Justice Committee
Victims and Witnesses (Scotland) Bill

Written submission from Marilyn Stuart

On Friday 6 May 2011 my husband was knocked down by a car. The car driver lost control of her car. My husband was standing at the boot of his car preparing to take our son’s dogs out of the boot to take them for a walk at the beach. My husband died four days later in hospital, 9 May. My husband, our family or myself had never had any previous experience with police or courts, but I’m afraid my family and I very quickly came to the conclusion from our meetings and phone conversations with the police that the human rights being protected was that of the accused and only the accused.

Our first meeting with the procurator fiscal was a terrible experience. She was very matter of fact and said that there may not be enough evidence to take the case to trial.

We left her office that day not knowing who to turn to. A friend recommended I call Lewis Macdonald, which I did. Lewis was very helpful and said as he was going to the procurator fiscal office the next week, with my consent he would talk to the procurator fiscal about the case. Within 14 Days of my conversation with Lewis I received a letter from Edinburgh to say the driver was to be charged with death by careless driving. I believe without help from Lewis Macdonald there was a strong possibility the driver may not have been charged.

The months before the trial were very difficult and I felt that we as a family were very much on our own. By the time the case went to trial it was being dealt with by the fourth procurator fiscal. How unfair, unlike the accused who had the same QC since day one. The week before the trial date, one and a half years after my husband’s death, the procurator fiscal decided to move the trial to Peterhead from Aberdeen. This caused major problems for my family, but like the change of procurator fiscal, no one was interested in our feelings or concerns. I had strong family and friend support, but I felt we had no professional on our side.

The trial was a horrendous experience, and again I had strong family and friend’s support, a lovely girl from Victim Support, but unlike the accused who had her QC keeping her informed and very much looking after her. We the victim’s family were again excluded and on our own.

My family and I are an ordinary family. After the avoidable tragic loss of my husband I feel very strongly that victims like us must in the future be given more help and guidance.

1. The proposal to create a duty on relevant justice organisations to set clear standards of service for victims or witnesses

I feel something like this is desperately needed. And should be available at the earliest possible date. The procurator fiscal offer victim support, people from Victim
Support only become available when accused is charged. They are kind people but very much just go-betweens who can’t give any advice.

2. **The proposal to give victims and witnesses a right to certain information about their case**

We as a family were very much excluded. I know that the accused, through her QC, had access to details of my husband’s pathology report, but we as a family did not until after the trial.

3. **Any human rights implications arising from the victims and witnesses provisions in the Bill**

What I could see was the only human rights that was taken into account was that of the accused. So any improvement on this would be welcome, as I feel at the moment everyone, especially the police, were so worried about the accused human rights.

I feel strongly that victims need more help. And if needed I may be able to give oral evidence.

Marilyn Stuart
25 March 2013