recommendations in italics below are those made in the CJI inspection of Victims and Witnesses published in July 2005 which are relevant to the issues experienced by victims identified in this inspection of sexual violence and abuse.

The '*achieved*' or '*not achieved*' in bold relates to the findings of the CJI Follow-up Review on this inspection which was published in March 2008.

The comments following this relate to the findings of this inspection, specifically in relation to victims of sexual violence and abuse.

Key recommendations

4. *The Criminal Justice Board should set up a jointly owned Victims and Witnesses Information Unit located within one central function for administrative purposes. The purpose of such a unit would be to provide a single point of contact to the CJS to help any victim or witness with information needs, case progress advice and referral to other bodies established to provide a more specialised support (paragraph 2.15).* **Not achieved**

This was found to be a continuing issue in sexual violence cases with concerns that the PPS rely on police officers to provide updates to victims and PSNI officers generally take a lead on this.

8. *The Criminal Justice Board should evaluate the effectiveness of the working of Special Measures for vulnerable and intimidated witnesses (paragraph 4.26).* **Not achieved**

A consultation has commenced recently in relation to this. The effectiveness of special measures was not raised as an issue during this inspection as generally interviewees commented favourably about special measures, albeit some stakeholders and CJS representatives felt that evidence given in person by the victim rather than by video had greater impact on the jury.

10. *The NICTS, DPP/PPS and PSNI should examine the technical opportunities which may now be available to update victims and witnesses about developments in their case including whether they need to attend court, the date, time and venue where the offence will be listed, and the eventual outcome of the hearing (paragraph 5.8).* **Not achieved**

The NICTS Public Court Lists Online allows the user to search the court lists but this does not address the requirements above for victims. There was also a publicly available judgements section of the NICTS website, but this did not appear to include



every case. This issue was not highlighted as a major problem for victims of sexual violence; more difficulty was caused by the number of times cases were adjourned, often at short notice.

Other recommendations

1. Development of Strategies, Policies and Plans

- (a) *The CJB should ensure that the victim is accorded a status within the CJS to ensure that justice is equally dispensed to them as well as the accused (paragraph 2.7). **Not achieved***

This was not raised as a specific issue in relation to Key Performance Indicators etc during the sexual violence inspection as raised in the Victims and Witnesses report. However there was a general perception that victims are not afforded the same status as defendants and victims felt that they are put 'on trial' during the process.

- (d) *The PSNI needs to develop an organisational Victims and Witnesses Policy with consistent standards to determine procedures and control the quality of PSNI service delivery which also needs to be transparent to help manage public expectations (paragraph 4.13). **Achieved***

No real issues were raised regarding this; there was a general sense that the PSNI approach to victims of sexual violence has improved.

- (e) *The PSNI Human Resource strategy should be reviewed in terms of the adequacy of numbers, need organisation, skills and experience level, and plans developed to address any resource or skills gap to ensure that adequate resource is available to deliver an effective and professional police service to victims and witnesses (paragraphs 4.4 and 4.11). **Achieved***

Some improvements have been made in the change from the CARE structures to RCUs and PPU's but minimum resources/skills profiles for officers working in these areas and clarification on their remit and responsibilities still needs development.

2. Effective Communication

- (a) *All agencies should review and develop their mechanisms to ensure that they can demonstrate active listening to victims, witnesses, support groups, their own staff and the public's perceptions to ensure an effective change programme is developed that will set standards to enhance service delivery through effective communication, monitoring and management (paragraph 2.22). **Achieved***

Specifically in relation to rape crime excellent work has been commenced by the RCU Detective Superintendent in setting up a critical friends group with whom engagement has begun to identify the needs of victims.

- (c) *The PSNI should develop an improved contact system with victims and witnesses to facilitate appropriate information to be more proactively shared in relation to case management and progress (paragraph 4.2). **Achieved***

Similarly to above, this is improving although not always achieved in relation to IOs.

- 
- (d) *The PPS should develop enhanced communication with witnesses, defence counsel, the PSNI and the Witness Service to ensure that plans for hearings and trials are made with due regard to the need to avoid unnecessary stress for those victims who will appear as witnesses (paragraph 4.21). **Achieved***

As above this is often facilitated by the police although not always achieved in relation to victims of sexual violence, but other issues such as adjournments caused more concerns.

- (e) *The PPS needs to identify measures to maximise continuity of prosecutors and their knowledge of cases, to minimise duplication with the PSNI and victims and witnesses (paragraph 4.19). **Achieved***

Good continuity was found for sexual violence victims from both the PPS staff and counsel.

- (f) *The PPS should consult more effectively with victims, witnesses and police about the range of options available for a case if it goes to Court. Subject to the constraints noted in the Code for Prosecutors wherever possible, reasons should be given for any decision not to prosecute a case (paragraph 4.18). **Achieved***

There was evidence to suggest this was still an issue for victims of sexual violence. In the Victims and Witness follow-up the use of Community Liaison Teams had been helpful in this area but there were few references to them made by interviewees in the sexual violence inspection. There still appeared to be a mystique about the trial process for victims. Reasons given for non-prosecution were usually that the case did not meet the evidence test with limited opportunity to get further details. Victims sometimes assumed that insufficient evidence meant that the PPS did not believe that the offence had occurred.

3. Special Measures

- (a) *The awareness and promotion of special measures legislation and guidance is essential for both the PPS and the PSNI. Both organisations should develop a protocol to ensure there is an effective understanding of the victim or witnesses needs and desires which can be considered within the statutory authority (paragraph 4.30). **Achieved***

Good use of special measures was found for victims of sexual violence and abuse.

- (d) *NICts should ensure that facilities in courthouses supplied to victims and witnesses and their supporting bodies are appropriate to their needs and provide a comfortable and safe environment (paragraph 5.11). **Achieved***

Generally courthouses were felt to be fit for purpose, although some are older and therefore less suitable for special measures. Some issues still existed in relation to entrances/exits (for example, victims having to enter by back doors to avoid the defendant) but most interviewees appreciated this was unavoidable.





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