

THE CRIMINAL JUSTICE PROCESS IN CASES OF
CULPABLE ROAD DEATH:
A SUMMARY OF BEREAVED FAMILIES' VIEWS AND
EXPERIENCES

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Background

This report presents a summary of the findings from a study of the criminal justice experiences of families who suffered bereavement in cases of culpable road death (CRD). The findings are drawn from an analysis of ten interviews with next of kin and one letter. The interviews were conducted for the Department of Justice NI in an effort to a) describe these families' experiences of the criminal justice system, b) identify potentially unmet needs amongst this group, and c) document families' suggestions for improvement of the workings of criminal justice agencies and support organisations.

The eleven families who participated in the study were drawn from 25 CRD cases concluded between 2009 and 2013. Cases were excluded from the research if they had not yet reached court, if the driver and deceased were in the same family or if the family of the deceased was not in the local jurisdiction. As the research sought to emphasise more recent experiences, eligible families were contacted in reverse chronological order, beginning with the most recent cases. The police family liaison officer (FLO) or senior investigating officer (SIO) for the case made the initial contact with families in all the remaining cases to see if they were interested in taking part. The large majority of families agreed and were interviewed by a researcher with good knowledge of the Northern Ireland criminal justice system. Ten interviews were conducted with a total of 16 close family members of the deceased. One family did not wish to be interviewed but wrote a letter instead.

Due to the small sample the research findings cannot be considered to provide a fully comprehensive nor representative perspective of next of kin's experiences or opinions in cases of culpable road death. Nevertheless, the families' comments offer important and valuable insights into the work of criminal justice and support agencies and their engagement with bereaved families which merit further policy attention. The following sections describe families' experiences and perceptions of the police investigation, the Public Prosecution Service (PPS) and the courts, the Coroner's Office, victim support organisations, the Prisoner Release Victim Information Scheme and their concluding reflections on their experiences overall.

Summary of Findings

POLICE CONTACT

Receiving the news of their relative's death was an unquestionably traumatic experience for all the families in the study. It was communicated by officers coming to the door, by other family members who were notified first or by other parties such as priests or witnesses of the accident. Two victims were brought to hospital and passed away in the family's presence and two interviewees witnessed the death of their relative at the accident scene. It was important to the families to feel that they had been contacted at the earliest possible opportunity. They expressed disappointment when they subsequently learned that contact could have been made more quickly and when they had not had the opportunity to inform all close relatives prior to the news reaching the media.

Retrospectively, some interviewees expressed the wish to have had access to the accident scene although they were given reasons at the time why it had been denied. In one case access to the accident scene was granted as the interviewee had just arrived at the scene as a witness and this was much appreciated.

A police family liaison officer (FLO) was allocated to work with the families in each case and overall they were very grateful for the emotional and practical support they provided. FLOs passed on information about the on-going investigation and court dates. They helped to contact other family members and also agencies involved in the investigation and prosecution process. They supported families with the preparation of victim personal statements, paperwork for insurance and other organisations, and in dealings with the media. In one case, however, the family was less comfortable with the relationship with the FLO. He combined his supportive role with an investigative one and the family felt that in this case the investigative role compromised the support role.

Most of the interviewees were in close contact with their FLOs throughout the police investigation and the court proceedings. There were a few exceptions. In one case the interviewee preferred to rely on his own knowledge of the system and to contact investigating officers directly. In another the FLO went on sick leave for a long period and was not replaced. This family had felt alone and without guidance. They felt that they had missed out on a lot of necessary and important information (e.g. regarding the victim personal statement). One relative said they were not in a position to take on board all the

information that the FLO provided in the initial traumatic stages but were grateful for her later assistance in preparing them for attendance at court.

All the families except one received an information pack from their FLO which they found to be helpful. They said it was reassuring to know that contact details were provided for counselling support. Some interviewees put it aside in the first few days as they struggled to cope with the loss of a family member but found it a useful resource to return to later on. It was pointed out that it might be beneficial to remind families of the resources and support available to them at each new stage of the investigation and prosecution process, and especially of the existence of VSNI, BRAKE and other support organisations before they attended court.

The large majority of families interviewed were very happy with the police investigation itself; the officers responsible, and how their actions and the results of the investigation process were communicated and explained. They were informed about different stages of the investigation, by either or both the investigating officer and their FLO. One family mentioned that the communication loop between the investigating officer and the FLO could have worked better as the FLO had to chase for responses to their questions. From their comments, interviewees appeared to be happier the more insight they got into the investigation process and the prompter this information was provided. Some families were involved in the reconstruction of the accident or were allowed to inspect forensic files and this was highly appreciated. Families said that it was helpful to learn when the investigation would be finalised and the file passed to the Public Prosecution Service as it helped to clarify time frames.

One family was especially unsatisfied by the police investigation process and their communication with the police. The interviewee was concerned that the investigation might be biased and that certain evidence might not be looked at properly. He tried to contribute to the investigation but this did not have the impact in the way he wished. His comments highlight the significance families placed on their concerns being taken seriously and the importance of providing full and satisfactory explanations of the limits and possibilities of the investigation process.

PUBLIC PROSECUTION SERVICE

Families' experiences of the PPS differed in terms of their contact, the amount and quality of information provided and the approachability of PPS staff. Most of the families had a little contact with the PPS. They received either a letter or a phone call informing them that the case file had been handed over by the police and some of them were also informed about the proposed charge (causing death by careless or dangerous driving). Two families reported that they had no contact with the PPS at all. One of these families received some information regarding the first court appearance through their FLO whereas the other remained completely uninformed from the moment the police investigation was completed. One interviewee expressed frustration that they were not able to receive any information from the PPS on the progress of the case, especially as the time span between the accident and the first court appearance was two years. This was interpreted as an indication that the PPS was not concerned about their interests.

A minority of families reported that they had the opportunity to establish closer contact or to arrange a meeting with a member of the PPS. Again, families' experiences differed. One interviewee felt that her contact was very approachable and she felt comfortable asking him questions. In her opinion she was well informed about the prosecution process and the decisions that were taken. In contrast, another interviewee who arranged to see a member of the PPS staff, left the meeting still disappointed with the amount and quality of information she had received.

One interviewee, who was satisfied with his contact with the PPS, pointed out that he would not have known how to approach the staff there if it had not been for his deeper knowledge of the justice system. One interviewee did not feel that the PPS would take his family's concerns about the police investigation seriously because of their lay status and personal involvement in the case.

Overall there were mixed views about communication with the PPS, regardless of the level of contact. Some families reported that communications were very helpful for understanding the decisions that were reached and for helping them to manage their expectations. Others found that the PPS was difficult to approach, did not seem to be concerned about their interests or did not give sufficient information. In particular their

comments suggested some confusion about the role of the PPS in the justice system and of the relevant charges for causing death by driving. In general interviewees expressed a wish for more communication with the PPS. They all agreed that victims' families should be contacted as soon as the case file is handed over by the police and that contact details of a liaison officer should be provided. Many of the families commented on the length of time it took for the case to reach trial and would have appreciated more contact during this period.

It was highly important to the families that the prosecuting barrister was well informed and motivated. Some of the more assertive family members were pleased with the level of communication they had with their barrister. They said they had met with him or her prior to the court hearings, had been kept well informed of dates and had spoken regularly about next steps and decisions under consideration. Others however expressed strong disappointment with the preparation and presentation of the prosecution case. Some families did not receive key information about court dates or of a change of barrister. In the latter situation, families frequently commented that the new barristers did not seem to have taken sufficient time to prepare for the case. One family observed that their barrister was reading through case notes during the trial and another said the barrister was unable to answer the judge's questions and had to refer to the barrister for the defence. One interviewee said the prosecution and defence barristers did not appear to start working on the case until the day of the trial which he felt may have resulted in more adjournments than necessary.

Families were disappointed when they were not consulted about decisions in particular in relation to a change of charge from dangerous to careless driving and about the right to appeal a sentence. Some were not always told why appeals were not pursued or refused. One case went to appeal following the insistence of the family that the prosecution had not been sufficiently rigorous. Their second experience of the PPS and the prosecution barrister was a much more positive one and the appeal was successful.

COURT HEARINGS

There was minimal involvement from the families in bail decisions. None had attended bail hearings and although some said they would have liked the accused to have been remanded to custody they said they accepted 'the way the system worked'.

Most but not all families wanted to attend the trial and the sentencing hearing. Those who attended valued highly the practical assistance provided by the FLO and court staff with finding seats which enabled them to see and hear the proceedings clearly and to maintain a comfortable distance from the defendant's relatives. Some families were grateful of the waiting room and refreshment facilities provided by VSNI services in the Crown Court. Other families in contrast were less well supported. In one case a family who had been waiting in the VSNI room missed the hearing because they had not been told that it had started. Some interviewees reported difficulty hearing the conversations of the courtroom and feeling awkward or intimidated by their close proximity to the defendants' family.

The families' comments suggested that they would have liked greater recognition during court proceedings. Some reported they felt as if they were just 'spectators' and one commented that the judge's direction to the family not to show emotion (tears) was insensitive. One interviewee said that his family would have liked to have seen photographs that the jury were shown.

Families attributed much importance to the victim personal statements they were asked to write as they represented a significant opportunity for their voice to be heard. They were disappointed when they were not given sufficient time to write them and when prosecution barristers edited the statements tactlessly and without consultation.¹ Many families commented that they would have liked their statements to have been read out in court rather than merely referred to by the judge.

CORONER'S OFFICE

Families were generally complimentary about the information and service they received from the Coroner. Most reported good communications with staff in the Coroner's Office although some commented that communication over the timing of the post-mortem and the return of the body for burial could have been handled with greater sensitivity. There were requests for more detailed step-by-step guidance on the Coroner's work, greater clarification of the information required on forms and a lay person's guide to the medical terminology used to describe the cause of death. All the families said they were consulted about the possibility of an inquest but none requested one mainly because they

¹ *Policy note: rules require that the Prosecution remove certain information.*

did not want to 're-live' the trauma of the event. Several families said the length of time it took to issue a full death certificate created difficulties in their interactions with insurance companies and some other organisations.

VICTIM SUPPORT

There was some variation in the nature and timing of support families wanted. In addition to the FLO and VSNI they turned to a range of different organisations and professionals: Compassionate Friends, Lifeline, psychologists, religious, legal and political representatives. Not all families were aware that they were entitled to victim support or of the range of services that were available. Their comments suggested that written material needed to be followed up with opportunities to have conversations with relevant professionals. A few families turned to external sources such as solicitors or politicians for advocacy and representation in matters to do with their case. The extent to which these people were able or willing to help varied, but the fact that they were approached was an indication that not all families felt their voices were given sufficient weight in decisions taken by criminal justice agencies.

PRISONER RELEASE VICTIM INFORMATION SCHEME

All the families who had signed up to the Prisoner Release Victim Information Scheme were notified about the offender's release in a letter from the Probation Board. Some were appreciative of the advance notice in order that they could be prepared for a chance encounter in the community. One interviewee commented about the limited scope for families' influence on decisions about temporary release from prison.

CONCLUDING REFLECTIONS

The families who participated in the research had three principal concerns: that the investigation and prosecution of the case were pursued with commitment, rigour and fairness; that their views and feelings were given recognition at each part of the criminal justice process; and that they had access to relevant support and advice. The families' close involvement with criminal justice agencies also gave them a perspective of their day-to-day work. Their observations are informative for the development of good practice.

The families expressed a strong wish to see the criminal justice process operate efficiently and in a timely manner. They were disappointed when they felt professionals responsible for the investigation or prosecution of the case were making decisions in the interests of expedience rather than justice. Those who were familiar with the legal system or who had sought the support of outside legal or political representatives felt they were at an advantage in terms of making their voice heard. Others with little knowledge of the system were not sure how to appeal decisions and were not always convinced that their concerns would be taken into account.

There was a general call for greater clarity and consistency of information provided by criminal justice agencies about the progress of their decisions on the case. Many families said they understood why certain details about the police investigation or the prosecution case could not be shared but there were other aspects of the work for which they could see no reason for a lack of communication. When such information was not forthcoming they felt frustrated and excluded. Their comments suggest the importance of families having a clear understanding of the law and of criminal justice processes in order to be confident that investigative and prosecution work is carried out effectively and that all relevant factors are fully considered in the decisions that are reached.

The families in the study generally would have liked greater acknowledgement of and respect for their views and feelings. They felt this would be demonstrated by professionals' sensitivity in their communications, regular progress reports and consultation over key decisions. The opportunity to have their voice heard through the reading aloud of victim personal statements in court was considered to be particularly important. Many families were appreciative of the opportunity to express their views through this research consultation. Such a consultation mechanism would have been welcome during the criminal justice process.

The extent to which families felt supported was interpreted as further evidence of systemic recognition. The provision of comprehensive written resources they could keep and refer to when needed was useful. Official communication by letter played an important role too. However, many families spoke of the value of being able to talk directly to professionals about their concerns and about the progress of the case.

In addition to emotional and practical assistance, some families felt they needed an advocacy service. The timing of this service could be critical if it concerned matters to do

with the police investigation and collection of evidence. Families who had knowledge of the system felt they were at an advantage over others because they knew the process and the people to speak to about different aspects of the case. They commented that all families would benefit from the same level of insight. Families may also benefit from an independent advocacy body which can provide advice and act on their behalf if necessary.

The views of the bereaved families in this study are helpful from two perspectives. They provide important insights into the criminal justice system's treatment of victims of crime. They also offer a close-up view of the work of criminal justice agencies. Their observations of the working practices of the police, the PPS and the courts are a valuable contribution to the development of criminal justice processes and outcomes that are transparent, inclusive and just.