Justice Committee

Inquiry into the role and purpose of the Crown Office and Procurator Fiscal Service

Written submission from Sharon Mercado

1. I have had direct experience of dealing with the COPFS during my role as a restorative justice worker throughout 2012/2013, covering three different locations. The role of the PF was to read the reports submitted to them from the police and other agencies and if the case met the criteria refer to restorative justice services. Restorative Justice reduces the costs of bringing cases to court and offers the accused the opportunity to avoid criminal proceedings by means of RJ. However, it is very much a post code lottery on whether cases are dealt with by RJ. It depends on accessibility of an RJ service in the area of where the accused/victim live and even if the case meets RJ criteria on whether the PF is forward thinking enough to refer to RJ. Having had discussions with the police in the area where I worked, they often recommended the use of RJ. Although in reality the numbers of cases referred to RJ services are low.

In my own personal experience as a defendant, my criminal case took almost 2 years from my 1st interview with the police to disposal following a court case. There appeared to be many delays along the way. I frequently rang my solicitor who checked with COPFS to check progress and was often told they are waiting on certain reports and information. This heightened my anxiety and did have an effect on my mental health. There should be more efficient ways to deal with cases which would speed the processes up. Although my solicitor dealt with most of the issues as efficiently as he could, the delay and administration caused more public money being spent in terms of legal aid. This experience is echoed by many of the accused I work with now in my role as community justice mentor. People are prevented from moving on due to the length of time it is taking to deal with outstanding charges.

Technology should play a big part in speeding up processes. However, despite the advances made in this area, not all agencies have the right systems to be able to send classified confidential information. This often means that reports can take longer to be received and or sent, and creates further delays. Using technology can also bring risks associated with the sending and receiving of classified information. Overall access to reports and the dangers of cybercrime needs to be addressed, to encourage usage.

2. In my view there is room for improvement in the relationship the COPFS has with other stakeholders, specifically the 3rd sector. If it is disclosed in a report that the accused or victim is working with a 3rd sector agency then they should be contacted to gain further information for submission in the case.

In the most recent case I was involved in, (which also took almost 2 years to be heard), I was a witness to the event. However, having given statements to the police, Sodexo and the SPS, and on each occasion informed them of my role with Families Outside, on no occasion were my employees contacted. So much more information could have been given about my role when the alleged offence was committed and
the relationships between the agencies involved with this particular case. Trying to contact COPFS to gain more information after having been cited was extremely difficult. It took several attempts to speak to someone as the phone system cannot cope with the volume of calls it receives. However, no one was able to answer my query concerning my issue of being called as a witness for the prosecution when I believed I should be there for the defence. If COPFS had contacted my employer, a 3rd sector agency working within the field of criminal justice, the PF could have gained so much more information.

3. It would save time and money if instead of bringing those currently in custody from prison to a court which could be some distance away, they are linked up via video-link/skype etc., especially if only in court for a pleading or intermediate diet. This type of technology is currently used but not on a regular basis. However, there would need to be time and money invested into the COPFS and also the SPS for this to become a norm. As with all technologies there is a need for a robust system to prevent cybercrime. Crime is changing and COPFS need to be kept up to date with systems in place to prevent such problems.

In view of the paperwork I have received from the COPFS for various cases, there appears to be a general overuse of paperwork, most of which is unnecessary.

4. Accessibility to information about proceedings is lacking and difficult to obtain. What information that is given is not helpful. For example;

Recently I was a witness to an alleged crime (I did not count myself as a victim). The incident took place in 5 November 2014 and was finally dismissed (case not called), in September 2016. (Almost 2 years from the incident date).

When I was cited;
- The paperwork went to the prison where I work on an ad hoc basis, despite giving my home address for correspondence. This meant there was a several week delay before I received the paperwork and citation as no one from the prison was able to pass the paperwork on to me until I was physically present at the prison. This happened several times throughout the proceedings.
- I had no idea what incident I had been cited for, and no idea what the alleged offender had been charged with. The information on the citation is very limited. When I rang the COPFS, (helpline not direct to the office you require), it took several attempts to get to speak to someone, phone lines are permanently busy or you are asked to leave a message, which is not helpful when you are working and have limited time available to speak to someone.
- After managing to speak to I believe a clerk at the COPFS, all I was given is the section he was charged under, which to a lay person means nothing. Fortunately I was able to work out what offence it was from the internet.
- I was cited three times, the 1st two occasions, involved waiting in a very busy witness waiting room all morning until I was finally told the case would not be heard. This was due to on the 1st hearing the accused not showing up for his case and on the 2nd hearing, there was not enough time due to previous cases over running. On the 3rd attempt, I was called to speak to the prosecution lawyer who wanted to ask my opinion on whether the accused’s case should go ahead, as the statement I had previously given did not merit a
prosecution. I went over the events of the date of the alleged offence again, as the lawyer decided to recommend the case be dropped.

- On a personal level, having to attend court three times was stressful. The matter could have been dealt with better in my opinion and saved a lot of time (mostly mine) and money.

I feel putting lots of witnesses together in a large stuffy room, (most courts are the same), is not good for witnesses, especially vulnerable ones. Whilst due care and consideration is given to witnesses who are victims of serious crimes (rape, domestic abuse, violent assaults etc.), no thought is given to witnesses who are feeling especially agitated or nervous and would like time and space alone.

5. I have never heard of the Inspectorate of Prosecution. I might have received information about this when I was cited, but do not remember. There are no prominent notices within the court about this.

Sharon Mercado
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