

Members of the judiciary and An Garda Síochána, prosecutors, ladies and gentlemen. It gives me great pleasure to welcome you to the 18th Annual National Prosecutors' conference.

Once again we have been fortunate in securing a number of very interesting speakers and I will turn to them in a moment.

I want to start by noting the sad passing of the first Director of Public Prosecutions Eamonn Barnes earlier this month. We extend our deepest sympathies to Eamonn's children and extended family including of course our colleague, his son Joe Barnes BL.

As you will be aware Eamonn held the office of DPP from 1975 until his retirement in 1999. He also gave generously of his extensive experience through his involvement in the foundation of the International Association of Prosecutors in 1995. Ireland was very honoured when he served as President between 1996 and 1999. He worked hard to fulfil the IAP's mission to promote the highest standards of prosecutorial ethics and practice and was instrumental in its development into a global organisation. Since his demise we have been inundated with tributes from prosecutors and former prosecutors from all over the world who were inspired by his principled approach to the prosecution of crime.

As I said at the time of his death I had the greatest admiration for him. As citizens of this State we are all indebted to him for the manner in which he established the role of DPP, asserted its statutory independence and established the highest prosecutorial standards that still guide us today.

Early on in his tenure Eamonn spoke about the big challenge of being the first DPP. He said: "When you are the first of anything you must set standards of decision, and hopefully of justice, so that your successor will not have to build up standards which you neglected to set." I think I can fairly state that he rose admirably to that challenge and that the standards he set are as relevant as ever today.

Eamonn was acutely conscious of the "double duty" as he called it of the prosecutor. Not only must the prosecutor seek to ensure that everyone who should be prosecuted is prosecuted but with equal dedication the prosecutor must try to ensure that no one is prosecuted who should not be prosecuted. This was fundamental to justice in his view.

He was also very conscious of making sure that a wrong decision would not do serious injustice to the victim of a crime. In 1999 he spoke about victims of crime, and the difficult path to be walked by the conscientious prosecutor, between the pitfalls of possible injustice to victims, accused persons and the community, and the profound and lasting consequences for all those affected by a prosecutor's decision.

It is fitting to recall how conscious Eamonn Barnes was of the interests of the victim of crime, on the eve of the commencement of the Criminal Justice (Victims of Crime) Act 2017. I welcome the Act as the transposition into Irish law of the EU directive on the rights of victims of crime which, as you know, has had direct effect here for the past two years.

From Monday next the 27th of November this Act will come into force, with the exception of two procedural provisions - Section 19 (2) and Section 30 amending the Criminal Evidence Act 1992. These deal with the various special measures to be adopted in courtrooms during trials and for the most part the measures are already being operated albeit on a more limited basis in some instances.

I hope that the commencement of the Act will further raise awareness among the general public of the many rights and protections available to victims from various agencies operating within the criminal justice system.

I want to mention victims of sexual offences in particular. As you know for the past two years we have been giving reasons for our decisions not to prosecute, where possible, in all categories of offence. We have noted that the largest proportion of requests for reasons – 38% – has come from complainants in relation to sexual offences. The number of complainants in sexual offences who request reviews is an even higher proportion of all reviews at 42% of all requests for reviews received. When sexual offence cases comprise approximately 17% of our total files received each year the question can legitimately be asked why such a disproportionately high proportion of requests for reasons and review of decisions?

I think the reasons for this are complex but the starting point must be that after fatal cases, sexual offences are the most serious type of criminal offence. It is to be expected that complainants will have a very personal interest in knowing why we have not prosecuted.

Secondly, the prosecution rate for sexual offence complaints is comparatively low. Sexual offence cases can often be the most complex and the decision why we have not prosecuted may be based on a number of factors. In almost all cases there is no witness to the offence itself apart from the complainant. Where adults are concerned there may be no dispute that some sexual activity happened but rather it is a question of whether there is sufficient evidence that there was an absence of consent on the part of the complainant.

In cases involving sexual activity with a child under the age of 17 there can be many issues including the challenge of receiving the evidence of very young children. In other cases involving children there may be public interest factors at play which mean that in the particular circumstances the public interest does not require a prosecution of the other party to the sexual activity who is also a child. These decisions are often finely balanced and require very careful consideration.

However we can and do reverse a decision not to prosecute in sexual offences cases where, upon review, a lawyer feels that a prosecution is sustainable and that it is in the public interest to bring it. The numbers of decisions that have been overturned to date has been very small – 2% of the total request for reviews in all offence categories. It does nevertheless demonstrate, I hope, that the right to review now enshrined in domestic legislation has meaning.

The passing of the legislation puts a renewed focus on the rights of victims and how cases are dealt with especially in the area of sexual crime. Later this morning we will hear from the pre-eminent legal academic authority Professor Tom O'Malley about the many offences brought in by the new Criminal Law (Sexual Offences) Act 2017.

We are grateful to Tom for yet again generously sharing his knowledge with us. I look forward to hearing what he has to say.

I think there is now an opportunity for us as legal practitioners and prosecutors to redouble our efforts to ensure that victims of crime have the least traumatic experience possible in the criminal justice system.

I therefore welcome the Government's announcement of the prioritisation of the Criminal Procedure Bill in order to deal with, amongst other things, procedures prior to criminal trials. Pre-trial hearings, if operated in an effective way, could have a profound impact on both the efficiency and expense of the trial process. Pre-trial hearings would also improve the experience of victims who frequently are brought to the brink of giving evidence and then find that their trial is delayed, even for a number of days, because of various legal issues.

While the savings in time and money can be most obvious in very lengthy and complex cases, there is also a need for effective disposal of issues including disclosure prior to trial in less complex but perhaps even more serious cases. These issues are of great importance to all the participants in a criminal trial but it can be particularly traumatic for victims if delays and adjournments occur.

The final form of the provision on pre-trial hearings remains to be seen but I hope it will have sufficient robustness to make a meaningful difference to the processing of all indictable cases through the courts.

One paper presented by Anne-Marie Lawlor SC this morning will touch on a common form of pre-trial application- seeking to sever the Indictment. As I think Anne Marie will bring out, the law as laid down in the Court of Appeal in this area is quite clear on the circumstances when the interests of justice do not require a severance of the indictment. As prosecutors

we need to be aware of the law in order to ensure that cases with multiple complainants which can fairly be heard together are in fact tried together.

The alternative is the unnecessary and potentially expensive running of multiple trials against the same accused and delays for complainants in getting their complaints heard.

I want to also give a warm welcome to our other two speakers: firstly Professor Alex Biedermann of the School of Criminal Justice at the University of Lausanne in Switzerland. He will speak about the Evolution of Forensic Science Reporting and where it might go in the future. I am very grateful to him for travelling to share his expertise with us.

Lastly we are joined by Dr. Sean Redmond, social worker and currently Adjunct Professor for Youth Justice at the University of Limerick which has, in conjunction with the Department of Children and Youth Affairs, undertaken a study on the Effects of Crime Networks on Children. I think his presentation will demonstrate how powerful and life altering the influence of criminal networks can be on children who are perhaps already vulnerable or neglected. The causes of juvenile criminality are complex but as he will I think highlight, trying to get children out of that criminal lifestyle can be even more challenging.

In conclusion, some "Thank You". I want to mention Michael Murray the former State Solicitor for Limerick City who stepped down from that role after 37 years service in May of this year. His mammoth contribution to the criminal justice system is well known to us all and needs no elaboration. I thank him for his public service to the prosecution and I wish him well. I also welcome Pádraig Mawe his successor as State Solicitor. Although they are big shoes to fill I am confident Limerick City will continue to be well served. I would also like to thank Hugh Sheridan for sterling work in County Sligo. This is Hugh's last conference as he is stepping down as State Solicitor in January so we wish him well also.

I welcome all the barristers who have been appointed to represent the prosecution since our last conference.

Finally I want to thank all of you – firstly the staff of the office, our State Solicitors and the many independent counsel who represent the prosecution, for your continued commitment and hard work. You are challenged on a daily basis to prosecute without fear or favour in accordance with the high prosecutorial standards I mentioned earlier. I also want to thank the other stakeholders in the criminal justice system, many of whom are here today, for your support and cooperation.

Thank you for your attention and I hope you enjoy the conference.