



**IMPROVING THE INVESTIGATION OF
SEXUAL VIOLENCE IN IRELAND**

RCNI Document

March 2009

Improving the Investigation of Sexual Violence in Ireland

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Investigative specialisation in sexual violence cases combined with a victim focus will deliver:

- 1. Increased conviction rates for rape cases**
- 2. Increased detection rates**
- 3. Increased Garda resources, as less sexual violence is perpetrated**
- 4. Increased rates of reporting**
- 5. Increased public confidence in Garda capacity**
- 6. Increased prevention of crimes of sexual violence**
- 7. Increased quality of the Book of Evidence in sexual cases, thus lowering the overall headline crime rate and contributing to safer communities.**

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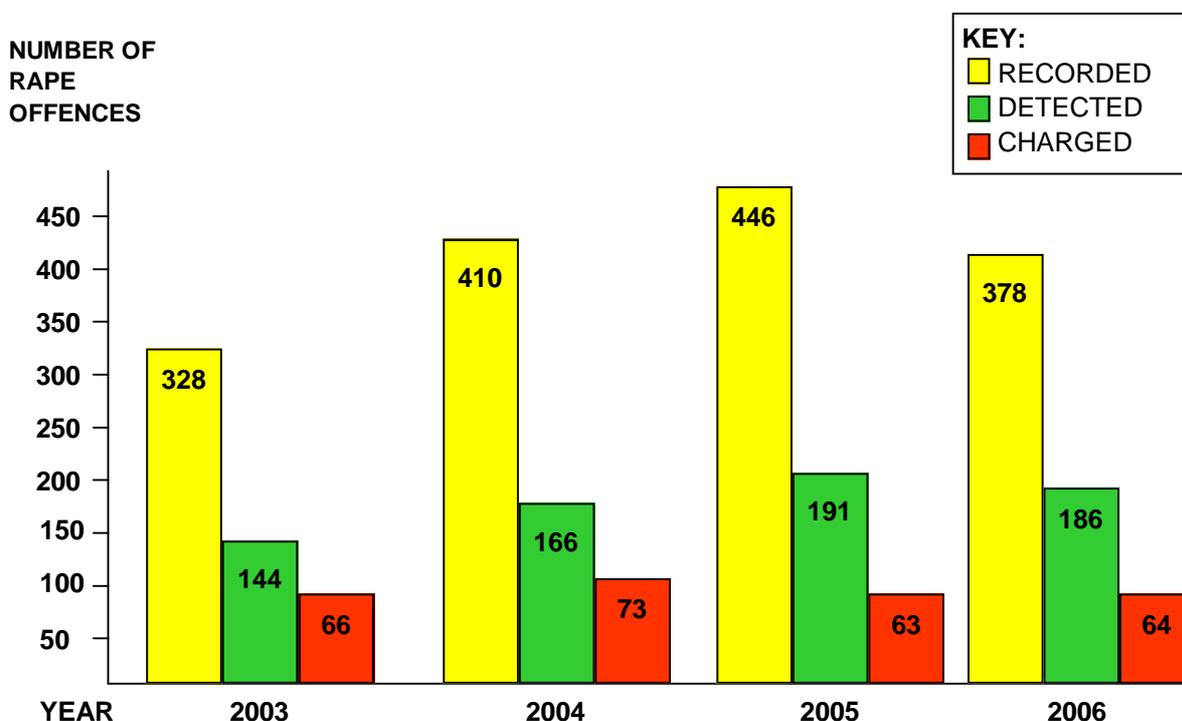
Section 1. Introduction: The Scale of the Problem

Crimes of sexual violence are **very prevalent in Ireland**. "Sexual Abuse and Violence in Ireland: A National Study of Irish Experiences, beliefs and attitudes concerning sexual violence" (SAVI), McGee et al, 2002, found that about 20% of women and 10% of men had experienced contact sexual assault as adults. These are among **the most serious and personally devastating** crimes against the person imaginable: victims of sexual violence are affected in profound and long-lasting ways, in every aspect of their lives. The negative effects range from extremely serious psychological and physical conditions, such as depression, self-harming behaviour, suicidal thoughts and behaviour, addiction problems, agoraphobia, obsessive compulsive disorders, through relationship and sexual difficulties, inability to continue to function in a job or as a student and consequent economic disadvantage.

Crimes of sexual violence are also **under-reported** to the Gardaí. This is reflected in the research which found that **7.8%** of female respondents and **1%** of male victims of contact sexual assault had reported to An Garda Síochána (SAVI Report, McGee et al, 2002). It is clear that **significant numbers of victims decide not to report crimes of sexual violence**.

What do the sexual violence crime statistics tell us about the criminal justice process?

The difficulties of the criminal justice process itself are reflected in the **high attrition rates associated with sexual violence crimes**. It will be seen from the bar chart below (Figure 1) that at each stage of the process, there is a substantial reduction in the numbers of cases from the previous stage:



SOURCE: CSO ANNUAL REPORT 2006, GARDA RECORDED CRIME STATISTICS 2003-2006

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What are the benefits for investigators, for victims and for society generally of reducing this attrition in sexual crime?

1. As a result of better victim care, more cases will go to court, thereby **increasing the chances of conviction** for perpetrators.

The reasons for this attrition are complex and are likely to vary with the diverse stages of the criminal justice process. Research from other jurisdictions has proven that a high standard of care for victims from the police throughout the process and beyond is a significant predictor that a case will get to Court and once there may result in a conviction⁽²⁾.

In the Metropolitan Police Area (UK) convictions for rape were about 3.4% of recorded rapes in 2001⁽³⁾. The London Metropolitan Area responded to this unacceptably low rate by bringing on stream the victim focussed **Project Sapphire** in 2001/200. By 2006 the conviction rate for rape had risen to 6.4%⁽⁴⁾.

While many other factors are at play within the courtroom to influence the chances of conviction in a particular case, nevertheless logic suggests that the **number of convictions must rise** in line with an increase in detection rates. Indeed, "there is evidence to suggest that forces which record lower odds for a victim withdrawing also record significantly higher odds of success (conviction or getting a case to court)" (Home Office Online Report 18/07, "Investigating and detecting recorded offences of rape", Feist et al, England & Wales, 2007, page 87).

Even more persuasive is the finding from the same study that police force area was a significant predictor both of cases getting to Court and of getting a conviction (see pages 70 -71, *ibid*). The report selected police forces to include some with a specialized sexual violence strategy in place and some without: those without were found to have higher rates of attrition and accordingly, lower rates of conviction.

Research here and abroad has proven that the chances of conviction are quite good once the case gets as far as the courtroom⁽⁵⁾.

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2. A victim-focussed approach will result in more cases being detected and therefore in more convictions for sexual crime.

Research, in at least one other similar common-law jurisdiction, has proven that the improvement of victim care has the positive effect of increasing sanction/detection rates. In England & Wales, the Metropolitan Police Strategy, Equalities Scheme Report, 2006 – 2010 cites a **10% increase in the sanction/detection rate for rape after the Project Sapphire (victim focused) strategy was introduced** in the London area in 2002.

Perhaps most telling is the finding from Home Office Online Report 18/07, by Feist et al (ibid), that the use of Specially Trained Officers (STO's), equivalent to Metropolitan Police SOIT officers or to the specialized Sexual Violence Officers proposed in this paper, was significantly associated with reduced victim withdrawal (see page 63, ibid).

A victim focussed approach will:

3. Increase public confidence in the efficiency of An Garda Síochána and in the criminal justice system generally

4. encourage more reporting of sexual violence

5. help prevent re-offending (by **detering** at least some would-be perpetrators). This has enormous positive benefits in terms of increased resources of time and money for An Garda Síochána.

6. deliver decreased reoffending by preventing serial offenders from reoffending. consider a serial child abuser who has been abusing young people over a period of many years: if such an individual is prosecuted successfully and is given a lengthy sentence, an enormous amount of sexual crime will be prevented.

7. Improve the quality of the Book of Evidence. There are clear indications from other common-law jurisdictions that once a victim focussed policy is in operation **the quality of the Book of Evidence in the case improves dramatically**, with the result that prosecutions become possible in cases which beforehand would have been regarded as marginal. This has the effect of **increasing overall numbers** of successful prosecutions ⁽⁶⁾.

Section 2: Why do we need a specialised strategy for investigating crimes of sexual violence?

We need a **specially tailored strategy** for this kind of investigation because of the unique features of sex crime. Sexual violence, in its potential effect on its victims, may be described as one of the most appalling forms of intimate personal attack (7). **It is also one of the most difficult to investigate and prosecute, not least because of the high rates of attrition.** Victims of sexual crime often find it difficult to talk of their experiences to anyone, even a close and trusted family member. Therefore, reliving their experiences, even in a carefully controlled professional setting, is never easy for victims (8). It will be seen, then, that for a victim of rape or sexual assault to decide to prosecute their attacker all the way through the criminal justice system to conviction, is to do something that will demand enormous courage and commitment. **It will therefore, of its nature, demand a high level of specialist professional skill and knowledge from the investigators. This is not an area of investigation where the “generalist” approach will deliver the best results in terms of detection, getting a case to Court, conviction, prevention of re-offending, or public satisfaction with police performance (9).**

Once they have made the decision to prosecute, some victims currently experience the criminal justice system as a form of re-victimisation (10). **The first goal of a specialised strategy should be to provide a just system which does not cause further damage to someone already deeply traumatised.**

It is possible for a system of investigation to deliver a satisfactory and positive service to victims, regardless of the conviction outcome. We cannot hope to increase the numbers who decide to report to the Gardaí without improving victim care significantly. A victim's positive experience of the investigation process is central to this aim. **The justice benefit of such an investigative strategy is that improvements in detection and conviction rates are likely to be achieved as a result.**

Section 3: What can be done to improve the investigation of sexual violence in Ireland?

Summary: RCNI recommend that the care of victims of sexual violence be prioritised as an investigation goal, regardless of the perceived strength or weakness of the evidence. This priority will deliver **improvements in detection and conviction rates** and thereby **reduce re-offending** and **raise public confidence in the investigators**.

The RCNI recommends that all agencies involved in the investigation of sexual violence:

- **adopt a policy of acceptance of and belief in the complainant's report in the first instance.** Such a policy has been adopted in other common-law jurisdictions (see for example the stated policy on belief and acceptance in the Metropolitan Police Service's Project Sapphire Standard Operating Procedures)⁽¹¹⁾
- **do everything possible to ensure delay in dealing with a report of sexual violence is minimised.** It is important that any **specialised rape investigation team** ensure that the risk of **delay** in dealing with a complaint of sexual violence is eliminated by implementing **protocols** to ensure that there is a swift response to any such report, both in order to ensure that the **best possible evidence is achieved**, and to ensure that specialised officers are allocated a big enough case-load to maintain and develop their specialised skills. In this way, the **investment in their training will be maximised** and the **goals of the investigation are most likely to be achieved** ⁽¹²⁾.
- **provide proactive contact by the Sexual Violence Officer with the victim of sexual violence throughout the process** to ensure victims continue to feel that they are central to the whole process through any delays or setbacks. **Such continued contact has been linked with a reduction in attrition, thus increasing the chances that accused persons are prosecuted and convicted** ⁽¹³⁾. This contact remains important to the victim if the DPP decides not to prosecute the case.

Implementation

Specialised Teams:

RCNI recommends, therefore, that sexual violence investigations be handed over to **dedicated Sexual Violence Teams, composed of specialised Sexual Violence Officers as well as Investigating Officers, within an hour of report for a recent incident and within 24 hours of report for historic abuse**, and that a designated Sexual Violence Officer within that Team be responsible for the care and support of the victim as well as for obtaining their statement and maintaining contact with them throughout the criminal justice process.

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The overall responsibility for the gathering of sufficient evidence to mount a prosecution against an accused person would rest on the shoulders of the Investigating Officer. We would propose that that responsibility be shared with the Sexual Violence Officer, under the supervision of a separate senior officer, and that the Investigating Officer's responsibilities be clearly delineated and distinguished from those of the Sexual Violence Officer. The respective roles of the two kinds of officer may be summarised as follows:

Sexual Violence Officers to be responsible for

- collection and preservation of early victim evidence, whether in the form of statement(s) and/or forensic evidence, including medical samples
- liaison with Investigative Officer throughout investigation from earliest stages, so that any difficulties are identified as early as possible and any necessary advice sought from the senior officer and/or the DPP, as appropriate
- general care of the victim, including accompaniment to SATU and/or any identification parades, escorting them to Court, providing information on the criminal justice process, referrals as appropriate
- maintenance of communication with victim throughout, and maintenance of a detailed log of all such communications
- Management and implementation of an appropriate exit strategy once the case is concluded.

Investigating Officer to be responsible for

- investigation of offence in all its other aspects, including gathering of evidence from accused person, once their identity is established, as well as from other sources
- liaison as early as possible with the prosecution
- Preparation of the Book of Evidence
- all matters related to arrest, court appearances, bail applications, and so forth
- ensuring that all information relating to court dates and so on is shared with the Sexual Violence Officer to be relayed to the victim.

RCNI also recommends, that as there is a body of experience and material already available from the London Metropolitan Police Service initiative against sexual violence, known as Project Sapphire, that their Standard Operating Procedures ⁽¹⁴⁾ and general policies be examined as a possible template for the introduction of a similar system here.

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How could the investigating officers in a sexual violence case ensure that the best care is provided to victims?

RCNI recommends that An Garda Síochána

- A. Adopt belief in, respect for, and professional and sympathetic care of victims of sexual violence as the central principle from which all best investigative practice flows.
- B. Take the lead in developing an overall **Strategy** to put this principal into effect, using frameworks informed by best international practice ⁽¹⁵⁾ in relation to both victim care and gathering evidence.
- C. Agree **protocols** with other agencies as necessary to achieve A and B above, on a national basis. The investigation team in a sexual violence case needs to be supported by an integrated strategy involving all the other key agencies, such as COSC ⁽¹⁶⁾, the Sexual Assault Treatment Units (SATUs), HSE hospital and GP services, the Office of the Director of Public Prosecutions, the Courts Service, and Rape Crisis Centres.

RCNI would recommend that such a Strategy include:

- Detailed **internal protocols on first response procedures**, including use of early evidence kits, referrals as appropriate, explanation of SATU process, privacy and comfort for the victim as far as possible, engagement of Sexual Violence Officer as early as possible. These need to be in compliance with the **SATU Guidelines, (2006)** which were developed and agreed between the Department of Justice Equality and Law Reform and partners and signed off by the Garda Commissioner.
- Compliance with the **agreed common protocols (SATU Guidelines 2006) on the SATU process with the HSE and/or medical examiners and forensic nurses** to ensure that not only FME samples are taken but also that provision is made to ensure that victim has access to other necessary medical advice, on pregnancy, HIV/AIDS, other STIs ⁽¹⁷⁾
- **Specialist Sexual Violence Officers to be experienced officers who have volunteered and have been assessed as suitable for that role and who are willing to commit to sexual violence work for a given period.** Those officers to given **intensive specialist training** in the care of victims of sexual violence and in the gathering of victim evidence in the form of detailed statements
- **Specialist Sexual Violence Officer** to be assigned to each victim for the duration of the case, to maintain contact with the victim (and keep a detailed record of

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that and all other contacts with them), provide information on the process, liaise with the prosecution team, provide advice on referrals as appropriate, and very importantly, to be responsible for taking the detailed statement from the victim

- **Sexual Violence Officers** to work alongside **Investigating Officer(s)** in the case, their roles to be **distinct but complementary**, under the supervision of a senior officer (ideally a specialised one) and their time **to be dedicated to this kind of work**
- If sexual violence crimes cannot be their only work, it should be the work that **always takes complete priority at agreed critical stages, such as** SATU or other forensic examination, full statement taking, deposition, bail applications, any pre-trial meetings with the prosecution team, the trial hearing, any appeals, and so on
- **Clear protocols around time and frequency of contact** with the victim including its content to some extent, such as certain essential advice on procedure, and appropriate referrals, such as to RCC, Legal Aid, GP, and so on
- **Agreed national protocols with all the agencies with whom An Garda Síochána interacts, such as the DPP, State Solicitor and Courts Service**, to ensure that although the Sexual Violence Officer is the first and most important point of contact with the victim, he/she does not have to re-negotiate on behalf of the victim at every interaction ⁽¹⁸⁾.
- **Support for Sexual Violence Officers** as critical and built into every training/selection/recruitment/in-service programme
- **Training for all first response officers** as critical. RCNI's co-ordinating role would include nationwide, expert, in-service training delivered locally. NB: this has worked on ad hoc basis more than once around the country
- **Performance indicators which are not purely conviction or detection based.** **Target times** are set for the allocation of a Sexual Violence Officer, the period within which a statement should be taken, a file submitted to the DPP, and so on and that these are properly monitored. A vital part of this process is to ask for victim feedback on their experience of their treatment by Sexual Violence Officers in particular and by the criminal justice system in general
- That decisions not to submit a file to the DPP and/or that no crime has been committed, are subject to **regular and expert review at different levels.**
- **A monitoring process which looks in detail at the reasons why any complaint was not proceeded with** ⁽¹⁹⁾
- **That the reasons why a victim decides to withdraw a statement are always sought and examined.** There should be an opportunity for them to raise and discuss thoroughly with (ideally) their Sexual Violence Officer any fears they may have in relation to the process, especially in relation to intimidation, and

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they should be given a time-out period to reconsider their decision to withdraw

- **Early consultation with ideally specialist rape prosecution staff within the DPPs office and/or the Domestic Violence and Sexual Assault Investigative Unit (DVSAIU) to increase chances of gathering all possible usable evidence. It is very important that any decision not to recommend a prosecution on any sexual violence file submitted to the DPP goes to the highest level of the specialist local Sexual Violence Team, and is further subject to separate and regular review by DVSAIU**
- **Alternatively, the policy could be that all files in sexual violence cases are submitted to the DPP for decision, irrespective of the Garda view is on the file**
- Review procedures to identify ways in which the investigation process may be improved, thereby increasing prosecution and conviction rates and increasing public confidence in the performance of An Garda Síochána. Effective review of all cases also provides a mechanism by which intelligence on other crimes and offenders may be improved
- All Sexual Violence Teams to share the same definition of sexual violence, which includes all indictable sexual crimes. **A common definition** will make important evaluations of performance across regions, a simpler task.

How might this be organised without undue strain on local Garda resources? The DVSAIU in Harcourt Square is the only dedicated **sexual violence investigation** team in the country (20). DVSAIU does not supervise all sexual violence investigations directly. It does have a general oversight and advisory role and can step in to take over exceptionally grave and/or complex cases, such as multiple allegations against several clergy within one institution.

With its specialised knowledge and expertise, DVSAIU is very well placed to undertake the national co-ordination and implementation of a countrywide strategy on sexual violence. RCNI recommends that DVSAIU is resourced and strengthened in order to deliver that strategy and most importantly to continue to monitor and evaluate it in practice, to ensure that the same operating procedures and inter-agency protocols are followed across the country. It might be that the best way to do this is to relieve it of its caseload, so that it can concentrate on other co-ordination and management functions, such as evaluating performance and identifying improvements countrywide. Ideally at least part of such evaluation should be carried out by external experts.

Operation of Sexual Violence Teams countrywide: How could An Garda Síochána manage to put two dedicated officers and a leader on every sexual violence case, particularly when resources are in short supply?

In Ireland thanks to the Central Statistics Office (21) we can now tell how many sexual offences have been prosecuted in each Region, and in each Division. It should be relatively

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straightforward to work out the optimal size for a sexual violence dedicated team area, to ensure that the team is busy enough with sufficient throughput to maintain their expertise, and not so busy that there is a high fall-out rate due to burn out, and standards slipping due to lack of resources.

One solution would be to **brigade resources where necessary**, so that a Division which could not support an entire Sexual Violence Team would join forces with a neighbouring one and jointly fund that team. This solution should be underpinned by **expert training of first-response officers, to ensure that no early evidence was lost before the Sexual Violence Team could take over the investigation.**

Section 4. Steps Along the Way

RCNI suggest that a Specialised Sexual Violence Strategy could be implemented in a gradual way. This might involve:

- **in-service, locally delivered, training in sexual violence for first response officers**
- **giving some officers specialised investigative and sexual violence officer roles**
- **then following that with a pilot scheme in a small number of Divisions,**
- **following evaluation of these steps and once local projects had time to bed down rolling it out across the country.**

Training implications

It is important to ensure that **both** first response officers **and** specialised Sexual Violence Officers have training appropriate to their roles.

Training of Specialised Sexual Violence Officers in Sexual Violence and Victim Support.

This is an investment which delivers dividends in terms of:

- reduced attrition,
- reduced offending,
- increased survivor satisfaction, and
- public confidence.

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London Metropolitan Police Service officers who undertake dedicated sexual violence officer training to become specialised SOITs (Sexual Offences Investigation Techniques officers), undertake four weeks full time training in small groups of 12-16 officers, in:

- principles of interviewing,
- sexual violence as it affects the victim,
- statute law and procedure,
- the role of a SOIT officer,
- diversity,
- forensic evidence,
- the role of special measures,
- accompaniment to a SARC (Sexual Assault Referral Centre), and related matters;
- how to devise and implement an exit strategy at the end of each case.

This investment is offset by the commitment of each officer to work with a Project Sapphire (Sexual Violence) team for at least two years, and by the rise in detection rates since Project Sapphire began to operate in 2002 ⁽²²⁾. Their principal manual on interviewing, "Achieving Best Evidence", has been made available already to An Garda Síochána, and Project Sapphire officers have indicated that they are available to assist in any way they can with training (as well as in other areas).

It should not be necessary therefore to do more than adapt existing training to Irish needs, so that a huge outlay of time and money would not be necessary, over and above what it costs to accommodate officers in training and replace them at their station during that training.

In addition to assistance from outside the jurisdiction, as the National Co-ordinating body, the RCNI is appropriately located and skilled to deliver nationally standardised, co-ordinated and expert training of the Sexual Violence Officers in their specialist domain of the victim's perspective on sexual violence.

RCNI recommends that the protocols for training Sexual Violence Officers already developed in detail by Project Sapphire, be examined and adapted for use in this State.

Section 5: Support for An Garda Síochána from other agencies

How can other agencies support An Garda Síochána in implementing this specialised strategy?

RCNI recognizes that in many areas, there is already a large amount of informal but effective co-operation between the various agencies, statutory and voluntary, involved with the care of victims of sexual crime, and that very often solutions emerge as a result. There is already a national, formal inter-agency structure in existence, the National Steering Committee on Violence against Women, in which An Garda Síochána play a significant role. However, inter-agency communication at a local level is more ad hoc.

RCNI recommend that An Garda Síochána should use all existing inter-agency structures as resources to support its work on the investigation of sexual violence, and where appropriate, organise and promote regular local meetings (both formal and informal) with others involved both in the care of victims and in the criminal justice system, such as the State Solicitor, local HSE officials and hospital personnel responsible for running SATUs⁽²³⁾, the local County Registrar/Clerk of the District Court and the manager of the local Rape Crisis Centre, so that problems and their solutions may be identified and solved as quickly and efficiently as possible. Members of An Garda Síochána should participate in the multi—agency SATU steering committees as recommended by the SATU Review 2006. All such interagency work to be underpinned by a common policy of belief in and respect for the victim of sexual violence.

Support from RCNI

Support for An Garda Síochána from Rape Crisis Centres in the care of victims of sexual violence

The Rape Crisis Centre network around the country already provides a lot of care to victims, and many work closely and productively with their local Gardaí. Ideally the best of local practice should be rolled out around the country, with specialised help from Garda Training and Liaison Officers, located in Rape Crisis Centres. The implementation of that practice within an Garda Síochána should be the responsibility of a Sexual Violence Liaison Officer. (This role should be performed by an officer already skilled and experienced in the area of sexual violence investigation).

There are many aspects of the Sexual Violence Officer's job which are capable of being either undertaken or supported by the work of the Rape Crisis Centres, provided of course that they are resourced to do that. Sexual Violence Officers, by contrast to SOIT officers in England and Wales given the higher capacity of RCCs in Ireland, would often have more of a co-ordinating than a performance role themselves in many areas of victim

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care. The ways in which Rape Crisis Centre services may support the Gardaí by supporting survivors of sexual violence are set out in more detail below.

Rape Crisis Centres can assist their local Gardaí both indirectly, by providing support, specialist counselling services and information to victims, and directly, by providing support for Sexual Violence Officers in terms of self-care and in-service training for first-response Gardaí, thereby helping to reduce attrition of survivors from the system (and of specialised Gardaí from their role).

RCNI recommends that An Garda Síochána avail of the expert knowledge and assistance in the care of victims/survivors and supporters of sexual violence of their local Rape Crisis Centre, as far as possible. The possible areas of RCC assistance are listed below.

a. Training

Rape Crisis Centres around the country have the expertise to support dedicated Sexual Violence Officer Gardaí in performing their role, by complementing that specialised training with providing a **universal minimum of general training** to all officers coming into contact with general public, **on sexual violence issues**. The role of **first response officers** in the initial stages of an investigation has been identified as “no less important than that of specialist officers and investigators” (see “Without Consent”, the HMIC/HMCPSP report page 11 op cit). In the last couple of years, Project Sapphire has developed a separate training programme for first response officers, as the need for such training become obvious from their own monitoring procedures ⁽²⁴⁾.

b. Liaison

Specially designated Sexual Violence Liaison Officers could become a channel of regular communication between local Gardaí and Rape Crisis Centres, on an informal basis at least, to identify and deal with any difficulties/solutions as they arise; the experience of several member Rape Crisis Centres is that informal relationships between local Centres and investigating Gardaí have often produced imaginative solutions to common difficulties.

c. Specialist Information

Rape Crisis Centres can provide information on current local trends in sexual violence, without in any way compromising client confidentiality. They are also a source of detailed information on sexual violence as a research topic generally, sometimes directly and sometimes by way of referral to another organisation, such as the RCNI. They can provide advice and referral on a broad range of practical matters to victims.

d. Support for Victims within the Criminal Justice System

Rape Crisis Centres can provide accompaniment to An Garda Síochána interviews with victims, whenever requested by victim, and can provide court accompaniment services on

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request to victims. Most SATUs have links with local RCCs such that psychological support and information can be provided to victims 24 hours per day. The advantage for Sexual Violence Officers is that as the victim has someone to support them, they are then able to concentrate on evidential issues, such as retrieval, labelling and storage of samples. With regard to support from Rape Crisis Centre accompaniment to Garda stations (for statement taking in particular), note that such inter-agency work has been highlighted in "Without Consent" as being worthy of further consideration (see page 89). The presence of trained supporters will maximise the chances of achieving the best evidence possible from the victim.

e. Specialist Counselling for Victims

Perhaps the best known role of Rape Crisis Centres is to provide long-term, expert individual counselling to victims of sexual violence. While not every victim is able and/or willing to undergo counselling in the early stages of an investigation, those who do participate in counselling have at their disposal an important source of ongoing emotional and psychological support. Such expert and sustained support is likely to have a positive effect on the victim's ability to "remain with a difficult process".

f. Support for other Supporters

Less well-known is the Rape Crisis Centre commitment to the support of others who are involved with victims, such as professionals in other fields and family members affected by the assault. Subject to having at its disposal enough resources in terms of time and money, Rape Crisis Centres can deliver a self-care programme to all officers specialised in the area of sexual violence.

- **The importance of effective Sexual Violence Officer care and management has been recognized by Project Sapphire (SOP cited above), however unlike England & Wales, investigators in this country have available to them an expert outside resource in terms of support for their specially trained officers.**
- **Such support, which could be provided on either a group or individual basis, is a valuable resource in order to ensure that specialised officers continue to carry out their work effectively with a minimum of risk to their own mental health and wellbeing.**
- **It also provides a mechanism whereby general concerns about the effects on officers of working in the area of sexual violence could be identified and communicated to An Garda Síochána management at an early stage.**

g. Accommodation

It is often possible for Rape Crisis Centres to assist the Gardaí by providing a safe, private and comfortable environment in which a victim's statement may be taken. Many survivors have emphasised to Rape Crisis Centre staff the positive effect of being in a space where they felt comfortable and supported on their ability to deliver a full and coherent statement to An Garda Síochána.

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Support for An Garda Síochána from the Legal Aid Board

Legal advice for complainants is available, regardless of means, as soon as a prosecution has been commenced. If this were adequately resourced and referrals worked efficiently, it would become not just a victim support but also effectively a resource for the Sexual Violence Officer, who could thereby become relieved of at least some of the burden of general explanations of the criminal justice process.

RCNI recommend that all victims are advised by their Sexual Violence Officer that they can get free legal advice from their Legal Aid Board, and those officers ensure that all victims have a good understanding of the legal process whether they attend a solicitor or not.

Section 6. The Victim's Perspective

This section examines the survivor's point of view at each stage of the criminal justice system and makes recommendations specific to each of those stages

- i. The investigation stage**
- ii. The DPP file stage and afterwards**
- iii. The trial stage**
- iv. Post trial, pre-sentence stage**

For any victim of sexual violence their Journey through the criminal justice system as it stands, can be very difficult to negotiate.

i. The investigation stage

The Victim and the Garda Síochána: The journey through the criminal justice process for a victim is like a canal boat going through a series of one-way "locks". From the very outset others make many of the decisions, and the only way out is to climb onto the canal bank – permanently. In this country, if the investigating officer has decided there is a crime to be investigated, and that the crime has been reported recently enough for any medical or forensic evidence to be available, the victim will undergo a forensic medical examination (FME) at the nearest available SATU or if no SATU is available, with the nearest qualified forensic doctor.

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Some victims of sexual crime may fail to get through the very first “lock” or hurdle on the way to getting a Forensic Medical Examination (FME), if the investigating officer called to deal with a victim reporting very recent rape decides then and there that no crime has been committed. It should be noted that it will now be possible to self-refer for forensic medical examination to SATUs ⁽²⁵⁾.

If a victim is reporting the crime, the investigating officers accompany victims to SATUs, remain with them until the end of the forensic examination, and take charge of any samples gathered. However, there is no guarantee that that officer will be the one conducting the victim side of the investigation, including taking the full detailed statement from the victim. Another officer may take over that aspect of the case, meaning the victim may have to retell the story over again. It is still unusual for adult victims’ statements to be recorded electronically, so that everything said by the victim must be taken down in longhand and read back to them for correction ⁽²⁶⁾. There will generally be one Garda responsible for taking the victim’s statement and liaising with them around possible second statements, charging decisions, Court dates, progress of the investigation, and so on ⁽²⁷⁾.

The investigating officer who takes the statement from the victim may also be involved in the perpetrator side of the investigation, working to identify and interview any suspects. This means that in practice there is **little or no delineation** between the related but distinct roles of victim officer and investigating officer. There will be a senior officer in charge of the entire investigation, which may also involve the collection of forensic evidence from the suspect and/or from other locations and the interviewing of other potential witnesses.

The RCNI recommend the specialisation of the investigation of sexual violence as described in sections 2—5.

The victim and the accused person: The victim of rape or sexual assault faces two unpalatable scenarios. Either the perpetrator is already known to them ⁽²⁸⁾ and is readily identifiable, in which case they are likely to face gruelling cross-examination on the issue of (his honest belief in) their consent. In these circumstances, the perpetrator is also likely to know where the victim lives and also to have some knowledge or be a part of, their social circle and ordinary routine. It follows that if the perpetrator is on bail and decides to seek them or their supporters out to intimidate them before trial, it will be relatively easy for them to do so.

Interference with prosecution witnesses (whether by intimidation or by bribery) is a very difficult challenge for any victim of rape or sexual assault. The accused person being in custody is unfortunately not a guarantee that there will be no interference, as he/she may find ways to have the victim and/or members of their family intimidated or otherwise dissuaded from giving evidence for the prosecution ⁽²⁹⁾. Research from the UK suggests that in these circumstances, the supportive stance of the investigators may be critical to the decision of the survivor/victim to remain with the prosecution process ⁽³⁰⁾.

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If on the other hand, the perpetrator is not already known to the victim, they may be asked to identify the perpetrator in a line-up at a Garda station. There is no one-way glass between the line of suspects and the victim, who must not only face their attacker but also point the perpetrator out physically. There is no way for them to avoid having to confront their attacker directly, which may be an extremely distressing experience (31). Where the victim can identify no-one, there will be delays while forensic samples are examined.

RCNI recommends that the investigation team take all possible steps to ensure that the risk of intimidation of the victim by the accused is minimised, by looking for strict bail conditions, such as residence at a distant location, no contact direct or indirect with the complainant, by whatever means, reporting, exclusion from specified areas, and so forth, OR remand in custody as appropriate, and by actively pursuing any breach of bail conditions. The victim should also be made aware that they and/or any other person can and should report any incident of attempted witness intimidation by the accused OR any other person acting on his behalf. The communication workload could be reduced by the use of checklists and information sheets.

RCNI recommends that where necessary the investigation team **arrange appropriate witness protection measures** for the victim before and during all stages of the court process.

RCNI recommends that there should be at least one Garda station fitted with one-way glass or similar device for identification purposes in each Region, so that it becomes possible for victims to identify their attackers without having to reveal their own identity or make physical contact with the accused. This issue needs to be addressed at the level of capital project planning.

The victim and their community: Another very real difficulty for victims is the fear that the facts of their case will become common knowledge. It is often of very great importance to the victim that their local community does not become aware of what happened to them, or whether they decided to report to the Gardaí or proceed with a prosecution.

RCNI recommends that the utmost care be taken by all involved in the investigation to ensure that the victim's report does not become known except to those directly concerned within the investigating and the prosecution teams (and the defence once disclosure obligations arise) before the case comes to court, and as far as possible after that.

Support for victim through referral to other support organisations: Rape Crisis Centres have systems in place which can support the Gardaí by supporting the victim from the very early stages of an investigation

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Referral by any investigating officer in a sexual violence case to an RCC or other support service is currently inconsistent. The standard procedure for referral is for Gardaí to give victims RCC or other support group details ⁽³²⁾.

At present, most SATUs have links with local RCCs which means that a support worker is available to provide psychological support and information. **SATU guidelines (2006), stipulates that a local RCC crisis accompaniment service is alerted as part of the team who come together when a victim presents at a SATU.** The Guidelines also contain protocols on referral.

Accompaniment during the giving of a statement to the Gardaí is also provided by RCC staff and volunteers. **Ensuring the victim has as much support as they need before they are asked to give a formal statement, maximises the chances that the best possible evidence will be obtained.**

ii. The DPP file stage and afterwards

It can be very hard for any victim of sexual violence to understand that despite having given a very clear statement and having been able to identify their attacker, the DPP may still decide not to proceed for undisclosed reasons. RCNI member Centres report this experience as very disempowering and bewildering for the victim. The knowledge that this may happen has to contribute to attrition before charges are even brought against the accused.

The spectre of the case not being prosecuted by the DPP underlines the importance of early co-operation by An Garda Síochána with the DPP and/or State Solicitor, to ensure that any deficiencies in the case are addressed as early as possible and thereby to reduce attrition by reducing the number of cases which the DPP will not prosecute.

Legal Advice/Court Accompaniment from Rape Crisis Centres/other supports in the period between charge and trial, as necessary

It is critical that the Sexual Violence Officer of An Garda Síochána **ensure** that the victim understands exactly what to expect, procedures, their role in the trial, and so on, particularly where they have reason to doubt that they are in contact with a Rape Crisis Centre and/or legal Aid. An Garda Síochána should also **ensure** victims know that once there is a prosecution under way, they will have a right to legal advice free of charge ⁽³³⁾. If critical referral to support services has not been made, and the Garda responsible has been particularly busy on other matters and/or has been on leave, it may be that the victim despite all delays now approaches their court date with minimal knowledge of what to

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expect and how to cope. The national network of Rape Crisis Centres will deliver all sorts of informal practical advice on how to cope with court appearances, being a witness, and so on, in addition to Garda accompaniment and Court accompaniment. RCC personnel who provide court accompaniment have specialist legal training to allow them to deliver the best support while conforming to trial rules.

RCNI recommends that Sexual Violence Officers make all appropriate referrals necessary for the best possible support of the victim as early as possible after the crime is reported.

RCNI recommends that the Sexual Violence Officer ensure that the victim is fully briefed on the criminal justice process, their role in it, what they should expect in court, and the aftermath of a trial, whether by themselves or by local Rape Crisis staff or by means of the Legal Aid Board legal advice scheme.

The victim may not meet other members of the prosecution team until the morning of the trial, and then only for a brief meeting.

RCNI recommends that the Sexual Violence Officer take the lead to arrange such a meeting earlier than the trial date.

iii. The trial stage:

Whenever the case goes to Court, the victim faces the possibility of having to meet the accused, if they are on bail, or their family members and/or associates, within the precincts of the Court, as there are very few Courts with special accommodation or facilities for prosecution witnesses. This can result in further trauma for victims and may allow direct threats to be made to them.

RCNI recommends that members of An Garda Síochána be proactive to ensure freedom from harassment as far as possible for the victim at Court, arranging for instance for an accused in custody to arrive/leave earlier/later if there are no separate entrances at the Court building for prosecution witnesses and defendant, and if he is on bail, ensuring that he gets no opportunity to harass the victim and/or their family members or friends.

iv. Post trial, pre-sentence stage

A victim of rape or aggravated sexual assault has the right to submit a Victim Impact Statement to set out for the Court the negative effects of the crime on them. Many victims find it difficult to know how to set about making such a Statement, although most are very anxious that the Court realise the full extent of the trauma for them.

RCNI recommends that the designated Sexual Violence Officer of An Garda Síochána should ensure that they are offered support with making their Victim Impact Statement, and in particular that they get advice about what can and cannot go into one. That officer should also ensure that they are told about possible future procedures as appropriate, e.g. right of DPP to appeal unduly lenient sentence, or right of

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accused to appeal against conviction and/or sentence, or indeed their right to be informed regarding parole board hearings, release dates OR escape ⁽³⁴⁾.

Section 7: Challenges which the Sexual Violence Team will need to consider in relation to the care of victims of sexual violence

Victims' fears about reporting a crime:

1. Victimisation by accused and/or his family and associates
2. Publicity: everyone knowing within the local community, and/or everyone knowing about it when it goes to Court
3. Not being believed by anyone in authority
4. Being treated as if she was "asking for it" or "let herself down"
5. Not being able to deal with long delay pending the outcome of proceedings
6. Being under pressure very soon after an attack to report it to the Gardaí, in order to get samples taken
7. Having case dropped by An Garda Síochána (no file submitted to DPP)
8. Pregnancy
9. STI/HIV/AIDS
10. Having case dropped by DPP, currently without explanation
11. Court proceedings being traumatic through hostile prolonged cross-examination
12. Being intimidated by the thought of Court proceedings in themselves
13. Having no control over juggernaut of court proceedings
14. Having counselling notes and other intimate personal records disclosed
15. Being unable to give evidence live when it comes to it
16. Acquittal of accused
17. Successful appeal by accused OR retrial/unsuccessful appeal by DPP.

Putting in place a system that allows the victim to make an informed and confident decision to report, in their own time, without jeopardising the investigation is essential to reducing attrition rates.

Facilities to be available so that samples are safely stored pending a victim's decision to report or not.

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Informal contact with a Sexual Violence Officer to be made available to victims who have not committed to making a formal report. When specialised SOIT (Dedicated sexual violence officer) Officers undertook an informal advice clinic for victims who were unsure whether they should report sexual crime to the police, 60% of them subsequently decided to report (informal communication from Project Sapphire Officer, 28th August 2008). **Mechanisms to be in place to allow victims to release samples for use by Garda intelligence even if they choose not to report formally.**

Section 8. Challenges for Sexual Violence Officer/Investigator/SATU staff/Prosecutor

The Victim's Consent:

If a victim is intoxicated their consent to the taking of intimate samples represents a difficult dilemma. An intoxicated victim may lead to an ensuing lack of clarity regarding consent to samples being taken and/or any treatment and potentially regarding the sequence of events and/or consent to any actions taken by the investigating team and other relevant professionals.

RCNI recommends that if a Garda officer is in any doubt as to whether the victim is sober enough to consent to samples being taken, medical opinion should be sought, and the victim should be asked whether they consent as soon as they are sober enough to do so (see SATU Guidelines 2006 for protocols).

Sustainability of Specialist Teams and Officers:

- Lack of dedicated time and other resources, including forensic resources, to pursue Achieving Best Evidence at best through "Golden Hour" and beyond to victim's detailed statement
- Lack of emotional and practical support for work of Sexual Violence Officer; lack of organised structure for liaison with Investigating Officer and Team Leader
- Burn out, for either investigating officer/Sexual Violence Officer
- No status/career progression/isolation/insufficient social support from Sexual Violence Team and other officers at work
- Dealing with victims who drop out of system along the way for whatever reason
- Dealing with lack of success in Court at trial and post trial.

It is vitally important that the **Sexual Violence Officer never works in isolation** from investigating colleagues, from effective mentoring and leadership, and that he/she has access to such practical supports as are necessary to do their job properly.

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RCNI recommend that structures be put in place which offer support, guidance, mentoring, training and practical things (such as dedicated interview rooms, ideally) to the Sexual Violence Officer, so that over time he/she can sustain the role, bearing in mind that there will always be some appreciable delay before matter comes to trial, and further delay in the event of appeal.

In Conclusion

By drawing on the experience of others concerned with the best possible care of victims of sexual violence as well as those concerned to establish and maintain best practice in its investigation and prosecution, An Garda Síochána could deliver a system of investigation of sexual violence which achieves the twin aims of best possible investigation practice and best possible care of victims, even in the current economic climate.

RCNI

18 March 2009

Acknowledgements:

RCNI wishes to acknowledge the enormous support so generously given to forward the completion of this document from:

- Our clients, survivors of sexual violence, whose experiences have inspired and informed this document from first page to last;
- DI Jim Foley, DS Hannah O'Sullivan and many others in the Project Sapphire Team based at Territorial Policing HQ at Millbank, London SW1;
- DCI Andy Rowley and his Borough Project Sapphire Team at Marylebone Police Station, London W1;
- Ms Elizabeth Harrison and her team at Whitechapel Sexual Assault Referral Centre, London;
- Ms Louise Smith, London Chief Crown Prosecutor (Rape), The Cooperage, London SE1;
- The entire team at COSC (Department of Justice, Equality and Law Reform Executive Office with responsibility for the prevention of domestic, sexual and gender-based violence)
- Domestic Violence and Sexual Assault Investigation Unit (DVSAIU) of An Garda Síochána, in particular from DS Michael Lynch and DI Eamonn Henry; and last but not least;
- RCNI Member Centres, for their most valuable accounts of their experiences and for their comments.

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ENDNOTES:

1. "Attrition" in this context means the process whereby cases are lost from the criminal justice system at various points
2. See for example, "Investigating and Detecting recorded offences of rape", Feist et al(2007), Home Office online report 18/07, Executive Summary at page v
3. "A Gap or a Chasm? Attrition in reported rape cases", Home Office Research Study 293 (2005), Kelly et al, page 93
4. Fawcett Society figures, cited in BBC news article, bbc.co.uk/1/hi/uk/7496013.stm
5. Conviction rates in Ireland run at about 50-60% percent of cases which reach a courtroom, which translates as about 6 or 7 in every hundred rapes recorded by An Garda Síochána: see Central Statistics Office Report 2003-2006 (note that these are dynamic figures). The figures for England and Wales vary greatly depending on the Police Force. The average for 2006 across England and Wales was 6.1% (Fawcett Society/Ministry of Justice figures, quoted in BBC report at news.bbc.co.uk/1/hi/uk/7496013.stm)
6. Conversation with Louise Smith, Chief Crown Prosecutor for Rape, London Metropolitan Area, Aug 08
7. There may or may not be long term physical consequences for a victim: there will always be grave long-term psychological consequences, such as feelings of fear, anxiety, helplessness and powerlessness, personal worthlessness, shame, self-doubt and self-blame, in addition to more obviously dramatic effects such as PTSD (post-traumatic stress disorder), addiction problems, sleep difficulties and depression, sometimes leading to suicidal thoughts and behaviour.
8. See SAVI report, op. cit. (page 1 supra)
9. See, for example, "A Gap or a Chasm? Attrition in reported rape cases", Kelly, L & ors, Home Office Research Study 293,(2005): it found that trained officers made a positive difference to the experience of victims in the early stages of an investigation: this is important because early withdrawal is often linked to fear of the process itself (see page 64 *ibid*).
10. "A Gap or a Chasm? Attrition in reported rape cases", Kelly, L & ors, Home Office Research Study 293,(2005), cited above at note 9.
11. Project Sapphire SOP Manual (2005) gives a figure of 2% for false allegations of rape, in line with false allegation rates for other types of crime, p 29; also, there is evidence that the fear of being disbelieved operates to prevent reporting in the first place: see for instance, "A Gap or Chasm?", cited above at note 3, at page 69, and that the police expressing doubts to the survivor about their credibility was a factor in early withdrawal (*ibid*, page 66);
12. See Home Office Online Report 18/07, cited at pages 3 and 4 above, at page 70: "The odds of an offence involving an adult victim who reported *the day of the offence* (emphasis in report) getting to Crown Court [equivalent here is Central Criminal Court] were three times higher than for offences reported any time after the day of the offence".
13. See "A Gap or a Chasm?", op cit, page 64, for a detailed account from a complainant of police failure to keep in contact with her and its effect on her ability and willingness to remain with the criminal justice process. The evidence from "Investigating and Detecting recorded offences of rape" (Home Office Online Report 18/07, cited above, indicates that the use of Specially Trained Officers (STO's) (equivalent to Metropolitan Police SOIT officers) who are trained to be proactive in making contact with survivors, is associated with reduced attrition: pp 62-63 thereof;
14. The last edition of the SOP was published in 2005, the new SOP is due out shortly

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15. For instance, Project Sapphire, the anti rape initiative of the London Metropolitan Police Service, has developed detailed Standard Operating Procedures for the implementation of their victim-centred policy which could be adapted for use in this country. (the current edition is under revision at the moment). See www.met.police.uk/sapphire for general information.
16. COSC is the National Office for the Prevention of Domestic, Sexual and Gender-based Violence and part of the Department of Justice, Equality and Law Reform.
17. Such an agreed set of national guidelines between AGS, FME's, RCNI, HSE, FSL (Forensic Science Laboratory) and the GP's already exists, however in practice medical advice and referral given to victims varies enormously. See "Rape/Sexual Assault: National Guidelines on Referral and Forensic Clinical Examination in Ireland" (jointly published by Department of Justice, Equality and Law Reform and the Department of Health and Children in 2006).
18. See the agreed national guidelines already in existence covering most aspects of the FME process, (footnote 16 above)
19. Project Sapphire Standard Operating Procedures, for example, sets out a detailed protocol for investigation of complainants' withdrawals: any withdrawal statement should identify, for instance, whether the allegation was true, whether the complainant would be willing to discuss any aspect of the offence again should the need arise [for example as part of a linked investigation], and should record the victim's reasons for withdrawing in their own words (see PS SOP 2005 edition, page 15).
20. Apart from DVSAIU, there is no sexual violence investigation team and rarely more than initial training provided in sexual violence. Neither is there any **intensive specialised** in-service training in the best treatment of victims of sexual violence, to include interview techniques, awareness of sexual violence issues, and so on.
21. See their Annual Report 2003-2006, published 2008
22. Home Office on line Report 18/07: "Investigation and Detection of Recorded Offences of Rape", cited above.
23. The same study found that forensic and medical evidence were significant predictors of a case getting to Court, along with police force area: see page 70, AND that the presence of forensic evidence was a significant predictor of conviction (page 71 *ibid*)
24. Conversation with DS Hannah O'Sullivan and DI Jim Foley, Project Sapphire, August 2008
25. Sexual Assault Treatment Units are usually housed in a HSE hospital: as at March 2009 those accepting self referral include Waterford and Mullingar, this is shortly to become standardised in the other SATUs in Letterkenny, Dublin, Cork and Galway (the Galway Unit is due to open imminently).
26. It is fair to say that there are now a couple of Special Interview Units already in existence, and more are planned.
27. However, our Member Centres continue to report that sometimes it can be very difficult for the victim to make contact with that officer
28. This is the case for the large majority of victims of sexual violence in Ireland: see SAVI, McGee & others, 2002, and see RCNI National Statistics 2007.
29. Our Member Centres have reported a number of incidents of indirect intimidation by an accused person's associates of a survivor's family members
30. See for example, "Without Consent", HMIC/HMCPSI Joint Report, published January 2007, at page 12: "Some [attrition] relates to victims' fears....This emphasizes the important contribution that sensitivity to the need for privacy, **a feeling of safety** [my emphasis], confidence in the professionalism of staff and a climate of belief can make to ensuring that victims remain engaged in difficult processes"

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31. Our Member Centres have reported incidents such as the accused person glowering fiercely at an under-age victim in a blatant attempt to prevent her from identifying him.
32. There is already a protocol in place for referral which does not contravene the restrictions imposed by the Data Protection Acts
33. See Section 78 of the Civil Law (Miscellaneous Provisions) Act 2008
34. The Office of Victims of Crime at the Department of Justice may be able to provide assistance by way of protocols for the preparation of Victim Impact Statements, as may the Legal Aid Board;
35. NB: anonymity **before a case enters courtroom to be tried** is not guaranteed at Court, eg at callover and/or when witnesses being sought, sometimes over public address system.

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4. HMIC/HMCPPI (2007) "Without Consent – A Report on the Joint Review of the Investigation and Prosecution of Rape Offences. London, HMCPPI and HMIC
5. Kelly, L, Lovett, J and Regan, L (2005): "A Gap or Chasm? Attrition in reported rape cases". Home Office Research Study 293. London: Home Office.
6. London Metropolitan Police Service Standard Operating Procedure for the investigation of rape and serious sexual offences (2005): London: Metropolitan Police Authority Internal Document
7. MPS Equalities Scheme Report, 2006 – 2010
8. McGee, H, Garavan, R, de Barra, M, Byrne, J and Conroy, R: "The SAVI Report: Sexual Abuse and Violence in Ireland" (2002), Dublin: The Liffey Press, in association with Dublin Rape Crisis Centre
9. "Rape/Sexual Assault: National Guidelines on Referral and Forensic Clinical Examination in Ireland" (jointly published by Department of Justice, Equality and Law Reform and the Department of Health and Children in 2006).
10. Sexual Assault Treatment Services: A National Review National Steering Committee on Violence Against Women 2006 (available online at http://www.dohc.ie/publications/sexual_assault.html)
11. Rape/Sexual Assault: National Guidelines on Referral and Forensic Clinical Examination in Ireland published by Department of Justice, Equality & Law Reform/Department of Health and Children 2006

List of Abbreviations:

ABE	Achieving Best Evidence	RCNI	Rape Crisis Network Ireland
AGS	An Garda Síochána	SARC	Sexual Assault Referral Centre
CSO	Central Statistics office	SATU	Sexual Assaults Treatment Unit
DPP	Director of Public Prosecution	SAVI	Sexual Violence and Abuse in Ireland
DVSAIU	Domestic Violence and Sexual Assault Investigative Unit	SOIT	Sexual Offences Investigative Techniques
FME	Forensic Medical examination	STI	Sexually Transmitted Infections
FSL	Forensic Scientific Laboratory	STO	Specially trained officer
HSE	Health Service Executive		
RCC	Rape Crisis Centre		

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