

Members of the Judiciary, fellow Prosecutors, Ladies and Gentlemen it gives me great pleasure to welcome you to the 22nd Annual National Prosecutors' Conference. Many of you will know it is my last conference as I step down at the end of my term on the 7th of November. It has been an enormous honour and privilege to have held the office of Director of Public Prosecutions for the last 10 years.

I do not propose to dwell on the last 10 years this morning as I will include some reflections in the 2020 annual report which will be published in the coming weeks. The subject matter of the conference is extensive and I would like to make some brief remarks about those important topics. On behalf of us all I thank our speakers for giving of their time and expertise this morning.

Our first speaker is Fiona Murphy SC and she will be talking about prosecuting human trafficking offences. Some very important work has been done in recent years to prosecute what can be challenging cases, both in terms of the evidence required and the impact on victims of human trafficking who may be witnesses. Fiona has experience in this area and I look forward to hearing what she has to say.

We are acutely aware of the particular vulnerability of human trafficking victims and the difficulties that they face in co-operating with the criminal justice system. We are committed, in close collaboration with An Garda Síochána, to ensure that we as prosecutors can provide the necessary supports and resources to identify and meet the needs of victims as they move through the prosecution process. We are planning training for prosecutors led by specialist Garda investigators in coming months to further raise awareness of the issues involved. Fiona's paper will be a very good starting point.

The other important offence category that we will be focusing on today is domestic violence and I welcome our speaker Kerida Naidoo SC. Kerida prosecuted the first trial for a coercive control offence. This is a relatively new offence introduced under Section 39 of the Domestic Violence Act 2018. Coercive control covers behaviour which can be extremely damaging but also covert and insidious in nature.

As we will hear later the offence of coercive control can be committed against not only spouses and civil partners but also against others who are in an intimate relationship with the suspect. It does not require that violence is used against the victim, rather that the suspect's behaviour creates a fear that violence will be used. It also arises if the suspect's behaviour causes the complainant serious alarm or distress that has a substantial adverse impact on his or her usual day to day activities.

As we all know one of the consequences of the pandemic has been the sharp rise in domestic violence incidents over the last 18 months. It is truly regrettable that periods of lockdown appear to have increased pressure on domestic violence victims. It was very important that the District courts took the decision at an early stage that domestic violence cases would be given priority for hearing and that continues to be the case.

At last year's online conference I mentioned the sharp rise in domestic violence cases received by my office. The number of files received for direction doubled in 2020. That trend has been sustained in 2021, with a further increase of over 25 per cent projected by the end of this year.

As I also mentioned at last year's conference, due to their sensitivity we introduced a policy that all Dublin domestic violence cases to be prosecuted in the District Court should be submitted to the office for legal representation. As of the beginning of October 330 cases have been received to be presented in the District Court.

The office has continued to work extensively with An Garda Síochána in this area providing training and developing protocols. We have also engaged in a I think mutually beneficial collaboration with domestic violence NGOs in the area of training. For prosecutors it has promoted a better understanding of the lived experience of victims and their trauma. In return we believe we have given those NGOs a better understanding of the criminal justice system and the supports available to their clients during the process. The office is committed to continuing this important work and the presentations of our speakers today will assist.

Domestic violence and human trafficking are both categories of offence that can be particularly damaging and oppressive. Often they are hidden from society and frequently are perpetrated over a period of months or years. They can cause extensive trauma. Dr. Sharon Lambert of University College Cork will speak on the topic of trauma in victims and how it can manifest itself in unexpected ways. Dr Lambert has done research within the criminal justice sector and elsewhere in the legal system. She will illustrate how victims' behaviours can be conditioned by fear, creating challenges for them in interacting with Gardaí and prosecutors. Her research equally applies to other types of case such as child sexual abuse. We need to understand this trauma when engaging with such victims as witnesses and elucidating their evidence in court.

Finally I would like to welcome David Fennelly BL who is going to talk to us about the impact of EU criminal law on the Irish system, particularly in the context of Brexit having removed a major common law system from the EU. This is also the first year of operation of the new extradition arrangements between this jurisdiction and the UK.

David is going to briefly take us through some trends in the development of EU criminal law across the three axes of procedures, substantive criminal law and evidence. This will be no mean feat in the time allotted and the complexity involved. I think it is fair to say that things have become more complex for Ireland vis-à-vis EU criminal law with the exit of the UK. This is against a background of approximately 40% of all criminal law enacted in Ireland between 2015 and 2020 coming from external initiatives, particularly in the EU. It is crucially important that we here in Ireland never forget the huge influence that EU criminal law has on our domestic system.

The office has in the last 18 months experienced an enormous overall increase in its workload. Last year the number of files received for direction across all offence categories increased by a further 27%, following an 8% increase in 2019. Additional increases have occurred this year. This has put an enormous strain on the relatively small staff cohort of this office. I want to pay tribute to all the staff of the office who have risen magnificently to the challenge of processing increased workloads, particularly over the pandemic period.

That effort was not sustainable in the long term and therefore I am very pleased indeed that our case for additional resources has been addressed. Additional posts have been sanctioned by the Department of Public Expenditure and Reform in the estimates for 2022, bringing the total staff complement from 225 to 260. While I do not intend to dwell today on the changes that have marked the last 10 years there can be no doubt that not only has the volume of cases increased but cases have got bigger and more complex.

As I complete my term as Director I am very pleased that the office is now better resourced to continue to deal with the increasing volume of work.

As we continue to deal with the effect of the Covid pandemic I want to acknowledge that this has been a very difficult time for many of us here, as it has for our society as a whole. Like other sectors, certain parts of the criminal justice system were very severely impacted. While we all adapted very rapidly to new ways of working and dealing with certain types of case via remote hearing, for long periods this year and last year, no new jury trials could be commenced. This has created a backlog of trials at Circuit Court and Central Criminal Court level.

I am very concerned by the size of those backlogs. Effectively the length of time that accused, victims and other parties have to wait for trials to come on has doubled, Trial dates are now being set in the Dublin Circuit Court for January 2024. The delay on Circuits around the country can vary but are still extremely significant. In the Central Criminal Court trial dates are being set for July 2023. These backlogs are of course an unavoidable result of public health measures and I acknowledge the Courts Services' efforts to try and address the issues. I welcome the assignment of additional High Court judges to the Central Criminal Court this term to try and address the backlogs in these very sensitive cases.

I also welcome the enactment of the provision on preliminary trial hearings as contained in the Criminal Procedure Act 2021 which was enacted in May. I understand that the commencement of Section 6 of that Act awaits the finalisation of rules of court, which are currently being drafted. This in my view is the prudent approach. This procedure will require a major change to how we do our business in the criminal justice

system. It is right and proper that it should be governed by court rules so that there can be as much certainty as possible around its operation.

Preliminary trial hearings are unlikely to singlehandedly or immediately eliminate the backlog of trials waiting to proceed given the size of that backlog. However, if deployed judiciously, they should hopefully over time help to identify issues earlier in individual cases. As a consequence, trials should be shortened or avoided, and jurors' time not wasted by issues that could have been disposed of prior to their empanelment.

We are going to take the opportunity of the closed session to discuss what preliminary trial hearings will mean for us as prosecutors and I will be asking the Chief Prosecution Solicitor Helena Kiely to make some opening remarks.

In conclusion I would like to express some thanks. Thanks to Edward O'Sullivan who stepped down as State Solicitor for Co. Kerry just yesterday after 24 years of public service on behalf of the Attorney General and then the DPP. We wish him every happiness in his retirement. Diane Reidy has been appointed as State Solicitor for Co. Kerry and I wish her every success in her new position.

I would also like to note Kevin O'Doherty's imminent retirement next month as State Solicitor for Wexford. Kevin likewise served both the Attorney General and the DPP over a period of 20 years. We also wish him well. As this is my last conference I want to express particular thanks to all the State Solicitors around the country for their dedication and professionalism during my tenure.

I also want to thank our prosecuting counsel both in Dublin and around the country for the exceptional service that you have provided during the pandemic but also during my years as Director. We are very fortunate to have so many excellent independent counsel practising in the area of criminal law. I particularly welcome today counsel who have recently been appointed to our panels.

In my first conference speech in 2012 I quoted what I considered to be the essence of a prosecutor's duty as expressed in the Guidelines for Prosecutors:

'The aim of the prosecutor is to ensure that a just verdict is reached at the end of the trial process and not to strive for a conviction at all costs. The purpose of a criminal prosecution is not to obtain a conviction: it is to lay before the judge and jury what the prosecution considers to be credible evidence relevant to what is alleged to be the crime.'

It has been an honour to have led an organisation which I believe has always aspired to the highest prosecutorial standards and to excellence in the performance of our functions.

I thank all the staff of the office for their contribution to these objectives.

I also want to sincerely thank the other stakeholders in the criminal justice system. many of whom are here today be they from the Garda Síochána, or other criminal justice agencies. It has been my experience that there is a high degree of collaboration between all of the agencies working in the criminal justice system, including those agencies providing support to victims. I thank all of the people who have worked so constructively and effectively with me and DPP staff over the years.

Finally thanks to our own Orlagh Flood and Kevin Graham who have organised this conference with the assistance of many other members of staff.

In conclusion I will hand over to Elizabeth Howlin who will be our first chair this morning. Liz is acting as Deputy Director following the retirement of Barry Donoghue in August after 41 years as a prosecutor, including 22 years distinguished service as Deputy to two Directors, for which I thank him most sincerely. A competition for the post will be held once my successor takes up office. Meanwhile Padraic Taylor is acting as the head of the Directing Division in Liz's stead. I want to thank them and also the other staff who have assumed new responsibilities as a consequence.

Thank you for your attention.