



**RCNI Submission on The Community and the Criminal Justice  
System**

**White Paper on Crime Discussion Document No 4**

**August 2011**

### Introduction

**Rape Crisis Network Ireland (RCNI)** is a specialist **information and resource** centre on rape and all forms of sexual violence with a proven capacity in strategic leadership. The RCNI role includes the development and coordination of national projects including expert data collection, using our expertise to influence **national policy and social change** and supporting **Rape Crisis Centres** to reach best practice standards. We are the representative umbrella body for our member Rape Crisis Centres who provide **free advice, counselling and support** for survivors of **sexual abuse** in Ireland.

The Rape Crisis Network Ireland welcomes this opportunity to make a submission on the community and the criminal justice system. Our submission draws on the decades of expertise of member Rape Crisis Centres, our recent publication Rape and Justice in Ireland<sup>1</sup>, extensive firsthand accounts of experiences of the justice system from survivors of crimes of sexual violence and from a review of previous RCNI law reform objectives.

As this is a very broad topic, the structure of this submission will follow the series of questions in the White Paper on Crime Discussion Document. These will be identified by inverted commas and **bold italic font** throughout.

Question 1: ***“What measures can be taken to enhance public confidence in the operation of the criminal justice system and its capacity to tackle and to prevent crime and the fear of crime? Is the system meeting public needs and expectations?”***

**1.0** Rape Crisis Network Ireland’s view is that in order for public confidence in the criminal justice system to be enhanced, some additional measures need to be taken to ensure that the system is **fair** to victims of sexual violence, avoids unnecessary and stressful **delays** before and during trials, and provides more **protection** from sexual violence for everyone, and for children and young people in particular, through effective systems for **identifying and reporting signs of possible sexual abuse**, and **timely vetting** of anyone in contact with children or young people, and ultimately, effective **monitoring, supervision and perpetrator programs** for those known to be at risk of acts of sexual violence – whether or not they have come to the attention of the criminal justice system.

**1.1** **Procedural and Administrative Measures to enhance fairness for victims of sexual violence in the criminal justice system** should include **special measures** to ensure that

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<sup>1</sup>“Rape and Justice in Ireland” (2009), Hanly & ors, Liffey Press (“RAJI”). See RAJI Executive Summary via online link at <http://www.rcni.ie/uploads/Exec-Summary.pdf>

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- these victims can give evidence, whatever their age or intellectual capacity, by video-link or other electronic means without having to be present in court<sup>2</sup>;
- where such electronic facilities are not available, screens are provided so that they do not have to see the accused or be seen by him/her;
- they do not have to spend any time in close proximity to the accused and/or his/her associates in the court precincts, but have private dedicated waiting and hospitality facilities available to them;
- where such private facilities are not available, there is a protocol in place to keep the accused and/or his/her associates separate from victims of sexual crime within the precincts of the court<sup>3</sup>.

**1.2 Criminal Law Measures, statutory and administrative, to enhance fairness for victims of sexual violence in the criminal justice system** should include statutory provisions to ensure:

- that judges instruct juries that “a conclusion that the complainant acted foolishly does not of itself make her wholly or partially responsible for the rape”<sup>4</sup>.
- that the accused in a rape or other sexual violence case “should be forbidden by statute to conduct a personal cross-examination of the complainant”<sup>5</sup>.
- that consistency in sentencing, particularly in the Circuit Court, is enhanced by **sentencing guidelines** covering all sexual crimes, and by the introduction of a **permanent** Court of Criminal Appeal;
- that compensation for the victim is “considered in every case in which a crime has been shown to have been committed”<sup>6</sup>.

Finally in relation to fairness for victims of sexual crimes, Rape Crisis Network Ireland endorses this recommendation from the authors of RAJI:

“It is recommended that an expert group be convened to consider the acceptable limits of cross-examination and defence strategy in criminal cases generally, and rape cases in particular.” RCNI would add that this recommendation should apply to all cases of sexual violence before the Courts.

**1.3 Measures to prevent and reduce unnecessary delays in the criminal justice system:**

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<sup>2</sup> See Criminal Evidence Act 1992 Section 16 as amended

<sup>3</sup> See “Proposal for a Directive establishing minimum standards on the rights, support and protection of victims of crime”, 2011/0129, dated 18.05.2011 and available online at:

[http://ec.europa.eu/justice/policies/criminal/victims/docs/com\\_2011\\_275\\_en.pdf](http://ec.europa.eu/justice/policies/criminal/victims/docs/com_2011_275_en.pdf)

<sup>4</sup> “Rape and Justice in Ireland” (2009), Hanly et al, Liffey Press (RAJI), and RAJI Executive Summary, available online at: <http://www.rcni.ie/uploads/Exec-Summary.pdf>

<sup>5</sup> *ibid*

<sup>6</sup> See RAJI recommendations in RAJI Executive Summary, cited above

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Rape Crisis Network Ireland recommends the introduction of an integrated system of **Case Management and Pre-Trial Hearings** in our courts for all trials on indictment, to prevent and reduce these delays as much as possible, in the interests of enhancing public confidence in the criminal justice system generally, and also in the interests of reducing secondary victimization for all victims of sexual violence who take a case through the criminal justice system, caused by these delays.<sup>7</sup> This topic is treated more fully in the RCNI position paper<sup>8</sup>, here are the main points:

- An integrated Case Management and Pre-Trial Hearing system should be founded on statute supplemented by detailed court rules;
- As many administrative matters and discrete legal issues as possible should be determined in advance of the trial date at or before the pre-trial hearing;
- The trial judge should have power and responsibility to direct the conduct of the case at the pre-trial hearing, by supervision and by determination of outstanding issues;
- The rights of the accused person to disclosure, legal representation and pre-trial anonymity should be clear and should be respected;
- Issues of admissibility of evidence should also be determined pre-trial, on the day of the trial hearing before the jury is sworn in;<sup>9</sup>
- Such a system would avoid numbers of late postponements, adjournments and delays during trials, as these issues are the reason for much of the delays between return of trial and the eventual full hearing of the case;
- There is support from the Courts Service, from some judges at least, from several academics, from the Law Reform Commission, from other ad hoc groups and increasing numbers of practitioners for the introduction of some form of case management and pre-trial hearing system<sup>10</sup>

<sup>7</sup> Secondary victimisation is a key focus of the new EU Directive, cited in full at Note 2 above

<sup>8</sup> RCNI Submission on the Proposed Heads of the Forthcoming Victims' Rights Bill 2011, available online at: <http://www.rcni.ie/uploads/RCNISubmissiononProposedHeadsofVictimsRightsBill2011June11.pdf>

<sup>9</sup> See "Balance in the Criminal Law Review Group Final Report" (2007), available online at: <http://www.justice.ie/en/JELR/BalanceRpt.pdf/Files/BalanceRpt.pdf>

<sup>10</sup> Reports in favour of this include: The Report of the Working Group on the Jurisdiction of the Courts: the Criminal Jurisdiction of the Courts (the "Fennelly Report") (2003), available online at

[http://www.courts.ie/courts.ie/library3.nsf/\(WebFiles\)/92E26C802274604280257888003CFD32/\\$file/WGJC%20Report.pdf](http://www.courts.ie/courts.ie/library3.nsf/(WebFiles)/92E26C802274604280257888003CFD32/$file/WGJC%20Report.pdf); The Report of the Oireachtas Committee on Justice, Equality, Defence and Women's Rights: A Review of the Criminal Justice System (GPO, 2004), available online at

<http://www.oireachtas.ie/viewdoc.asp?DocID=3067&CatID=78&StartDate=01%20January%202004&OrderAscending=0>; The Report of the National Crime Council, An Examination of Time Intervals in the Investigation and Prosecution of Murder and Rape Cases in Ireland from 2002-2004 (GPO, 2006), available online at

[http://www.crimecouncil.gov.ie/downloads/Time\\_Intervals\\_Research.pdf](http://www.crimecouncil.gov.ie/downloads/Time_Intervals_Research.pdf); Law Reform Commission Report on Prosecution Appeals and Pre Trial Hearings, LRC 81-2006 (2006), available online at

<http://www.lawreform.ie/fileupload/Reports/Report%20Prosecution%20Appeals.pdf>; Balance in the Criminal Law Review Group Final Report (2007), online at: <http://www.justice.ie/en/JELR/BalanceRpt.pdf/Files/BalanceRpt.pdf>

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- There are precedents which could be adapted in existence<sup>11</sup> already, both here and abroad, and in parts of our criminal justice system an informal system is already in use which could be built on.

### 1.4 Measures to enhance public confidence in the criminal justice system by improving protection for victims and potential victims of sexual crime

**1.4.1 Bail** should not be continued to those who have been convicted of rape and/or aggravated sexual assault. In addition, strict conditions which include a condition not to contact the victim and/or any other family member, directly or indirectly, except with the permission of the Court, should be the norm whenever a person is granted bail on a charge of sexual crime. Finally, a person who is **not** charged with a serious offence should be refused bail, if the court is satisfied that "such refusal is reasonably considered necessary to prevent the commission of a serious offence by that person".<sup>12</sup>

**1.4.2 Sex Offenders in the Community: A fuller consideration of the Management of Sex Offenders (2009) can be found in the RCNI submission on the topic please see online link below.**<sup>13</sup> The main points are listed here:

- There should be a nationally coordinated publicly funded program aimed at sex offenders in the community addressing their behaviour, whether they are convicted or unconvicted;<sup>14</sup>
- Probation supervision should be the norm for **all** sex offenders released back into the community, to be supplemented by attendance at a sex offender program as directed by the probation officer;
- Local Risk Management Committees, which manage the risk attaching to all released sex offenders in a given area, should be increased in number to cover the whole country, should include some measure of victim support, therapeutic and community representation, and should have the statutory power to share information as and when necessary to ensure that the victim and the community at large are protected.
- The LRMCS should have at their disposal, **national** guidelines based on statute, which address how, when and to whom any information, , should be shared about sex offenders in their community;
- State agencies should engage in public awareness and education of the community about sex offenders, to increase public confidence about the criminal justice system

<sup>11</sup>See RSC 63A, available online at:

<http://www.courts.ie/rules.nsf/8652fb610b0b37a980256db700399507/71b5764f57d3440980256f340064227a?OpenDocument>, and see UK Criminal Procedure Rules 2010, available online at: <http://www.legislation.gov.uk/ukxi/2010/60/contents/made>

<sup>12</sup> See Bail Act 1997, Section 2(1)

<sup>13</sup> <http://www.rcni.ie/uploads/RCNIsubmissiononthemanagementofsexoffenders29thApril2009.pdf>

<sup>14</sup> This is the point made by the National Organisation for the Treatment of Abusers (NOTA) Report from December 2008, "Closing the Gaps"

by explaining what any member of the public should do if they do have concerns about any individuals' behaviour. If the fears of the general public are addressed in this way, this should reduce the risk that vigilante-type behaviour will cause released sex offenders to disappear from the reach of probation and Garda supervision.

Question 2: ***“Can dialogue between members of the public and the criminal justice system be improved? Are the existing mechanisms for listening to public concerns adequate?”***

**2.1** RCNI recommends that **open public meetings**, such as those held as part of the White Paper on Crime consultation process, should be held by State agencies more frequently, as they provide a very useful forum in which to exchange views and information, as well as a means by which concerns can be communicated frankly and directly to the responsible State agencies. They need skilled facilitation, and every effort should be made to include as many different stakeholders as possible.

**2.2** RCNI also recommends that the **current interagency fora should be maintained and developed**, both at regional and national levels, such as the National Steering Committee on Violence against Women, the Regional Advisory Committees, the Victims' Consultative Forum, the Garda Victim Liaison Forum, the Joint Policing Committees, among others. However, more attention should be paid to the **process** of effective interagency working, so that all these groups are seen and felt to be effective on behalf of victims. This is not easy to achieve but is worth the effort as victims' experience of the criminal justice system should improve significantly over time as a result of this effort.

**2.3** One area which such interagency gatherings could address effectively is the **development of protocols about referrals between agencies and/or availability of information** both online and at various State agency locations, such as Garda stations and Courts.<sup>15</sup> While the Garda Síochána Policy on the Investigation of Sexual Crime, Crimes against Children and Child Welfare and Children First Guidelines do set out clearly how specific kinds of information should be shared between agencies, or between individuals and agencies, a set of agreed protocols on the process of referral between agencies, and on the availability of general information in each agency about the services provided by other agencies, would help to streamline the response which victims receive from the criminal justice system.

**2.4** While individual victim-support NGOs can do a certain amount to **increase public awareness of the work of these interagency bodies**, it would also be helpful if State agencies, such as the Victims of Crime Office, would publicise their existence and aims e.g on their website, and encourage all victims of sexual crime to feed their experience

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<sup>15</sup> An example where this process has already worked extremely well is the SATU Guidelines, 2nd Edition 2010, available online at: <http://www.rcni.ie/uploads/NationalSATUGuidelines.pdf>

and suggestions back into the various interagency meetings, either directly or via the victim support NGO's.

**2.5** Also, **interactive online evaluation forms for members of the public** could be a very useful anonymous means of providing feedback to State agencies (and others) from victims. RCNI are aware that there are many victims of sexual crime who do not want to make a formal complaint to any State agency in their own name, as provided under the Victims' Charter but who have good cause to complain about their experience of the criminal justice system. **A well-publicised and managed anonymous online system of reporting grievances** would provide the various State agencies with valuable feedback which would not otherwise be available to them.

**2.6** Another effective way in which State agencies can listen to the concerns of victims is by participating in informal (or indeed formal) **roundtable or joint training events**, for instance sharing an information session with groups of local NGOs including victim support organisations.

Question 3: ***“What might be done to improve awareness of the activities of the criminal justice agencies and the services they provide?”***

**3.0** From the reported experience of our clients, and also from the evidence of our own research<sup>16</sup>, RCNI would like to stress the critical importance for victims of access to full and accurate information and advice. While much has improved in this area, there is still more that could be done.

**3.1** There could be an **online direct information system for all victims of crime, including sexual crime**, which tracks the progress of a complaint from initial report through to trial and beyond if necessary, which is triggered by a **unique identifying number** which stays the same throughout the lifetime of the complaint. There is already a simple version of such a system in operation at the visa application section of the Department of Justice website. This would be much easier for victims to use than the current system. Having a single system based on a UIN would also make it much easier for year on year trends to be detected and analysed across the criminal justice system, so that any changes planned would be **evidence-based**.

**3.2** While there is very clear information available online about the prosecution process and the trial process, there seems to be little enough available on any State website about the **reporting and investigation process**. As a first measure, RCNI recommends that the **Garda website** could include more information aimed directly at victims of sexual crime, to provide them with a **clear step-by-step procedure** to follow on how/where/to whom to report a crime, and on the investigation process afterwards.

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<sup>16</sup> See Rape and Justice in Ireland, cited above

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Consideration could be given to formatting such information as a flow-chart, for instance, for brevity and clarity.

**3.3** RCNI recommends that consideration be given to the inclusion of the dissemination of general information and to the cross agency referral process, as a **permanent item on the Agenda of the Victims' Consultation Forum**, so that any shortcomings may be addressed and rectified quickly and any effective solutions publicised and replicated across the system.

Question 4: ***"What works well in the present system to serve members of the public in their direct dealings with the criminal justice system? How can what works well be replicated more widely in the system?"***

**4.0** The points made under Question 3 are also relevant here. In addition, the RCNI would make two further points:

**4.1** The experience of the RCNI has been that **local relationships** between NGOs, victim support organisations, State agencies and victims themselves, can work extremely well to improve the experience of victims within the criminal justice system. RCNI staff and member Rape Crisis staff represent the concerns of victims in **regional and national interagency fora** in turn and where possible, do propose that what has worked well in a local area is replicated more widely across the system.

**4.2** As more and more information is now being exchanged across the internet, RCNI suggest that the Victims of Crime Office continue to develop and use social media and other online tools (e.g. **online fora**) for the exchange of information, ideas and experiences by victims of sexual crime, victim support organisations, academics, State agency representatives, local and national representatives, and interested members of the public. This is another relatively straightforward way in which solutions may be disseminated and hopefully, replicated more widely in the system.

Question 5: ***"How can the various parts of the criminal justice system best work together to meet the needs of victims, witnesses and the wider community?"***

**5.0** In addition to the points already made under the various headings above, RCNI recommends that:

**5.1** there be a series of **national interagency protocols** put in place to address **unexpected ad hoc issues** which affect the continuing welfare of victims of sexual crime. It is important to recognise that if something unexpected happens, victims of sexual crime expect that there will be a response not only from the relevant local victim support organisation(s), but also from the local State agency representatives, such as Gardaí and HSE staff. They also expect that these responses will be coordinated across

both State and non-State agencies. Such coordination should be straightforward to achieve if those responsible in each organisation, and the process to be followed to devise a swift co-ordinated local response, are already established at a national level.

**5.2: Alcohol, Sexual Violence, Young People and Joint Policing Committees:** As their ambit includes alcohol and drug consumption coinciding with crime, disorder and anti-social behaviour in its own area, the JPCs are well placed to collaborate with local Rape Crisis Centres and others as appropriate, to ensure that all possible measures are taken locally to control access to substances and to respond appropriately to violent and criminal behaviour, including sexual violence, which are conducted under the influence of various drugs and substances including alcohol<sup>17</sup>.

Research also indicates that Youth is a significant risk factor for certain types of criminal perpetration and victimisation<sup>18</sup>. It makes sense therefore to include **youth organisations** in local JPCs as well as representatives from Rape Crisis Centres and other victim support organisations.

Question 6: *“What is the role of legislation in improving the experience of victims of crime in the criminal justice system? What might usefully be included in such legislation?”*

**6.0** Legislative measures have enormous importance – not only do they provide a formal structure, with definitions, sanctions, exceptions and safeguards, they also lay down a marker as to the standard of behaviour expected from the community in general. They have been referred to already at paragraph 1.2 above. In addition, in relation to **children and young people**, RCNI submits that

**6.1** There should be **new legislation and a new national protocol** regarding inter-agency cooperation and the exchange of so-called “soft” information which “should

- Be unambiguous
- Set out **clear criteria** to assist in dealing with exchanging **soft information**;
- Be transparent;
- Be such as to ensure accountability;
- Be designed to be in the best interests of the child<sup>19</sup>.

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<sup>17</sup> See Rape and Justice in Ireland, Op Cit, 76.6% of defendants in rape cases between 2000 and 2004 had consumed alcohol on the date of the crime p. 277

<sup>18</sup> See Rape and Justice in Ireland, cited above, at pp225 and 319 in relation to alcohol, and p9 of RAJI Executive Summary re youth of complainants – in Strand 3, the median age of complainants was 23

<sup>19</sup> Special Rapporteur on Child Protection Geoffrey Shannon’s Fourth Report to the Oireachtas (2010). The Report is available online at: : <http://www.dcy.gov.ie/documents/publications/Rapporteur-Report-2010.pdf>

**6.2** There should be “legislation to place the **Children First Guidelines on a statutory basis**, thereby ensuring a collective duty to report concerns of neglect or abuse of a child”.<sup>20</sup> It is fair to say that the present Government has announced that they will progress legislation on vetting, soft information and on the Children First National Guidelines 2011, without delay.

**6.3 Specific Grooming of Children provisions:** “Legislation needs to be enacted so as to **criminalise the grooming of children**” (page 20 Geoffrey Shannon 2010 Report)

RCNI agrees with Geoffrey Shannon in **both** the 2007 and the 2010 Reports, that a specific offence of grooming needs to be enacted, and that this should define “grooming” in such a way as to capture its true nature, that is, the process which lays the ground for the commission of a future offence, maybe over quite a long period, as he says in his 2007 Report:

*“... [Grooming is] the initiation and encouragement of a relationship by an adult with a child for the purposes of sexual exploitation by that adult or others..”, and also: “..It is salutary to note that the offence created under s.6 of the 2007 Amendment Act is that which arises from grooming, as opposed to the grooming itself. Grooming is the process which precedes and leads to the offence. This process can be timely and may not result in the sexual exploitation of the child”*

The relevant existing provisions are set out here for ease of reference:

**(1) Criminal Law (Sexual Offences)(Amendment) Act 2007, Section 6.—**

“Section 3 of the Child Trafficking and Pornography Act 1998 is amended by—

(a) the insertion of the following subsections:

“(2A) Any person who within the State—

(a) intentionally meets, or travels with the intention of meeting, a child, having met or communicated with that child on 2 or more previous occasions, and

(b) does so for the purpose of doing anything that would constitute sexual exploitation of the child, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding 14 years”.

**(2) Criminal Law (Human Trafficking) Act 2008, Section 3 (5) (d):**

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<sup>20</sup> ibid

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Section 3 (5) “(d) inviting, inducing or coercing the child to engage or participate in any sexual, indecent or obscene act, ...”

One danger with the wording of this particular subsection is that it is likely to be construed restrictively to refer only to any inducements or invitations which are very close in time to the act concerned, so that the criminal intent of a course of conduct otherwise innocent in nature is not recognised by this provision.

While these provisions do purport to address the issue of grooming of children in order to commit sexual offences against them, it is submitted that they are unnecessarily restrictive, and that, as Geoffrey Shannon says in his Special Rapporteur Report of 2007 of Section 6 of the 2007 Act, *“the nature of the offence is ex post facto due to the fact that in all likelihood the sexual exploitation of the child would need to have been committed before a person could be prosecuted”*, and also: *“...”. In such circumstances it might be difficult to prove mens rea until the criminal act has in fact occurred i.e. the child has been sexually exploited, a problem compounded by the fact that there is no requirement that the previous communications be sexual in nature...”*.

RCNI would also agree with Geoffrey Shannon’s view that an offence of grooming would be a means to punish prospective groomers if no actual sexual exploitation occurs, and would deter at least some from committing acts of sexual exploitation. As he says in his 2007 Report<sup>21</sup>:

*“ a specific offence of grooming would act as a means of punishing those who meet or contact a child for the purpose of future sexual exploitation without actually committing the act of sexual exploitation as defined in the 2007 Amendment Act. A successful conviction for the offence of grooming would, it is submitted, act as a deterrent to committing the more serious offence of sexual exploitation under s.6...”*

RCNI would submit that any specific offence of grooming should not include any restriction as to the number of any meetings and/or communications with the child, and should be broad enough to encompass situations where the child is induced to come to meet the “groomer”, and also, as Geoffrey Shannon says, situations where the child is induced to travel by a third party (he gives the example of a school tour which is joined by the “groomer”), and indeed, situations where there is a chance meeting between child and prospective groomer, which is used to lay the ground for **future** unlawful sexual activity. It should also clearly recognise that sexual exploitation can occur

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<sup>21</sup> [insert full title of GS SRR 2007, and online link if possible]

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remotely and does not necessarily require any physical contact or meeting eg a child can be induced to produce and share pornographic material of themselves and/or others.

RCNI would also say that any specific provisions in relation to an offence of grooming should make it clear that it does not matter whether both communication and contact occur within the same jurisdiction.

A possible model to examine is an Australian one, cited by Geoffrey Shannon in his 2007 Report, set out below minus the subsection on defences. It could be adapted to refer to sexual activity **within** as well as outside the jurisdiction. Here it is for easy reference:.

*Australia – The Crimes Legislation Amendment (Telecommunications Offences and Other Measures) (No.2) Act, 2004*

“272.15 "Grooming" child to engage in sexual activity outside Australia

- (1) A person commits an offence if:
  - (a) the person engages in conduct in relation to another person (the *child* );  
and
  - (b) the person does so with the intention of making it easier to procure the child to engage in sexual activity (whether or not with the person) outside Australia; and
  - (c) the child is someone:
    - (i) who is under 16; or
    - (ii) who the person believes to be under 16; and
  - (d) one or more of the following apply:
    - (i) the conduct referred to in paragraph (a) occurs wholly or partly outside Australia;
    - (ii) the child is outside Australia when the conduct referred to in paragraph (a) occurs;
    - (iii) the conduct referred to in paragraph (a) occurs wholly in Australia and the child is in Australia when that conduct occurs.

Penalty: Imprisonment for 12 years.....

3) A person may be found guilty of an offence against subsection (1) even if it is impossible for the sexual activity referred to in that subsection to take place.

(4) For the purposes of subsection (1), it does not matter that the child is a fictitious person represented to the person as a real person...”

#### 6.4 Prostitution:

“ ...it is recommended that **consideration be given to the position in Sweden and Norway**, and indeed the United Kingdom, in which **the purchase of sexual services has been penalised**, with a view to introducing a similar system in this country” (page 19, Geoffrey Shannon 2010 Report, our emphasis)

Having regard to the recent evaluation of the Swedish system, RCNI supports making the purchase of sexual ‘services’ an offence, in all situations, regardless of whether the person obliged to provide those services is a victim of human trafficking for purposes of sexual exploitation, or not. The commercialisation of aspects of sexuality and its exploitation including the sale of people’s bodies results in a well documented catalogue<sup>22</sup> of harm to society, not least to the person whose body is being sold and requires a legislative response. The purchasers of a person’s body for sexual purposes should be targeted and held to account in our criminal courts for their part in the perpetuation of this social harm.

RCNI would also agree with Geoffrey Shannon that the criminalisation of payment for human beings for sexual purposes would “have the knock-on effect of reducing child trafficking, as it has been shown that one of the main purposes for child trafficking is sexual exploitation” (page 111).

Question 7: ***“How can members of the public be encouraged to play a greater role in responding to crime, whether by providing information, or engaging in local voluntary activity?”***

**7.0** RCNI submits that there are many ways in which members of the public can and should be encouraged to play a greater role in responding to crime, and that these are not limited to various volunteering roles and to providing information to the Guards or other State agencies. For instance:

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<sup>22</sup> For example see M. Farley (2007) ‘Prostitution and trafficking in Nevada: making the connections’, San Francisco Prostitution Research and education.

**7.1 Jury Service:** Prospective jury members should be provided with full information on their role, rights and responsibilities in hard copy in the same envelope as the jury summons. There is information on this topic on the Courts Service website, but not everyone would know to look there. They should also be provided with **either** a full briefing on their role on DVD when they first arrive at Court, **or** the judge should ensure that they are fully briefed on their responsibilities, in relation to confidentiality and in relation to the prohibition on independent research during the trial in particular, as soon as the cohort of prospective jury members is present in court, **before** selection and swearing in. They should also be reimbursed for any travel or other subsistence expenses, and those who are unwaged and do not receive any form of social assistance should be paid something for each day of their attendance, as it is clearly very unfair that self-employed people and others in this category, should be at a substantial financial loss if they are not excused from jury service.

RCNI would agree with the Law Reform Commission in its 2010 Consultation Paper<sup>23</sup> that the range of people eligible should be broadened, and that it should be less easy to be excused from jury service, - provided of course that the supports for jurors who do serve are adequate to enable them to carry out this civic duty without undue hardship.

### **7.2 Restorative Justice**

Restorative justice measures are not often used where sexual crimes are concerned. However, RCNI is open to further consideration of such measures where a survivor of sexual violence has indicated that s/he wishes to consider them in a particular case, as long as the process is one which is conducted professionally and responsibly in line with best international practice and in no way circumvents criminal responsibility and the criminal justice process itself.

It has happened in other jurisdictions, notably Canada, that convicted sex offenders have agreed to submit themselves to a particular kind of restorative justice measure, known as "Circles of Support and Accountability", following release from prison having served a sentence for a sexual offence. These Circles depend to a large extent on the input of dedicated and well-trained teams of volunteers drawn from local communities, whose role it is to offer some social support to a sex offender who might otherwise be very isolated within those communities and therefore at risk of further offending. Their role also includes holding the offender to account for his actions. RCNI are aware of a

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<sup>23</sup> Law Reform Commission Consultation Paper 2010 on Jury Service, online link: [http://www.lawreform.ie/\\_fileupload/consultation%20papers/LRC%20JuriesCP%20full.pdf](http://www.lawreform.ie/_fileupload/consultation%20papers/LRC%20JuriesCP%20full.pdf)

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recent research initiative in this country, now in progress, to assess the viability of initiating something similar in this country.

The Working Group on the Management of Sex Offenders Discussion Document, published early 2009, discusses this approach in detail.<sup>24</sup>

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<sup>24</sup> Available online at: <http://www.justice.ie/en/JELR/FINAL%20REPORT.pdf/Files/FINAL%20REPORT.pdf>