



Department of

Justice

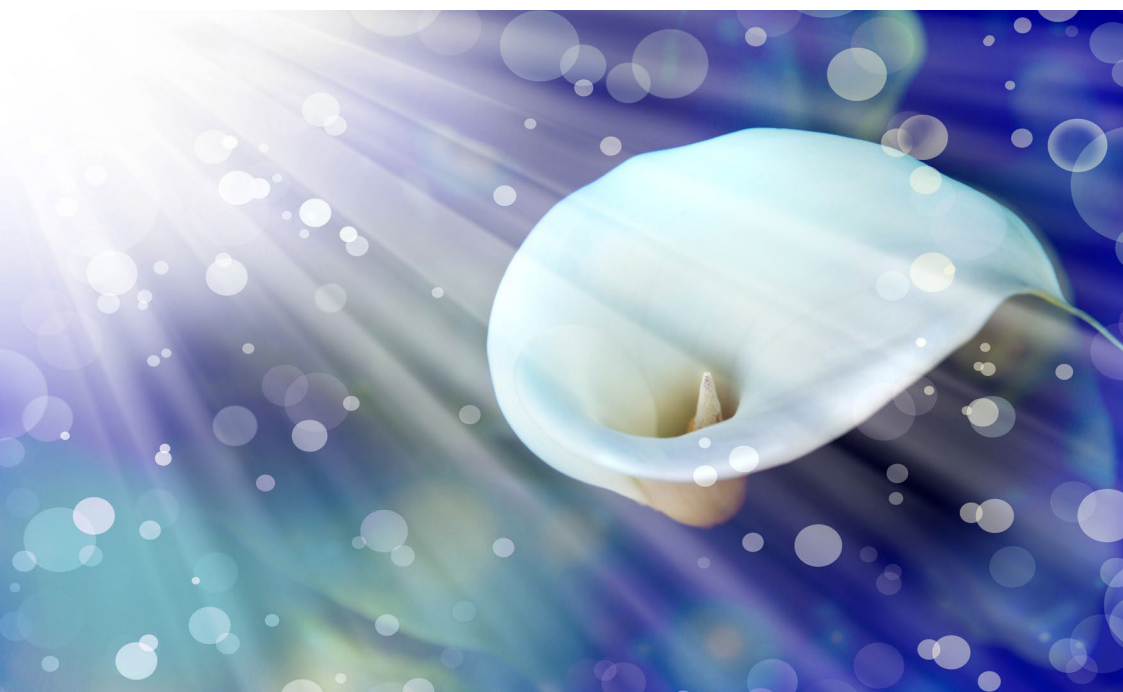
An Roinn Dlí agus Cirt

Mánnystrie O tha Laa

www.justice-ni.gov.uk

A Guide to Northern Ireland's criminal justice system

for bereaved families and friends following
murder, manslaughter or culpable road death





Contents

1. Introduction

- 9 Coping with grief
- 10 Shock
- 10 Loss
- 10 Fear and anxiety
- 11 Anger
- 11 Guilt and regret
- 11 Depression and despair
- 12 Children and grief

2. What happens next?

- 14 Family liaison officer
- 15 Information for victims of crime leaflet
- 16 Victim Charter
- 17 Victim Support NI
- 18 Identifying a loved one's body
- 19 Your loved one's possessions
- 20 Coping with the media

3. The police investigation

- 22** Gathering evidence
- 23** If the death happened in a house
- 23** Damage to property
- 24** Specialist forensic samples
- 24** How long will the police investigation take?
- 24** The case file

4. Deciding to prosecute and possible charges

- 26** Receipt of the police file by the Public Prosecution Service
- 26** The decision to prosecute
- 28** Custody and bail
- 30** The law relating to possible charges

5. Attendance at court

- 34** Going to court
- 34** Support in court
- 35** Evidence
- 36** Changes and delays in the court
- 36** Accepting pleas to lesser offences
- 37** What happens if I am a witness?
- 38** Giving evidence
- 38** Special measures for vulnerable or intimidated witnesses

6. Courts where charges are heard

- 40** Preliminary hearings and length of trial
- 41** Magistrates' Court
- 41** Crown Court
- 44** Youth courts

7. Sentencing

- 47** Pleas in mitigation and background reports
- 47** Victim personal statements
- 48** Appeals by the defendant
- 49** Appeals by the prosecution
- 49** Appeals to the Supreme Court
- 50** When can appeals be lodged?

8. Coroners Service for Northern Ireland

- 53** The role of coroners liaison officers
- 53** Can the death be registered?
- 54** What is a post-mortem examination?
- 54** Making funeral arrangements
- 55** What is an inquest?
- 55** Who goes to an inquest?
- 56** What happens at an inquest?
- 56** Will the inquest be held with a jury?
- 56** What is the outcome of an inquest?
- 57** Is legal aid available?

9. Support services

- 60** Victim Support NI
- 61** SAMM National (Support After Murder and Manslaughter)
- 62** NSPCC Young Witness Service
- 63** ChildLine
- 63** Brake
- 64** Cruse Bereavement Care

10. Financial issues

- 66** Claiming criminal injuries compensation
- 68** Wills, probate and estates
- 70** Benefits

11. Victim Information Schemes

- 73** Prisoner Release Victim Information Scheme
- 75** Probation Board for Northern Ireland Victim Information Scheme
- 76** Mentally Disordered Offenders' Victim Information Scheme



Section 1

Introduction

Section 1

Introduction

If someone close to you has been killed, or if you are caring for someone bereaved in this way, this booklet aims to help. You may find it useful to keep the booklet somewhere safe and read the different sections when you feel you need to and you are ready to do so.

If you have been bereaved recently, you may find it helpful to read Section 2, 'What happens next?' and Section 9, 'Support services', where you can find out about some support groups, such as Brake (Road Safety Charity), Cruse, SAMM National (Support After Murder and Manslaughter) and Victim Support NI, who can offer you advice and support on how to manage your grief. These groups can guide you through this very stressful time and can also direct you to other services which may be able to help you.

If you don't feel able to read on right now, you may want to ask someone who is with you to read this for you and tell you things you might need to know.

Other sections in this booklet give you information about the police investigation and the procedures that take place as part of that process. It also covers some practical issues that you may have to consider soon. If you need anything in this booklet explained to you, please ask the police family liaison officer who will help you in any way they can.

Coping with grief

The death of someone close is a devastating experience. It can be hard to deal with feelings of grief and sorrow while dealing with the practical things you have to do.

Grief can often take many forms and will pass through different phases. It can be reassuring to know that your feelings will change and what you are experiencing is not unusual. There can be many months, or even years, from your loved one's death to a time when you can say that you are managing your feelings. You should not feel pressured to 'get back to normal' after someone you love has died. Remember – every person, and every loss, is different.

You may experience any, or all, of the following feelings or emotions, sometimes swinging between them or dwelling on a particular one for some time. It could be the case that you feel numb for a while and may need help with your grief. Asking for help is not a weakness.

Shock

This is often the first reaction and can be a feeling of numbness. Some people feel that they are about to wake up and find it all has been a dream.

The physical symptoms may include:

- feeling dizzy, sick, exhausted, anxious, panicky, irritable;
- having palpitations (when your heart feels fluttery);
- having difficulty sleeping;
- having no appetite;
- being forgetful;
- feeling restless (like you can't settle); and
- not being able to concentrate.

Loss

The sense of longing for your loved one can be overwhelming and can cause uncontrollable outbursts of crying. Other people cannot cry at all or hold themselves together for fear of breaking down completely. Sometimes people feel the need to talk or think about the events surrounding the death, going over them many times and this can help with the healing process.

Fear and anxiety

When you are left in an uncertain situation, it is natural to be anxious. Wondering how you will manage, financially, emotionally or practically, are all real concerns.

Anger

Feelings of anger are normal when there has been a death. It is not unusual to feel anger towards those believed to be responsible for the death. This is especially true if the person has been murdered. You may feel angry with yourself for failing to prevent the death. You could even feel anger towards the person who has died, which can be very hard to admit.

Guilt and regret

It is normal to spend time thinking about what you could have done differently, or to have feelings of regret about things you didn't manage to say to the person who has died. You may feel haunted by these regrets and blame yourself for what happened.

Depression and despair

It can be enormously hard work simply surviving each day. Despair can feel overwhelming, and the support of family and friends is a great help. However, sometimes this support gets less as time passes but you may still feel you need the same level of support. This can be the hardest time to live through but may mark the starting point of recovery for some.

Children and grief

Children who experience bereavement will need to grieve just as much as any adult. Their emotions are the same but they may not have the words to express how they feel.

During their natural development they will get an understanding of death and separation, and will probably think more about death than many adults realise.

It is natural for you to want to protect them from the details of the murder, but it will help them if someone can talk with them about it. Children can become frightened for other members of the family, and themselves, in case they also become victims. They can feel bewildered if someone disappears suddenly and nobody ever talks about them.

Encouraging them to talk about the person who has died, and explaining to them what is taking place, can help them to come to terms with the death. Their reactions will depend on their age and previous experiences of death. Some children may find it easier to talk to their friends rather than their family. Others will not be able to talk about their experiences for some time. On occasion, particularly with the loss of a parent, the child may demonstrate some disruptive behaviours. However, you should include them in plans and funeral arrangements where possible.

Every child will react differently and it is important to remember that they can slip in and out of grief very quickly in a way that can be shocking to a grieving adult.

The background of the slide features two white calla lilies. One is in sharp focus in the upper right, showing its characteristic funnel shape and a yellowish spathe. The second is blurred in the lower center. The entire scene is overlaid with a soft bokeh effect of out-of-focus light circles in shades of purple, blue, and white, creating a dreamy, ethereal atmosphere. A solid purple bar is at the top of the image.

Section 2

What happens next?

Section 2

What happens next?

This section explains what happens in the early stages following the death of your loved one.

Family liaison officer

Family liaison officers are specially trained police investigators who are part of the investigation team and are appointed by the senior investigating officer to manage communication between you and the investigation team. In most cases the family liaison officer will work with you throughout the investigation. When the family liaison officer is due to leave your case, the decision will be discussed with you beforehand.

The main role of the family liaison officer is that of investigator. They will be responsible for collecting information relating to the identity of your loved one and will take statements, in a sensitive way, from family members.

The family liaison officer will keep you updated with the progress of the investigation, will give you as much information as is possible as quickly as possible and will answer your questions as best they can about the investigation or legal proceedings.

Other responsibilities include:

- explaining their role to you;
- keeping a record of all information you give them and passing it to the investigating team;
- relaying the Public Prosecution Service's prosecutorial decision;
- giving you information about other agencies who may provide support for your emotional and practical needs; and
- liaising with the coroners office for you.

The family liaison officer will explain to you when they are available and how you can contact them. It is a good idea to keep a pen and paper handy so that you can write down any questions, as you think of them, that you may want to discuss with them.

Information for victims of crime leaflet

An information for victims of crime leaflet will be given to you by the family liaison officer. The leaflet contains details of what you can expect from the criminal justice system, setting out the key stages of the criminal justice process and the key organisations that you will come into contact with. It also contains information about organisations that you can contact for free advice, practical information and support.

Victim Charter

A Victim Charter is available, that sets out the services and support available to you, and other victims, from a range of service providers. The Charter makes clear what services you are entitled to receive where a family member has died as a result of a crime. The key areas covered by the Charter include the police investigation, whether a case will go to court, preparing for court, the trial, the outcome of proceedings, sentencing, restorative justice and compensation and complaints.

You have the right to expect high quality services, tailored to your individual needs, in any interaction with the criminal justice system. You have a legitimate interest in knowing how the system works and your role in it. This includes being provided with information about how the case is progressing, getting help and support as you move through the system and understanding the information that is being provided to you.

You can find the Victim Charter at www.nidirect.gov.uk/articles/victim-charter or ask your Family Liaison officer.

Victim Support NI

Your contact details will automatically be passed to Victim Support NI, so that you can be offered information on the support services that they provide. While there is no obligation on you to use these services, this will ensure that you can make an informed decision.

You can contact Victim Support NI on **028 9024 3133** (Belfast Hub) or **028 7137 0086** (Foyle Hub). Their offices are open between 9am and 5pm Monday to Friday. However, evening appointments can be arranged. You can find more information on Victim Support NI in Section 9, 'Support services', or at www.victimsupportni.com.

Identifying a loved one's body

The police will need someone to identify the body and sign a statement so that they can confirm it is your loved one. Sometimes this can be done at the scene of the death, depending on the circumstances, at a hospital or a forensic mortuary. If you don't feel you can do this, you should ask the police officer if someone could do it for you.

Deciding whether to see your loved one is a difficult decision. The family liaison officer will give you details of what you can expect and explain to you how your loved one will be presented. If photographs are available, the family liaison officer can arrange for you to see them before your visit and, if you want, they will explain to you what injuries your loved one may have suffered.

Even if you do not want to identify a loved one, you can still choose whether or not to see them later. Seeing your loved one can sometimes be the first step towards coming to terms with their death. Sometimes people who do not see their loved one's body can find it harder to accept that the person has died. It is perfectly normal to feel worried or frightened about seeing them.

If you decide to see them, you may want to touch them. If so, you should be aware that they will feel cold. Sometimes you will not be able to touch their body for reasons to do with the police investigation. If this is the case, the family liaison officer will tell you why.

You should discuss your wishes about seeing your loved one's body with the family liaison officer. If possible, the mortuary will do what they can to meet your wishes.

Your loved one's possessions

Depending on the circumstances the police may temporarily keep property as part of the investigation. In some cases, it may be possible for the police to photograph or copy the property and then return it. However, if it is going to be needed as evidence, it may be some time before it can be returned. The family liaison officer will be able to give you guidance about what is happening in your case.

Coping with the media

There may be media interest surrounding the death of your loved one. Questions from the media can be difficult to deal with. However, it is helpful to remember that sometimes the media can play an important role in the investigation.

You may not want to speak to the media or you may find their level of interest too much to cope with and insensitive. If you cannot cope with the attention, you should speak to the family liaison officer who will try and reduce the level of contact.

If you want to formally complain about the media and the way they have reported the case, you can contact the Independent Press Standards Organisation at:

Gate House,
1 Farringdon Street,
London,
EC4M 7LG

Phone: 0300 123 2220

Advice line: 07799 903 929

Email: inquiries@ipso.co.uk

Website: www.ipso.co.uk

The background of the page features two white calla lilies. One is in sharp focus in the upper right, showing its characteristic spathe and central spadix. The second is blurred in the lower center. The entire scene is overlaid with a soft bokeh effect of out-of-focus light circles in shades of purple, blue, and white, creating a dreamy, ethereal atmosphere. A solid purple horizontal bar is at the top of the page.

Section 3

The police investigation

Section 3

The police investigation

The police have a duty to find out what happened and so they will investigate the death of your loved one. They will gather evidence, which they may use when charging any suspects. The senior investigator, who is a senior detective trained to investigate murders, will lead the investigation.

Gathering evidence

It is very important that the police can gather the forensic evidence they need. They will take photographs at the scene of the crime and will take away materials, objects and personal items that may help their investigation. In the case of a culpable road death it will be necessary for the police to take possession of the car involved while they conduct forensic tests.

If the death happened in a house

If the death happened in a house, the police will seal it while they record and gather evidence. If this is your home and you cannot have access to it, the police will put you in touch with support services who will help you with alternative accommodation.

If the police need to examine your house they will explain to you why this is taking place and how long it may take. It is possible that this will take quite a long time.

The police will try to clean the area where they have carried out any examination. However, it is not their responsibility to clean other areas. You can ask the family liaison officer or Victim Support NI for advice on suitable cleaning agencies.

Damage to property

During the examination, the police may accidentally damage the property whilst conducting their investigation. Please speak to the family liaison officer who will be able to give you advice and guidance on dealing with this.

Specialist forensic samples

To help identify your loved one, it may be necessary to get dental records, fingerprints or DNA samples. The police may also need DNA samples from relatives. The family liaison officer will explain why this is necessary and suggest the best method of taking the sample. The police will only do what they have to and will not ask anything unreasonable. Everything they do is designed to gather the best evidence possible.

How long will the police investigation take?

There is no time limit for an investigation. The senior investigating officer will make sure that the family liaison officer keeps you informed of the progress of the case. If nobody is found guilty, the case may stay open and be reviewed periodically.

As part of the investigation, the police may want to interview family members and sometimes they will be needed as witnesses if the case goes to court.

The case file

When the police consider that there is enough evidence against a suspect (or suspects), the senior investigating officer will contact the Public Prosecution Service who will advise if this is indeed the case. The case file will contain all the witness statements, interviews, specialist reports and other relevant material for the prosecution.

The background of the slide features two white flowers, possibly lilies, set against a soft-focus bokeh background of purple and blue light spots. The flowers are positioned in the upper and lower right areas of the frame. The text is overlaid on the upper flower.

Section 4

Deciding to prosecute and possible charges

Section 4

Deciding to prosecute and possible charges

Receipt of the police file by the Public Prosecution Service

The Victim and Witness Care Unit will advise you when the police case file is received by the Public Prosecution Service. A case officer is appointed, as the single point of contact, from when the file is submitted to the Public Prosecution Service, through to and including the outcome of proceedings. Their primary role is to keep victims and witnesses fully informed of the progress of their case.

Where someone has been bereaved through murder, manslaughter or a driving offence resulting in death the services provided by the Victim and Witness Care Unit can be undertaken/relayed by the police family liaison officer. Reference to the Unit within this guide should be read in this context.

The decision to prosecute

The Public Prosecution Service makes decisions about whether or not to prosecute someone and takes legal proceedings against people for criminal offences. The Public Prosecution Service is independent from the police and Government.

The Public Prosecution Service will review the case file, which includes witness statements and other evidence, and decide if there is sufficient evidence to prosecute and if so, what offences the suspect should be charged with.

The decision to prosecute is based on the test for prosecution that has two separate parts:

- The evidential test – is there enough evidence to provide a reasonable prospect of getting a conviction?
- The public interest test – is prosecution needed in the public interest?

The first test must be met before the second is considered. If the public prosecutor decides that there is enough evidence to prosecute, and that it is in the public interest to do so, the prosecutor will prepare the papers.

If a decision is made not to prosecute, the family liaison officer will let you know before the suspect is notified. This is to make sure that you receive the information first as the Public Prosecution Service recognises that it may be upsetting for you. The Victim and Witness Care Unit will also write to you and explain in detail the reasons for the Public Prosecution Service decision not to prosecute. The Public Prosecution Service will offer to meet with you to explain their decision. You can contact the Victim and Witness Care Unit if you want further information or if you want the Public Prosecution Service to review its decision.

Custody and bail

When a suspect is charged with a crime and held in police custody, they must be brought to the first available court for the court to decide whether they are to continue to be remanded (held) in custody, or released on bail. Once charged, the suspect becomes known as the defendant.

The Public Prosecution Service must consider the charges and consider if there is a need to keep the defendant in custody. The Public Prosecution Service will ask the court to remand someone in custody if they consider that (taking account of how serious the offence is and the person's criminal history) there is a risk of the defendant running away, interfering with or threatening witnesses or perverting the course of justice, committing further offences or if they would be a threat to public order.

If the defendant is granted bail, the public prosecutor will consider whether any bail conditions would help address any risks identified. The judge must grant bail unless the prosecution can show that there is a specific risk, as set out above.

Bail often means that the defendant enters into a recognisance (a bond between them and the court) to pay money if they break the conditions of bail. Anyone providing a guarantee (or surety) may also have to enter into a recognisance. These are people who are prepared to enter into a bond and lose money if the defendant breaks their bail conditions.

Sometimes conditions are placed on bail, such as the defendant has to be at the approved address between certain times (this is called a curfew). They may not be allowed to go to certain places, see certain people or drink alcohol. These are a few examples of conditions that may be given but any conditions can be set by the judge. Electronic tagging is also an option as a bail condition.

If the court grants bail, even though the Public Prosecution Service has argued against it, the public prosecutor may appeal. This appeal will be heard by the High Court.

If the defendant is held in prison, they may re-apply for bail, but usually only when there has been a change in circumstances since they last applied. The defendant can also apply for compassionate bail for a short period for reasons such as a family funeral. After this, they cannot make any more applications unless they can persuade the judge that something about the case, or their personal circumstances, has changed. The judge must grant bail unless the prosecution can show that there is a specific risk.

Not everyone will want to know what the bail conditions are. However, if you do, you can contact the family liaison officer or the Victim and Witness Care Unit, who should be able to tell you.

The law relating to possible charges

Murder

Murder is committed if a person, who is not mentally ill, unlawfully kills another person with the aim of killing them or causing grievous bodily harm. The aim of killing someone is 'intent'.

It used to be the case that the death had to take place within a year and a day after the act of murder. However, this has now been abolished, except for deaths happening before 16 June 1996.

The sentence for murder is life imprisonment. The judge will decide on the minimum sentence the defendant must serve. A panel called the Parole Commissioners decide on when the defendant can be released on licence. In doing so, they take into account all relevant considerations. If you wish, further information about the Parole Commissioners can be found at www.parolecomni.org.uk.

Manslaughter

There are two types of manslaughter.

Voluntary manslaughter is when all the elements of murder are present but the crime is reduced by reason of impaired mental responsibility (known as 'diminished responsibility') or the existence of a suicide pact or the defendant's loss of control.

Involuntary manslaughter is when the defendant did not intend to cause death or serious injury but caused someone's death through an unlawful act or gross negligence involving breach of duty.

Culpable Road death

This term is intended to cover those instances where a death occurs as a result of a road incident. This would include where death has been caused by careless or dangerous driving, as well as careless driving as a result of the driver being under the influence of alcohol or drugs. It would also cover those cases where the death has been caused whilst the person has been unlicensed, uninsured or disqualified from driving or where there has been aggravated vehicle taking causing death.

The background of the page features two white calla lilies. One is in sharp focus in the upper right, showing its yellow stamen. The other is blurred in the lower center. The background is a soft purple with a bokeh effect of white and light blue circles.

Section 5

Attendance at court

Section 5

Attendance at court

Going to court

The family liaison officer or the Victim and Witness Care Unit will give you the date of the court hearing. If you don't hear anything, and you want to know if a court case is happening, talk to the family liaison officer or your case officer in the Victim and Witness Care Unit.

Criminal cases and appeals are nearly always held in public. This means that if you are not a witness you can still go to the court and watch the proceedings from the start. If you are a witness to the crime, and have to give evidence, you may watch the proceedings after you have given evidence. But remember, you don't have to. The following information may help to prepare you if you do decide to go to court.

Support in court

If you decide to go to a court hearing, it may help to have support. The court may be the first place you see the defendant or any of their family or friends. Many people find this hard, particularly if they are sharing the same facilities such as the toilets. There is no limit on the number of friends or family who can go with you.

Victim Support NI provides a support service called the 'Witness Service'. This service is available to all victims of crime, witnesses and bereaved families, and their supporters, who are aged 18 or over who go to court. If you are under 18, the Young Witness Service, provided by the charity NSPCC, will be able to help you. Both services provide trained

volunteers who can support you in court and give you information about court procedures and, if you are a witness, support you when you give evidence.

The witness services can arrange an accompanied visit to the court before the hearing so you can see the court and its facilities. They can also help to arrange other practical help for when you arrive at court, for example they will try to reserve seating in the public gallery, away from the relatives or friends of the defendant. The witness services will also, if they can, provide a room before the hearing where you can wait with relatives and friends, away from the defendant and their family and friends.

For details of the Witness Service, call **028 9023 2523** or go to www.victimsupportni.com. For information on the Young Witness Service, call the NSPCC on **028 9344 1947**.

Evidence

The Public Prosecution Service presents the evidence in court to the judge and jury. Some of the evidence may be particularly upsetting. If you get upset and need to leave the courtroom, you can. You can leave and come back into the courtroom when you want.

Changes and delays in the court

Unfortunately, sometimes at short notice, the courtroom or the court itself at which your case was due to be heard changes, or the start time of a hearing is delayed or a hearing is postponed to another day. The family liaison officer, witness services or the Victim and Witness Care Unit will make sure you are kept up to date.

Accepting pleas to lesser offences

Decisions to prosecute, including the specific offences to be prosecuted, are taken by the Public Prosecution Service in accordance with the Test for Prosecution to which all public prosecutors must adhere. Such decisions are taken after a careful assessment of all the evidence and information reported, including any obvious or likely defence, and the requirements of the public interest.

The general principle is that the decision to prosecute, and the offences to be prosecuted, should not be altered once they have been taken and formally issued by the Public Prosecution Service unless there is a proper reason.

The defence may on occasion approach the Public Prosecution Service with an offer for the defendant to plead guilty to only some of the charges that they are facing, or to a lesser charge or charges, with the remaining charges not being proceeded with.

While the prosecutor is under a duty to consider any such formal offer from the defence, “plea bargaining” has no place in the practice or procedures of the Public Prosecution Service. The acceptance by the Public Prosecution Service of any offer from the defence must be consistent with the evidence and information available at the time and meet the requirements of justice. Relevant factors may include whether the court can properly sentence the defendant for their criminality; any relevant information concerning the defendant’s previous convictions and likelihood of reoffending; and the proper interests of victims and witnesses. You will be offered a meeting with the Public Prosecution Service if changes are to be considered.

What happens if I am a witness?

If you are a witness, you will have already given a statement. In some cases, this statement can be used as your evidence in court. In other cases, you may have to give evidence in court. Being a witness in court is a new experience for most people. You can discuss with the family liaison officer, Victim and Witness Care Unit or witness services any concerns you have about giving evidence.

If you are a witness, the Victim and Witness Care Unit will tell you if the case will be going to court and they will be there to advise and direct you through the process. They will give you the court date as early as possible and they will also be able to explain your role in the courtroom and the outcome of the case. The Victim and Witness Care Unit will also make sure that someone connected with the prosecution case is introduced to you at court and answers your questions.

Giving evidence

If you have to give evidence, the police or prosecutor will give you a copy of your statement beforehand for you to read over and refresh your memory. As a witness for the prosecution, you will be asked questions first. The prosecution will begin by asking you questions to take you through what you said in your witness statement. The defence will then ask some questions. It is the role of the defence lawyer at a trial to assess the prosecution's case, argue against it and, if necessary, present the defendant's evidence. Essentially they are testing the strength of the prosecution evidence. This is known as cross-examination.

When the cross-examination for the defence has finished, the prosecution may ask you some more questions. The judge may also ask you questions at any time. After the prosecution witnesses have been cross-examined, the defence case opens. Witnesses for the defence are asked questions by their own solicitor or barrister and then the prosecution will cross-examine them.

Special measures for vulnerable or intimidated witnesses

Witnesses who are vulnerable or intimidated may be able to give evidence using special measures (for example, from behind a screen or by live television link). Registered Intermediaries (who are communication specialists), may also be available to assist those with significant communication difficulties. Witnesses to murder can be considered to be intimidated witnesses. It is the role of the Public Prosecution Service to apply for any 'special measures' which you may need in court, when giving evidence. If you think you may be eligible for special measures and have not been offered them, please speak to your family liaison officer or the Victim and Witness Care Unit. The judge will make a final decision on whether or not to grant special measures.

The background of the slide features two white calla lilies. One is in sharp focus in the upper right, showing its yellow stamen. The other is blurred in the lower center. The background is a soft gradient of purple and blue, overlaid with a bokeh effect of out-of-focus light circles in various colors.

Section 6

Courts where charges are heard

Section 6

Courts where charges are heard

Depending on the charge and the age of the defendant, cases are heard either in a magistrates' court or a Crown Court. Each court has different procedures and deals with different types of offences. In cases arising from murder or manslaughter where the defendant is charged with 'indictable' charges (more serious offences), some procedures at the early stages will take place in the magistrates' court. However, the trial and any sentencing will take place in the Crown Court.

Preliminary hearings and length of trial

A prosecution may start with one or more short hearings, which don't usually include witnesses being called. These hearings have several purposes, including giving the lawyers an opportunity to raise and discuss legal arguments that may affect the case.

Cases can often take longer than expected to come to court. This may be for many reasons, such as a need to trace witnesses or gather documents before a court hearing. The family liaison officer or the Victim and Witness Care Unit will be able to explain to you what is likely to happen.

Magistrates' Court

Prior to reaching the Crown Court the defendant will appear first in the magistrates' court, where the charge is read out and the evidence is presented to the District Judge, who must be satisfied that there is enough evidence to go ahead with the case against the defendant in the Crown Court. These are called committal proceedings and there are two types – a preliminary enquiry and a preliminary investigation. The family liaison officer or the Victim and Witness Care Unit can tell you more about this.

Crown Court

A judge and jury decide on most cases heard in the Crown Court. There are 12 members of the public in a jury. They are selected at random from the electoral register. Some people are ineligible or may be excused because of their job, for example lawyers and doctors. Each member of the jury is sworn to decide the case according to the evidence, and not otherwise.

The first hearing at the Crown Court is called the 'arraignment', which is when the defendant must enter a plea of guilty or not guilty. If they plead guilty, the judge will pass sentence. This may take place on a later date to allow the court to gather any relevant pre-sentence reports.

If the defendant pleads not guilty, a date is set for trial which may be several weeks or months ahead. Their guilt or innocence is decided at the trial.

At a Crown Court trial, evidence for the prosecution is presented by a barrister instructed by the Public Prosecution Service. The defendant is usually represented by a barrister who will speak for them in court.

The legal representatives present evidence to the judge and jury to support their cases. They may read statements from witnesses and call witnesses to give evidence in court. Expert witnesses such as police and eyewitnesses may be called. Photographs, videos and diagrams may also be shown to the jury. The public prosecutor, defence counsel and the judge can question witnesses. The defendant can choose not to give evidence.

Sometimes the judge will ask for the jury to be excluded while a legal debate around questions of law is decided. This is to ensure that the jury does not hear anything unduly prejudicial.

After the evidence has been presented, the public prosecutor and defence counsel sum up their cases. The judge sums up all the evidence and the jury will then consider the verdict. During this time they are guarded by jury bailiffs to ensure that they are protected from outside influences.

Jury deliberations are in secret, they will make their decision on questions of fact. However, the jury may ask the judge for guidance on questions of law. To get a conviction, 10 out of the 12 jurors must find the defendant guilty.

If all the jurors agree, this means that they have reached a unanimous verdict and their decision determines whether the defendant is found guilty or not guilty. They will return to the courtroom and the foreman will hand the court clerk a form with the verdict written on it. The clerk reads the form and calls upon the foreman to pronounce the verdict. If guilty, the judge then decides on the appropriate sentence to impose. If the jury deliver a verdict of 'not guilty', the defendant will be released (unless still held on other outstanding charges).

If all the jurors cannot agree on a verdict, there may be a 'majority verdict'. This may occur as long as at least 10 jurors are agreed on the verdict and the jury has had at least two hours of deliberation. In the case of a verdict of guilty, the foreman of the jury has to state in open court the number of jurors who agreed and the number who dissented from the verdict.

In some cases the jury may be so deadlocked that even a majority verdict is not possible. When this happens the jury is said to be 'hung'. If this is the case, the jury will be discharged and a retrial will normally be ordered. This means that the trial will be run again before a different jury panel. This is undesirable, and can cause a lot of distress, but unfortunately it cannot be avoided if the jury cannot decide on a verdict.

The jurors may sometimes wish to convict the defendant of some other offence than the one charged. The law governs this type of situation. It can only happen where the jury want to acquit of the original charge, not because they cannot agree on it. For example, if the defendant is charged with murder, the jury may convict for manslaughter.

In cases of a guilty verdict the judge considers the sentence. The judge may hear arguments by the defence for a less severe sentence and he may delay sentencing to gather reports and consider the case. The Public Prosecution Service will offer to meet with you and explain the verdict.

Youth courts

Youth courts deal with young people who have committed criminal offences and who are aged 10 to 18. A District Judge sits with up to two lay magistrates who are members of the community trained to assist the District Judge. If the defendant is being charged with an offence, which, in the case of an adult, would be tried in a Crown Court, the District Judge may send them for trial in the Crown Court.

If a young person is aged 18 to 21 and found guilty, they may be sent to a young offenders' centre instead of prison. This is a secure facility like a prison and is run by the Prison Service.

If a young person is aged 10 to 17 and found guilty, they may be sent to the juvenile justice centre. This is also a secure facility like a prison.

The background features two white calla lilies. One is in sharp focus in the upper right, showing its yellow stamen. The other is blurred in the lower center. The background is a mix of purple and blue tones with a bokeh effect of white and light blue circles.

Section 7

Sentencing

Section 7

Sentencing

The judge alone decides on the sentence. They are guided by a number of considerations:

- the maximum sentence they can give, which is set by law for the offence;
- whether the defendant pleaded guilty or not. If the defendant pleaded guilty, the judge can reduce the sentence. The discount will depend on when the defendant pleaded guilty – the biggest discount will usually be given for those who plead guilty at the earliest opportunity;
- the level of sentences in similar cases in the past (case law);
- the powers of the court. A Crown Court can issue much higher penalties than a magistrates' court;
- any 'pleas in mitigation' or circumstances set out in background reports; and
- any victim personal statements made by you.

The Public Prosecution Service will offer to meet with you after sentencing to explain the sentence and address any queries you may have. A sentencing leaflet will also be sent to you, as appropriate, when notification is provided of the final outcome in the case.

Pleas in mitigation and background reports

Before a defendant is sentenced, their barrister will tell the judge about any factors that they think might reduce the sentence. This can include factors such as the defendant having said that they are sorry for the crime.

The judge may ask for background information about the defendant. This will usually include a report about them from the Probation Board for Northern Ireland. Sentencing may be delayed until a later date so that this background information can be provided and the judge can think more about the sentence.

Victim personal statements

You may want to give a statement to the court to describe what effect the death of your loved one has had on you, for example emotionally, physically, socially (how you interact with people) or financially. This is called a victim personal statement and it can be presented to the judge before sentence is passed.

It is your opportunity to tell the judge how your life has changed since the death of your loved one and to give an idea of the type of person they were.

When you write your statement, try to envision everything that has happened since the moment that you found out that your loved one had died. This will help you to remember the feelings that you felt at that moment and the feelings that you have now.

Although it may be difficult, you should not say anything negative about the person who caused your loved one's death and you should not say for how long you feel that person should get sentenced. If this information is included in the statement, it will have to be removed by the Public Prosecution Service.

The family liaison officer (or Victim Support NI if you wish) can advise you and help you prepare your statement.

If you do not want to make a statement, do not worry, this will not affect the outcome of the case.

Appeals by the defendant

Following a criminal case, a convicted person may appeal against their conviction (if they pleaded not guilty at trial) and their sentence. They can also apply for bail waiting for their appeal.

However, only a small percentage of defendants appeal their case. If an appeal does go ahead, following a conviction in a Crown Court, it is heard in the Court of Appeal. The Court of Appeal has various powers including:

- upholding the conviction;
- upholding the sentence;
- changing the conviction;
- changing the sentence;
- quashing the conviction; or
- ordering a retrial.

Appeals by the prosecution

The Public Prosecution Service has no power to appeal against a verdict of not guilty in a Crown Court. However, if the sentence imposed in the Crown Court appears to be unduly lenient, the case can be referred to the Court of Appeal by the Director of Public Prosecutions. The Director will refer cases where there is a reasonable prospect that the Court of Appeal will find the sentence imposed to be unduly lenient and it is in the public interest for the referral to be made. There is a strict time limit of 28 days from the date of the sentence being imposed for such a referral to be made.

A family member of a person who has died does not have a right of appeal against a sentence imposed. However, if you consider that a sentence imposed is too lenient, you can ask the Director of Public Prosecutions to consider referring the case to the Court of Appeal. As referrals must be made within 28 days of the sentence being imposed, you should bring your concerns to the Director's attention as soon as possible. You can do this by writing to the Director yourself or through a legal or public representative.

Appeals to the Supreme Court

The prosecution or the defendant may appeal to the Supreme Court if there is a point of law arising from the trial.

When can appeals be lodged?

All appeals must be lodged within a certain time frame. You can talk to the family liaison officer or your contact at the Victim and Witness Care Unit to find out if an appeal has been lodged. They can also tell you the date of an appeal, if you want to go, and its outcome if you don't want to go to the appeal hearing



Section 8

Coroners Service for
Northern Ireland

Section 8

Coroners Service for Northern Ireland

Coroners are independent judicial officers. There are three coroners for Northern Ireland.

Where a post mortem is necessary in a case, the coroner will ask the pathologist to find the medical cause of death. A further investigation may be needed after the post-mortem report and an inquest may also be held depending on the circumstances of the death.

The Coroners Service can be found at:

Coroners Service for Northern Ireland
Laganside House
23-27 Oxford Street
Belfast
BT1 3LA

Phone: 0300 200 7811

Fax: 028 9044 6801

Email: coronersoffice@courtsni.gov.uk

Website: www.justice-ni.gov.uk/articles/coroners-service-northern-ireland

The role of coroners liaison officers

Coroners liaison officers are not medical staff but people who work for the coroner to help you when a post-mortem examination has been ordered. The coroners liaison officer will send you written information about the preliminary cause of death and enclose evidence of death forms to help you deal with financial matters. The coroners liaison officer will work with the police family liaison officer to pass other information on to you.

Can the death be registered?

The death certificate will not be issued until the coroner has completed the investigation. This may take quite a long time. You can be sent a temporary certificate called a 'Coroners certificate of Evidence of Death' to help deal with the estate (for example, to claim life insurance). Unfortunately, not all financial institutions will accept the interim certificate. However, you can tell these companies that they can contact the coroners office direct to get more information which may allow them to deal with financial matters without having a full death certificate.

What is a post-mortem examination?

A post-mortem is a medical examination of the body carried out for the coroner by a pathologist in the State Pathologist's Department or by a hospital pathologist. It is carried out as soon as possible after death. If charges have been brought against somebody for causing the death, a second post-mortem may be needed. This may delay the coroner releasing the body and the making of the funeral arrangements.

The post-mortem examination is a major stage in investigating deaths referred to a coroner, as the findings often decide whether the coroner needs to take any more action. Post-mortems are carried out to investigate deaths of a sudden, unexpected, traumatic or suspicious nature.

For all post-mortem examinations, the coroners liaison officer receives the preliminary findings on the cause of death and notice of any organs or tissue retained on behalf of the coroner. The coroners liaison officer passes this information to the family on behalf of the coroner and to the family liaison officer. The full examination report may take some time to complete.

Making funeral arrangements

When deaths are suspicious, the coroners liaison officer contacts the pathologist, police and coroner to confirm that the body can be released, before making the arrangements with the mortuary to release the body.

When there is a possibility of a prosecution, or no one has been made amenable for the death, it may only be possible to arrange for a burial rather than a cremation.

What is an inquest?

An inquest is an inquiry into circumstances surrounding a death. The purpose is to find out who has died, and how, when and where they died.

An inquest is not a trial. The coroner will not decide on any question of blame. The coroners liaison officer can give you more information on inquests.

If the coroner is told that a person or people have been charged, or are likely to be charged, with an offence directly leading to the death, they do not hold an inquest until the criminal proceedings are over. The coroner will consider holding an inquest once the criminal proceedings are over, taking account of the evidence already heard in court and your wishes.

If the coroner decides not to hold an inquest, they will issue a certificate for the Registrar of Deaths. This will allow the death to be registered.

Who goes to an inquest?

The coroner will arrange any date for the inquest after consulting you. Inquests are open to the public and the press.

Coroners decide who should give evidence as witnesses at an inquest. Anyone who believes they may help, or believes a particular witness should be called, should let the coroner know. Witnesses, with some exceptions, can be made to go to the inquest and give evidence.

What happens at an inquest?

After formally opening the inquest, the coroner will question the witnesses and there may be further questions by people with a 'proper interest' or their legal representatives. Any questions must be relevant. People with a 'proper interest' include:

- relatives of the person who has died;
- the executors of the person's will or people appointed as their personal representatives;
- solicitors acting for the next of kin;
- insurers with a relevant interest; and
- others who the coroner considers to have a proper interest.

Will the inquest be held with a jury?

A coroner may hold an inquest either with a jury or without one. In certain situations a jury will be required, for example if the death occurred in prison. In these cases, the Coroner decides matters of the law and the jury decides the findings.

What is the outcome of an inquest?

Inquests do not find blame or identify someone as being responsible. The findings of an inquest will record the essential facts about how the person died.

Is legal aid available?

The legal aid Green Form Scheme is available for legal advice and assistance, and the preparatory work undertaken by a solicitor before an inquest. Legal aid is not available for representation at an inquest.

However, in exceptional circumstances, public funding may be made available from:

The Legal Services Agency
2nd Floor,
Waterfront Plaza,
8 Laganbank Road,
Mays Meadow,
Belfast,
BT1 3BN

Phone: 028 9040 8888



Section 9

Support services

Section 9

Support services

Some people will not want to, or need to, talk to anyone outside their family and friends, but for others it may be essential.

Victim Support NI

Victim Support NI can help you cope with losing someone close through murder, manslaughter or culpable road death and with any part of dealings with the police, the Victim and Witness Care Unit, the Public Prosecution Service or the Northern Ireland Courts and Tribunals Service, or making a claim for criminal injuries. When you contact them, one of their trained volunteers will help you work out the type of support you need and make sure you receive that help for as long as you need it. Contact them if you:

- want to talk, in confidence, to someone who understands;
- need information;
- need practical help;
- want to make a claim for criminal injuries compensation; or
- are going to court, either as an observer or as a witness.

Victim Support NI can also tell you about other support agencies and services which could help you, such as counselling.

You can contact Victim Support NI on **028 9024 3133** (Belfast Hub) or **028 7137 0086** (Foyle Hub). Normal office hours are Monday to Friday 9am – 5pm. Evening appointments can be arranged. You can also contact Victim Support NI by e-mail at Belfast@victimsupportni.org.uk or Foyle@victimsupportni.org.uk. Further information can also be found at www.victimsupportni.com.

SAMM National (Support After Murder and Manslaughter)

SAMM is an independently registered charity, which offers help and support to families and friends who have lost someone through murder and manslaughter. There are local SAMM groups across England, Wales and Northern Ireland. SAMM Abroad supports British families who have had someone murdered outside the UK. SAMM National is the name of the local group.

Their main strength comes from the fact that all members and trained supporters have been bereaved through murder or manslaughter and can understand the feelings and emotions you may be feeling at this time. They know it can be difficult to talk about these emotions to other family members because you may not want to upset or worry them. SAMM National members have experienced the despair, anger, sorrow, numbness, loneliness and all the other emotions triggered by a violent death.

SAMM National offer free and confidential support to family members and close friends through:

- a National telephone Support-line; and
- one-to-one appointments with a trained volunteer.

If you feel that you would like to talk to one of their volunteers, please ring the Support-line which is always available. Answerphone messages are picked up and returned each day. If you feel you cannot contact them yourself, ask a friend, the family liaison officer or Victim Support NI to contact them for you. How to contact SAMM National:

Supportline: 0121 472 2912 or 07342 888 570

Email: info@samm.org.uk

Website: www.samm.org.uk

NSPCC Young Witness Service

The NSPCC operates the Young Witness Service which is a free, independent and confidential service provided to children and young people who are under 18 years old and have to attend court as witnesses, as well as their families, friends and supporters.

The service, which is provided by social work staff and trained volunteers, aims to assist children and young people and their parents/carers before, during and after any trial so that they can give the best evidence to the court and prevent any further trauma caused by the experience. You can contact the NSPCC Young Witness Service by telephone on **028 9344 1947**.

ChildLine

The NSPCC's ChildLine Service is the UK's free, 24-hour helpline for children in distress or danger. Trained volunteer counsellors comfort, advise and protect children and young people who may feel they have nowhere else to turn. Over 1,000 volunteers provide a counselling service, supervised by a team of professional supervisors and managers.

Brake (Road Safety Charity)

Brake is a road safety charity working with communities and organisations across the UK to stop the tragedy of road deaths and injuries, make streets and communities safer for everyone, and support people bereaved and seriously injured on roads. How to contact Brake:

Helpline: 0808 8000 401

Email: help@brake.org.uk

Website: www.brake.org.uk/

Cruse Bereavement Care

Cruse Bereavement Care exists to enable anyone bereaved by death to understand their grief, cope with their loss and to promote their well-being. Support Volunteers are trained to help you work through your feelings in a professional, safe and supportive environment. Cruse services are provided free of charge.

How to contact Cruse:

Phone: 028 9079 2419 or 0808 8081 677

Email: northern.ireland@cruse.org.uk

Website: www.cruse.org.uk



Section 10

Financial issues

Section 10

Financial issues

Claiming criminal injuries compensation

If you are the relative or a dependant of someone who has died as a result of a criminal incident you may be able to get compensation under the Criminal Injuries Compensation Scheme. In road incidents the scheme applies where the injury is deliberately inflicted or attempted to inflict injury. There are different types of payment for which you may qualify. They are:

- bereavement support payment;
- financial dependency payment; and
- loss of parental services payment.

In addition, if you sustain a mental trauma because a loved one received injuries that led to their death and you witnessed or were closely involved in the immediate aftermath of the incident, you can apply for compensation. A diagnosis of a disabling mental illness has to be provided by either a consultant psychiatrist or a clinical psychologist.

The scheme may also refund the cost of reasonable funeral expenses up to a maximum of £5000 per claim to the person who paid for the funeral. Keep all the receipts for funeral expenses to include with your claim.

If you apply under the scheme, you must do so within two years of the incident. However, this time limit may be waived in certain circumstances. You can get more details, along with an application form and details of the documents you need, by contacting Compensation Services at:

Compensation Services,

5th Floor
Queens Court
56-66 Upper Queen Street
Belfast
BT1 6FD

Phone: 0300 200 7887

Email: compensationservices@justice-ni.gov.uk

You can also get more information at

www.justice-ni.gov.uk/topics/justice-and-law/compensation-services

Victim Support NI can provide you with help, information and ongoing support throughout the compensation claim process. They will assist you to complete the application form, help with any subsequent review application and, if an appeal is submitted, they are able to represent you at the appeal hearing. All of these services are provided **FREE OF CHARGE** and Victim Support NI do not take a percentage from any award made. You can contact Victim Support NI on **028 9024 3133** (Belfast Hub) or **028 7137 0086** (Foyle Hub). The office is open between 9am and 5pm weekdays.

Wills, probate and estates

You may need to get either a grant of probate if your loved one left a will, or a grant of letters of administration if there is no will (a grant is an official document issued by the court).

If your loved one lived permanently in Northern Ireland for tax purposes and you are named as the executor (or one of the executors) in their will, or if there is no will and you are the next of kin and living in the UK, you may apply for either of these.

If you decide to apply in person, without using a solicitor, you must make an appointment at:

Probate Office,
2nd Floor,
Royal Courts of Justice,
Chichester Street,
Belfast,
BT13JF

Phone: 0300 200 7812

You will need to ask for an appointment request form. You should return this to the office with the following **original** documents:

- proof of your identity;
- a copy of the death certificate (signed by the Registrar);
- the original will (if there is one);
- if applicable, a marriage certificate or decree absolute; and
- an HMRC inheritance tax form (contact the Probate and inheritance tax helpline on **0300 123 1072**).

You should get an interview within three weeks of the office receiving your request. There may be a fee to pay at the time of the interview (up to £250).

After the interview, the probate office will issue the Grant of Probate or Grant of Letters within one week. Once you have received the Grant, you are responsible for gathering together all your loved one's assets/ possessions and passing them on according to the terms of the will, or according to the rules of intestacy.

The leaflet 'Dealing with a Deceased Person's Estate' may be of help to you. You can view this leaflet at https://www.justice-ni.gov.uk/sites/default/files/publications/justice/dealing-with-deceased-persons-estate_0.pdf

Benefits

You may be entitled to Social Security bereavement benefits or financial help with the funeral expenses. You can find the A to Z of benefits at www.nidirect.gov.uk/information-and-services/benefits-and-financial-support/bereavement

If you do not feel able to look through the list of information, you can contact Citizens Advice for help. For details of your local Citizens Advice office, contact:

Citizens Advice

www.citizensadvice.org.uk/about-us/northern-ireland/



Section 11

Victim Information
Schemes

Section 11

Victim Information Schemes

Once the trial is over, if you feel that you would like to know when the offender in your case is due to be released from prison or, if they have been given a supervised sentence, the terms that they will have to keep to, you can ask the Victim Information Unit to provide you with certain information. The Unit, which is managed by the Probation Board for Northern Ireland, provides a service which covers all three victim information schemes. These schemes are the Prisoner Release Victim Information Scheme, the Probation Board Northern Ireland Victim Information Scheme and the Mentally Disordered Offender's Victim Information Scheme.

Once a sentence has been passed at court, the family liaison officer will give you an information leaflet which explains the relevant scheme and includes an application form.

You can choose a representative to receive information on your behalf. The application form will give you the option to fill in the details of a representative who will act or receive the information for you.

You can contact the Victim Information Unit for more information at:

Victim Information Unit,
Unit 4 Wallace Studios,
27 Wallace Avenue,
Lisburn,
BT27 4AE

Phone: 0300 1233 269

Email: VictimInfo@probation-ni.gov.uk

Prisoner Release Victim Information Scheme

This Scheme offers you the opportunity to give and receive information about the offender in your case if they have received a sentence of six months or more.

If you register with the scheme you will be informed about:

- the year and month in which a prisoner is expected to be released from custody or will be eligible to be considered for temporary release – it is not possible for the exact release date to be given;
- when the prisoner is being considered for temporary release;
- any decision taken in relation to temporary release; and
- any known conditions of the prisoner’s release, or conditions imposed on temporary release, and any breaches of these which result in the prisoner being returned to custody.

In the cases of prisoners given a life sentence, an indeterminate custodial sentence or an extended custodial sentence which are subject to licence conditions of release by the Parole Commissioners you will be informed about when the prisoner is being considered for release. You can make your views on the release known to the Parole Commissioners (through the Victim Information Unit). You will be informed of the decision the Parole Commissioners make and, if it is to release the prisoner, be told of the licensing arrangements that apply.

You can also register concerns you have about your personal safety and have these considered as part of the assessment process, when an offender applies for temporary release or is to be released on licence.

On occasion it may only be possible to tell you about a release after it happens. In the very unlikely event that an offender in the case you are involved in escapes detention you will be informed about this without unnecessary delay by the police.

Probation Board for Northern Ireland Victim Information Scheme

The Probation Board for Northern Ireland Victim Information Scheme gives you the choice of having information about the probation sentence in your case. The information the scheme provides includes:

- the type and length of supervision the offender is subject to;
- information on any extra conditions to the sentence;
- information about any further court sentence under the order, if the offender breaks it;
- an explanation about how the Probation Board manages the case and the opportunity to include the victim's concerns in this process;
- information in writing, by phone or in a face-to-face meeting.

Mentally Disordered Offenders' Victim Information Scheme

This scheme applies in cases where the court sentences the offender to be placed in a hospital under a hospital order with a restriction order, or if an offender is transferred from prison to a hospital under a transfer direction with a restriction direction. This means in both cases the offender cannot be released from hospital without the authority of the Department of Justice. The scheme only applies to offenders in Northern Ireland with a mental illness.

Under the scheme, you can receive information about:

- temporary leave of absence given to the offender e.g. compassionate release, or release for rehabilitation purposes;
- when the offender is discharged (with or without conditions); and
- any relevant conditions the offender has to keep to.

If you choose to receive information, you will be told when a leave of absence or discharge is being considered. You can give your views in writing, through the Victim Information Unit, on whether any conditions should be placed on the person. And you can make comments on the effect that the offender's leave would have if it threatens your safety or affects your wellbeing in a negative way. Your comments will be considered along with the Department of Justice's assessment when decisions are made on whether or not to grant leave of absence.

We hope that this booklet has helped to explain to you the roles of the various criminal justice agencies during the investigation of a traumatic death, as well as telling you about some of the support groups who are available for you at this stressful time.

However, please call your family liaison officer or one of the support groups if you would like any further information or advice.

