

Attorney General, Members of the Judiciary and An Garda Síochána, Prosecutors, Ladies and Gentlemen it gives me great pleasure to welcome you to the 21st Annual National Prosecutors' Conference. I want to particularly welcome our new State Solicitors and Prosecution Counsel to this conference.

Like many things in the year 2020, due to the pandemic the format of our conference is unprecedented, but I am delighted that so many of you are attending this shorter online event this morning.

We have three speakers today all dealing with topical issues. On behalf of us all I thank our speakers for giving of their time and expertise this morning.

One of the very topical issues is of course the impact of the Covid 19 pandemic on the Criminal Justice System and on our courts. I welcome Angela Denning CEO of the Court Service who will speak to us about how the courts have responded to the pandemic. First and foremost, I want to acknowledge and thank her and the Courts Service for their efforts to ensure that public health is protected in the courts through the adoption of measures in and around court rooms. As in every other area of society it is crucial that this effort is sustained.

The prosecution service responded well to the challenges posed since restrictions were introduced in March and the Criminal Justice System continued to function. Although no new jury trials commenced between mid-March and July, pleas of guilty continued in all courts as did certain hearings in the District Court and trials in the Special Criminal Court.

We will hear a lot more about all of this from Angela and I want to thank her and the Courts Service for the technological strides that they have made and what they have achieved in a very short time, including the advent of remote hearings. In this regard I welcome the legislative amendments that were made via the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 to maximise on these innovations.

There is an opportunity too I believe, in the wider digital context, to expand on the electronic presentation of criminal cases which is possible in certain courts in the CCJ, and about which we heard from Lorcan Staines SC at last year's conference. We are ready and willing to collaborate in this and other innovations.

DPP staff and all prosecutors have shown exceptional commitment and flexibility in response to the challenges caused by the pandemic and in adapting to all of the changes to the way the courts are doing their business. I want to thank you all, including our State Solicitors and our Prosecution Counsel, for your hard work and dedication in ensuring that the administration of justice is maintained.

I mentioned that priority was given and continues to be given to certain categories of offence despite the restrictions on movement and on court business. A very important example of this is the prioritisation of domestic violence cases in the District Court. As has been covered extensively in the media, the Garda Síochána and domestic violence support services have reported an increase in the number of incidents of domestic violence during the pandemic.

I can confirm that the increase in cases has been apparent in the DPP's office also. In 2019 we received a total of 464 files where domestic violence or breach of a court order was involved. Already this year the office has received 684 files. This represents an 87 per cent increase over the same period last year. It has been important that the the Criminal Justice System respond to this in the public interest. I welcome the priority that the Courts Service and District Court has given to these cases.

The office has been actively liaising with An Garda Síochána for some years now on the effective prosecution of domestic violence cases. This has included the provision of extensive training to those Senior Gardaí prosecuting these cases in District Courts around the country. Protocols have also been developed on the submission of files and presentation of cases. It is our policy for DPP staff to prosecute in the Dublin District Court all domestic violence cases submitted to us by An Garda Síochána and we will continue this policy in this very sensitive area.

A new area of work has emerged directly as a result of the pandemic. The Minister for Health has over the period since March signed into law a series of statutory instruments regulating various activities, in the interests of public health. Since the outset of the pandemic the DPP's office has liaised with and advised the Garda Síochána on the enforcement of these regulations and all such prosecutions have been directed by the DPP's office. Up until this week we had received 447 files seeking direction as to prosecution. Of that number we have directed prosecution of such offences in 262 cases. This has involved a total of 401 suspects.

The regulations and the applicable offences continue to evolve and I want to acknowledge the excellent work that has been done by staff in dealing with this new area.

What has been remarkable about the months since the pandemic began is that the number of files being submitted to the office for decision on prosecution has increased by approximately 22% over last year. Although our workload has been increasing year on year this is an extraordinary increase and it remains to be seen whether it will be sustained into 2021.

Inevitably despite all the innovations I mentioned earlier, the pandemic has had an impact on the processing of cases through the courts. This is most apparent in the area of jury trials. All new jury trials were suspended for public health reasons between the middle of March and late July. Since the country moved to level 5 on the 22nd of October there have been no new jury trials nationwide.

I welcome all the efforts that the Courts Service have made to keep criminal business going in the interests of the administration of justice. However, the pandemic has already caused a significant backlog which will undoubtedly grow before the pandemic is over, particularly in the area of jury trials. This is of course understandable, as for public health reasons summoning jurors in large numbers at the height of restrictions was not feasible. Part of the solution in my view, both to deal with the backlogs caused by the pandemic, and long term, is a system of preliminary trial hearings to achieve more efficient trials.

I have been calling for a comprehensive system of preliminary trial hearings since I addressed my first conference as Director in May 2012. I am now in the final year of my tenure and, while draft legislation has been under consideration for some years, I welcome the Minister for Justice and Equality's commitment to introducing legislation in this area in the near future.

The benefits will be two fold. In cases that are listed for trial where the accused is pleading not guilty it should be possible to have advance warning of issues that might be in dispute and for those issues to be resolved prior to a jury being summonsed and empanelled. This will save jurors' time but also valuable court time. Perhaps more importantly however it will mean that victims and their families will not be brought to court on the trial date only to discover that for some reason the trial cannot go ahead. This is essential for the wellbeing of victims and their families. Both prosecution and defence will have to focus on how the case is going to be presented and make any necessary applications well in advance of the trial.

The Minister for Justice and Equality announced plans for preliminary trial hearing legislation as part of her recent response to the report of another of our speakers Tom O'Malley BL. Tom was chair of the group established by the Minister to examine protections for vulnerable witnesses in the investigation and prosecution of sexual offences. I am delighted that Tom has agreed to speak to us on this topic. Since Tom's report was published in August an implementation plan was prepared in consultation with the stakeholders and victims agencies and recently published by the Minister.

As I say, included in that plan is a commitment to preliminary trial hearing legislation. While it has been recommended in the context of sexual offences it would equally have very important application in relation to other serious or complex offences. With the commitment of all stakeholders to its effective implementation, the benefits cannot be underestimated.

In the context of sexual offences, as has previously been announced, we are forming a new sexual offences unit. When it is fully established, it is planned that all sexual offences prosecuted in the Central Criminal Court and almost all categories of sexual offences in the Dublin Circuit Court will be managed from beginning to end within this new unit. Despite the additional challenges to our service caused by the Covid-19 pandemic, we hope to have the first phase of the SOU in place by the end of 2020. This is a sign of our commitment to press ahead with this project. I believe it will be a positive step forward in dealing with victims of sexual crime. I am pleased to say that Government recently confirmed that full funding would be available for 2021.

The need for a dedicated unit to deal with sexual offences is greater than ever as this year we continue to see a significant rise in sexual offence files submitted to the Office. In 2019 there was a 12% increase in the number of such files.

I want to finally mention our third speaker Brendan Grehan SC who is going to address us on the law of provocation arising out of developments in the Supreme Court this year. The case of *DPP V Alan McNamara* has clarified the law on the defence of provocation and it is

important for us all as prosecutors to be familiar with the latest developments. I thank him for contributing to this year's conference.

I want to just briefly mention Brexit which continues to loom on the horizon. As you will all be aware on the 1st of January 2021 the UK will no longer be part of the European Union. Brexit continues to pose a challenge for the International work of the office as we approach the end of the transition period amid continuing certainty as to whether come January 2021 there will be a new legal arrangement with the UK to replace the existing European Arrest Warrant procedures. While the political negotiations are ongoing, the International team in this office continue to liaise with the Department of Justice and Equality and the Garda Síochána to plan for all eventualities.

Before I conclude I want to remember Paul Anthony McDermott SC who died shortly after last year's conference in December 2019. Our thoughts and deep sympathies are with his wife Annick, children and family on his untimely death.

Although sadly cut all too short, Paul Anthony had a distinguished career at the Bar. He started representing the DPP in his fourth year of practice in 2000 and took silk in 2015. He both prosecuted some very important cases and acted in a wide range of highly significant judicial reviews. One of Paul Anthony's talents was to make complex issues simple and accessible, a testament to his own enormous intellect. He brought this to his parallel career as an eminent academic and it is fitting that the second edition of Charleton and McDermott's Criminal Law and Evidence has just been published. He will be greatly missed. May he rest in peace.

Finally some thanks.

Thanks to Martin Linnane who stepped down as State Solicitor for County Clare in July after 36 years public service on behalf of the Attorney General and then the DPP. We wish him well in his retirement. I would also like to thank Barry Healy who stepped down as State Solicitor for County Monaghan this year after fourteen years' service.

I want to thank the other stakeholders in the Criminal Justice System for your continued support and collaboration with us.

Thanks too to our own Orlagh Flood and Kevin Graham who have organised this online conference.

Thank you for your attention.