THE VULNERABLE DEFENDANT IN THE ADVERSARIAL SYSTEM. PROPERLY PROTECTED?

The Adversarial System is recognising the psychological impact the trial can detrimentally engender. This can affect a witnesses communication abilities and their best evidence, creating greater scope for juries to give greater weight to extra-legal influences rather than the facts.

This recognition can be seen with the ECD 29/2012 - in Northern Ireland by The Victims Charter and Your Victims Directive.

By allowing considerations or evaluations as to a witnesses vulnerability, directly impacting upon the deployment of the lawyers tools and techniques of advocacy, the courts are allowing psychology to have an effective role within the court room.

However, the initial focus on the protection of victims is causing subtle imbalances operating against the best interests of the vulnerable defendant risking their right to a fair trial under article 6 Convention & Art 38 of the Constitution.

Communication Combat.

The trial process is undeniably gladiatorial communication combat with barristers against witnesses and language the weapons.
The adversarial legal system operates a conflict based resolution to allegations.
Each side collects and presents their own evidence Cross examination is used as a means to comment on the evidence, refute and discredit your opponents case.
It is therefore less about a testing scrutiny of the evidence and more about the barristers attempt to persuade you to her/his version or perception of the truth.
In a recent study a QC stated ‘it is a very unfair contest as a complainant, already unnerved by the courtroom, were often no match for skilled and experienced counsel’.

[Tempkin2000;229-36, Krahe and Tempkin – Sexual assault and the justice gap pg 129–The professionals role].
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Consider therefore the power differential of an experienced barrister over the reasonable man on the Clapham Omnibus.

The barrister is in a position of power being communicatively ADEPT in their natural environment WHEREAS The witness is communicatively INEPT in an alien environment. At its worst Advocacy is used to harass, bully and intimidate the witness with poor cross examination technique relying on question and phrasing repetitions, eg ‘I put it to you’ being delivered in an aggressive tone and manner.

In a 2007 research study a English QC was quoted ‘there are barristers who simply want to destroy a complainant, if they can turn her into a snivelling wreck or make her look a complete tart they will win, and its wrong’.

Evidence confirms this; a joint 2011 study between Queens University Belfast and NSPCC found that 51.4 % of young witnesses found there was NOTHING positive about the experience of being a witness.

Yet the adversarial system maintains the art 6 (3) right to challenge a witnesses testimony as the keystone of the essence of a fair trial. Clearly existing conditions are not the most conducive to eliciting the truth. The objective of the criminal trial is that justice should be done... justice to everyone ......If it fails to do so the system requires to be changed.

This change was initiated with SPECIAL MEASURES.

In England and Wales the Pigott Report 1989 first tried to rebalance the trial process by implementing special measures to achieve best evidence by refocusing on the witnesses best interests

European legislation aims to protect ‘the safety, physical and psychological well being, dignity and privacy of victims and witnesses’ with Art 68 the Rome Statute 1998 and the ECD 29/2012.

Domestic legislation enacts these with Criminal Evidence (NI) Order 1999 & Victims Charter 2015


With measures for example – removal of wigs and gowns; video taped evidence and cross examination (piloted in England and at working group stage in N.Ireland) and (Registered) Intermediaries, the independent communication facilitator

AND in particular The Advocates Gateway Website, London, having now managed to write into the Crown Court Rules the necessity to have ground rules hearings with the

2 (by Evans et al pg 129 Krahe and Temkin)
4 Ld Judge Quoted in the Bar Council Annual Law Lecture 21st November 2013].
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R.I. and lawyers, establishing best practice for each case for the treatment of the vulnerable witness.

We are becoming more astute not to risk adding more abuse to any there may already have been, by requiring detailed question in semi public.

The English Court of Appeal has been instrumental in refocusing lawyers attention to the need for a testing scrutiny of the evidence, shifting the emphasis of the court back to exposing the truth in a balanced fashion starting with R v Barker [2010] EWCA Crim 4 through to R v Lumbemba [2014] EWCA Crim 2064, where judicial assessment of written cross examination questions can be mandatory and the barrister having no right to put his case directly to the vulnerable witness being most noteworthy adaptations within the adversarial arena.

However, these initiatives can, I believe, create unintended imbalances in the Art 6 convention and Art 38.1 constitutional fair trial rights for the vulnerable defendant. Why? The focus is primarily on the best interests and well being concerns of the vulnerable victim.

We should not though, engage in an abstract balancing between the rights claims of the defendant and the complainant and measures to protect one should not invariably detract from the rights of the other in a sub zero game.

We should remain vigilant that the various initiatives, decisions and judicial reactions to the treatment of prosecution witnesses maintains the adversarial process being predicated upon equality of arms and effective participation.

**System Imbalances.**

In a conflict based system the challenge is to ensure that each participants "exhibited characteristics are not unnoticed, misconstrued or simply ignored so that the true nature of the communication needs of the individual are adequately and properly assessed."

However, for the vulnerable defendant we have done just that by the application of the following:

- **Restrictive definitions** – to be vulnerable is to be susceptible to physical or emotional injury. The oxford dictionary defines vulnerability as being exposed to the possibility of being attacked or harmed, either physically or emotionally and (of a person) in need of special care, support, or protection because of age, disability, or risk of abuse or neglect.

Yet legislation applies labels and defines vulnerability restrictively in England/Wales/N.I. - as a significant impairment of intelligence and social functioning or

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5 As Ld Justice Hughes delivering the Hershman-Levy Memorial Lecture 2001 stated ©conor gillespie
physical disability or disorder. Domestic police forces also use this definition in their assessments for both witnesses and suspects.

So Does Your Criminal Justice Act 2012; defining a vulnerable person as having a disorder of the mind whether from mental illness or dementia, intellectual disability and which is of such a nature or degree as to severely restrict the capacity of the person to guard himself or herself against serious exploitation or abuse, whether physical or sexual, by another person, or enduring physical impairment or injury.

Your act, however, is more in line with the globally recognised definitions. For example, in Section 306M(1) of the Criminal Procedure Act 1986; New South Wales - a vulnerable person is a child or a cognitively impaired person, which includes intellectual disability.

American Psychiatric Association 2012 DSM-5 defines Intellectual Disability as deficits in intellectual functions, such as reasoning, problem solving, planning, abstract thinking, judgement, academic learning, and learning from experience, confirmed by both clinical assessment and individualised, standardised intelligence testing.

But Vulnerability is also recognised in those individuals that suffer Post Traumatic Stress Disorder - DSM-IV, American Psychiatric Association 1994 defines Post Traumatic Stress Disorder as 'the experience or witnessing or confrontation with an unusually traumatic event ... and cause clinically important distress or impair work, social or personal functioning'.

Many individuals diagnosed with PTSD and I.D. will exhibit behavioural difficulties in areas such as concentration, communication, learning and memory abstract, thinking, planning or problem solving, social adaptive functioning such as maintaining eye contact, interpersonal skills, regulation of behaviour, academic ability, reading writing or understanding information.

What is also of concern is that the legislative definitions apply qualifying degrees such as 'severely restrict' and they do not account for recently defined and understood conditions which can effect communication and could make adults and children vulnerable when questioned, for example, dyslexia, alzheimer's, autism only being identified in last 150 years and aspergers syndrome only being identified within the last 60 years.

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6 [ the C.E.( N.I. )O.1999 Art .4.(1)(a) and Y.J & C.A. 1999 s.16 ]
8 ( withholding of information on offences against children and vulnerable persons )
9 Psychiatry, Psychology and Law 2014, Giving the Vulnerable a voice in the Criminal Justice System: The Use of Intermediaries With Individuals With Intellectual Disability by Hepner, Woodward and Stewart DOI:10.1080/13218719.2014.960032 : http://dx.doi.org/10.1080/13218719.2014.960032

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We should also be careful about the labels we attach to people and omissions of people we make.

• **Victim label**

European Court Directive 29/2012 – Article 2; a person who has suffered harm directly caused by a criminal offence regardless whether an offender is identified, apprehended prosecuted or convicted.

This is reflected within the recent body of charters, directives, policy guides and case authorities.....

Section 16 of the Criminal Justice Act 1992, part 3 refers to ‘if the witness is the complainant’ with no mention of victim.

The Irish DPP 2011 ‘GOING TO COURT AS A WITNESS’ which is used by An Garda Siochana; at point 7 gives guidance on a witness giving evidence and then at point 10 refers to a witness and a victim.

Then we have a clear statement with the Victims Directive November 2015.

Yet until the verdict no act is proved and the defendant is presumed innocent. We should therefore be mindful of the possible extra legal prejudices and biases we can engender to the outcome of the prosecution or other participants perceptions, reactions and actions towards the defendant, as the adversarial systems processes are predicated upon equality of arms and effective participation.

To label one side as victim connoting a consequence against the presumption of innocence is perhaps another small but potential erosion of the defendants rights and protections, as is perhaps incorporating inadvertence or mistake as an exception to the exclusionary rule on the admissibility of evidence DPP v JC [2015] – time will tell!

• **Consider then the omission of vulnerable defendant**

A 2005 study with rape survivors found that Police officers and Police doctors underestimated how much victims and (suspects) were affected by the way they responded to them. The police, like juries when presented with competing adversarial evidence, employ a reasoning process such as hypothesis-testing. They examine the probability of

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10 [Campbell 2005 'What Really Happened? A Validation Study of Rape Survivors' Help Seeking Experiences with the Legal and Medical Systems 20 Violence and Victims 55 -68 @ pg 41 K & T]

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competing hypotheses leading to conclusions about the acceptability of the guilt versus the innocence of the defendant. 11
Were the suspect displays characteristics which do not fit in with their perceived normative responses they are more readily prepared to accept that this behaviour is attributable to evasiveness and guilt as opposed to some underlying vulnerability thus falling back into familiar roles.
This hypothesis-testing exercise can all too often fall on the side of the complainant. The presumption of innocence is eroded and the opportunity to properly engage with the suspect may be lost.
If we continue to omit reference to a vulnerable defendant we are reducing knowledge of the prevalence of their vulnerable nature and failing to protect their well being. This is not surprising however, when there is no reference to their well being in police and PPS prosecution full code test which only refers to the well being considerations for a victim.
This should be of great concern as there is a prevalence of Vulnerable Defendants in Justice Systems globally. For example; of Intellectual Disability vulnerable individuals in New South Wales it is 2.5% = 300,000. As a population they are overrepresented in the NSW Justice System as defendants 12
In N.I in 2012 - 16% of people placed in custody meet one or more of the assessment criteria for mental disorder 13
In England in 2011, a consensus of 50-60% of young people who are involved in offending having speech, language and communication needs. 14

11 Clifford (2003) 'Methodology: Laws Adopting and Adapting to Psychology's Methods and Findings' in D.Carson and R.Bull (eds), Handbook of psychology in legal contexts 2nd Ed (chichester, Wiley) 605-24. This assertion is backed up research undertaken by Pennington and Hastie (1992) ['Explaining the evidence: Tests of the story model for juror decision making' 62 Journal of Personality and Social Psychology 189-206.] who developed research that led to the Story Model where jurors attempt to make sense of the information presented in the course of a trial by incorporating it into a narrative structure, a 'story', that presents a plausible,

12 (Baldry, Dowse & Clarence 2011; Vanny, Levy, Greenberg, & Hayes 2009)
13 [R] CJINI, The Use of Special Measures in the Criminal Justice System in Northern Ireland (CJINI 2012) para 3.18

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Application Bias Resulting.

Case A

Adult male defendant A appeared before the Crown court for 3 charges relating to possession and supply of Cocaine, 1 charge for cannabis supply and 1 charge for possession of unlicensed firearm.
A declined legal representation and was assessed as being medically fit for interview with no certification as being vulnerable.
A received a 12 month custodial sentence for a plea to 1 charge of being concerned in supply of class A cocaine, having made admissions in interview.
All the proper procedures were adhered to by the police and A was treated in accordance with the codes of practice.
An important fact in the background of A is that he was sexually abused by a male primary school teacher, in a small room.

The Imbalances exist because of;
Firstly – (1) No Special Measures & (2) Interview format and language issues (not in eire they are now videotaped)

The custody and interview is a data driven rote exercise setting out the suspects charges, their rights and gather evidence by imparting legal concepts and definitions for example, the caution, the right to silence and self incrimination.
There are none of the prompts, guidance and signposts to identify vulnerability in this custody procedure as exist for victims or prosecution witnesses, for example; within15: the police service guides MOJ and PSNI.
PACE and The Criminal Justice Act, 1984 16oblige questions to be asked booking the suspect into custody for assessment of 'medical fitness for interview and effective participation in court' only. They do not relate to signposting intellectual, cognitive, communication or hidden vulnerabilities or to uncover true language ability, communication skills and learning disabilities, susceptibility to acquiescence / self incrimination and suggestibility.
Further to this there is no continuing assessment duty, even when potential vulnerability signposts arise in the interview.
When there is no readily apparent change or deterioration in the suspects medical condition the original assessment remains despite the existence of objectively obvious

15 The Vulnerable and Intimidated Witnesses Guide 2011
16 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987
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communication issues, which it would seem work against the best interests of the vulnerable detainee in favour of the police interests of detention and questioning. Yet there were ample signposts and prompts pointing towards his vulnerabilities, for example, being a drug addict to methadone prescribed for heroin addiction, having been sexually abused as a young boy, a smoker with COPD with 20% lung capacity, suffering mental health issues with depression and suicide ideations.

There exists no communication assessment provisions or directions such as ‘checking back’ to assess that the suspect has actually understood the processes, the meaning of the caution, his rights and the charges faced.

To comply with the codes of practice it is sufficient to accept a confirmatory answer for example, access to a solicitor, without first developing an understanding with the suspect of the risks this can create to his rights.

A later stated he didn't actually understand 'being concerned in the supply of class A,' he believed he was just helping the police with their questions on his background and drug habits over the past years and was in no danger as he had no drugs on him when arrested, as the only drug he took was prescription methadone for his heroin addiction. He didn't grasp the significance of his self incriminations when accepting that he may have given friends drugs when he was getting some for himself.

The cognitive position of the vulnerable child or adult is that they do not understand concepts such as self incrimination and right to silence and may not have the IQ to realise that their answers could lead them to incriminate themselves ie they lack cognitive strategies to sidestep questions or to see were the questions could lead and can give false positive answers eg head nodding / yeah to stop the questioning or stressful situation. This is common with clinical interviews with adolescents who just want to get out of the room.

Yet we still allow such a vulnerable person to make the decision whether or not to have a solicitor present.

3. Techniques and tactics within the interview process

The Criminal Justice Act, 1984 and PACE deal with treatment of detainees but do not refer to inappropriate interview tactics or techniques.

The most common is ‘tell us what you can’ then asking the witness to filling in and amplify his statement and to explain any ambiguities, then to straighten out any chronology issues with the police going over the details thoroughly asking searching questions to discover inconsistencies, improbabilities and unreliable factors. The police may then take other statements which arise other facts which in a sense are awkward for the suspect. The police will then return to use these facts to destroy the suspects

statements to get to the truth of the matter pinning the witness down to their facts and then introduce the damaging facts with various tactics such as confrontation, probing and insinuation.

In A’s case the police relied on argumentative cross examination tactics and techniques, for example ‘I find it hard to believe...’ and ‘right lets cut to the chase, you’ve been beating about the bush ’ in a tone and manner that was over assertive bordering on overbearing and intimidating. These would not be tolerated in court being rightly seen as inappropriate comments in relation to vulnerable witnesses during cross examination.

In the 2014 interviews with A the police stated they had texts messages sent to his mobile number from the mobile of a deceased girl who died of a heroin overdose in March 2011 asking if A can get her cocaine, a time gap of 3 years. The police did not show him the text messages in written form but A nods his head and answers ‘yeah’ to police assertions about getting his friends drugs when he got them for himself based on the text messages.

The police take this as acceptance of the assertion made. The police then later state to him, ‘you have already accepted that you got drugs for your friends ’ and then use that fact to extract further self incriminations from him.

**The Registered Intermediary .**

A defence Registered Intermediary trial report assessed A to be vulnerable – as recorded on the slides.

He was over compliant, acquiesced to confident questions, nods as acceptance to questions being made rather than his answer being yes to the allegation within the question. He can be intimidated by males and physically he looked vulnerable.

My experience told me that the interview replayed the power differential of assertive authoritative male over him resulting from being abused by a male teacher, yet none of this crucial information was identified within the fitness for interview assessment.

The 4 recommendations of the R.I. for trial, had they been for the interview would have prevented that which took place within the interview particularly to make sure that A understood the nature of questions trying to elicit self incriminations in the context of the charges of being concerned in the supply of class A.

Yet on tape, A could be heard agreeing to assertions time and time again by answering yeah without the police ascertaining whether he was agreeing to having heard the question or confirming an answer.

A could be heard engaging in conversation with the police over many topics, whilst not always clear there was nevertheless no hint of unfairness, oppression or inhumane treatment in the custody procedure.

Listening to the tapes it seemed as though A was mentally and emotionally withdrawing, disassociating from the interview process and entering into some form of psychological freeze or flop, hence the increased ‘yeah’ to questions asked of him.

**Excluding Evidence.** However, a Psychologists report found A to be of average I.Q. not overly suggestible or acquiescent on assessment and from the police interview tapes.

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A’s Confession evidence exclusion is by the judge’s discretion. The Judge in NI listens to the taped words – assessing only 7% of communication. Thereafter considering any defence expert psychologists / psychiatrists assessment opinion on the suspects I.Q. and levels of suggestibility and acquiescence, which may give access to the other 93%, 38% through certain vocal elements, and 55% through nonverbal elements as facial expressions, gestures, posture, etc.

The test applied, common to us all, is whether their existed oppression or unfairness [PACE] or inhumane treatment and whether in all the circumstances it would be fair to admit the evidence or the inadvertent breach of the constitution art 38.1. The labelled mental conditions defined as being vulnerable do not and will not include the more recently diagnosed hidden conditions or vulnerabilities as A had.

Were the police conducting an interview, without making any reasonable adjustments to identify these hidden vulnerabilities particularly in regard to communication abilities, any confession would it seem not be viewed as being obtained either by oppression or unfairness or by inhumane treatment when all the proper procedures and constitutional rights have been adhered to.

A couldn’t explain why he admitted what he did or remember that he did, despite what is heard on the tape.

The R.I. report would be insufficient to displace the tactics adopted by the police and the evidence thereafter gained, given the exclusion of evidence test relying on judicial and psychological assessment and opinion.

A chose to enter a plea to obtain as much credit in sentencing as possible rather than take the risk of fighting with a heavier sentence as he said he wasn’t up to the fight, physically or emotionally.

**Case B**

B was a teenager accused of sexual assault by touching another male teenage friend at his home.

B’s parents, on hearing of the accusation, contacted the police and had to plead with them not to formally arrest B at home and allow B to attend at the police station voluntarily.

B was an extremely vulnerable young teenager, who had ongoing serious medical conditions.

The officer in the case had already taken the decision to arrest B at home and to then search the home for forensic evidence without any knowledge of or consideration of the impact upon B and recanted only after the intervention of their solicitor.

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19 self incrimination in governed by Criminal Justice Act 2003 and Criminal Justice (evidence) (Northern Ireland) Order 2004

20 Police and Criminal Evidence Order 1989; Articles 74 - unfairness and 76 - judicial discretion.

21 Dr. Albert Mehrabian, author of *Silent Messages*.


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B remained silent throughout his interview as the interviewing officers did not conduct the available best evidence interview of the complainant, they did not possess the full allegations from the complainant. They were not in a position to put the full detail of the case to B.

The Police tactics of when and how to arrest and interview B from the moment the allegation is made arose the competing interests of the police to conduct an ABE interview with the complainant, gather forensic evidence, arrest and interview B versus B's human rights. The police interests won out but this tactic of arresting and interviewing B did not actually advance their interests. The interviewing officers were not part of the investigation team having no specialist training in dealing with children. They did not have the completed ABE interview but were briefed as to the allegations and investigation.

His interview should not have taken place without an R.I. and his solicitor had no specialist training or skills relating to vulnerabilities and communication issues of this nature in these circumstances.

B did not really comprehend and understand the legal concepts in the procedure or what charges were being made against him without knowing specifically the allegations but nevertheless fully participated in and with all the procedures. All that was achieved was a medical relapse in B due to stress.

Any competent lawyer would surely advise their client to answer no comment in these circumstances.

An objective assessment by an R.I. in the balancing of these competing rights issues at this stage should conclude that B's rights should win out and a proper well being plan should have been developed, as there was no imminent risks of further offences or destruction of evidence.

Clearly there was no acknowledgement of B's human rights nor assessment as to the psychological impact of custody as is now proposed under art 6 & 7 and Art 10 of the proposed E.U.D 10065/14 - 2013/0408; European Child Directive

Adverse Inferences.

The police actions operated against the best interests of B as his resultant no comment interview put him at risk of any subsequent court drawing an adverse inference from his interview silence.

What is unfair is that the burden to persuade the court not to draw the adverse inference is placed upon B to show that his silence was not attributable to having no explanation or none that would stand up to scrutiny.

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24 Criminal Justice and Public Order Act 1994, Section 34.

25 R v McGarry [1998] 3 All ER

26 R v Beckles [2005] 1 All ER 705

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Could the actions of the police in this instance be submitted to be an inadvertent breach of his Art 6 convention and art 38 constitution rights, negating any defence submission that his silence was justified thus allowing an adverse inference to be drawn against B?

**Registered Intermediary Assistance.**

No well being considerations were exercised for B as should have been under ART 13 United Nations Convention of the Rights of the Child - were the child’s best interests are to be at the heart of every decision taken about a child.

For this vulnerable accused there was no well being consideration as there is for the person making an accusation.

The police, can act against the best interests of an accused person though within their rules.

It is the accused person who must then shoulder the burden to satisfy the court that their resultant actions or inactions, in this case silence, should not be held against them B needed the assistance of an R.I. AND properly trained ABE officers.

The R.I. report would have established for B his best interests and well being considerations as in tests to prosecute.

Helped the police decide how best to act with B to get his effective participation.

Give the solicitor proper grounds to object to any action against B and Refute any submission that his silence should not draw any adverse inference against him, which is common to both jurisdictions 27.

**Recommendations**

In light of these issues I make the following recommendations to reduce the conflict based approach to the collection of evidence in favour of a more balanced approach were the vulnerable defendants best interests and rights are seen as equally important as those of the vulnerable prosecution witness;

- Creation of an Legal Communication Passport - L.C.P. Autism cards have been created and are hugely successful and effective in helping autistic people to be understood and treated with dignity, respect, kindness and fairness by the public when their behaviour might otherwise be misconstrued. On 1st contact with a suspect or witness the L.C.P. could contain prompts and guidance to signposts of vulnerability and communication issues to be recorded in the best interests of that person for use throughout the process.

- Route to Court Communication Process - R.C.C.P. Development of a planned route for a suspect when certain actions are taken, eg putting a charge, cautioning, interviewing. Making it mandatory to record that certain assessments have been undertaken and completed as prompted.

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27 - point 7 Adverse inference interview, Codes of Practice of Access to a solicitor for persons in Garda Custody April 2005.

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and guided within the L.C.P. This can then augment the R.I. report informing the police and the courts how the suspects best interests can be properly protected, suggesting further ground rules to be applied for the trial process.

- **S.V.L – SPECIALIST VULNERABLE LAWYERS – MOVE TO TICKETING**; The Advocacy Training Council, England are in 2016 introducing DOJ mandatory training for barristers who will be then eligible to accept instructions in sex ticketed legally aided cases. Training in some format should also be mandatory for both the DPP and Bench.

  We could begin to develop the idea of specialist teams of police, psychiatrists, psychologists, Intermediaries, lawyers, judges who acted in consort for people with certain vulnerabilities enter the justice system. The notion that every professional participant is properly trained, experienced and motivated to properly protect that vulnerable person, expeditiously navigating them through the adversarial system in their best interests is surely a notion that we should be engendering. We are the end users in the adversarial system we are best placed to see when and how the proper protections fail. Mr Justice Goss in a talk to the Inner Temple London December 2014 gave evidence of setting up such specialist teams in Newcastle Crown Court for those with psychiatric illness. Not only did they drastically reduce the journey time through the system from months to weeks and substantially reduced the cost.

  The Bar should in my view be leading these initiatives, developing skills for the scrutiny of these new issues as without this there is a clear willingness in other jurisdictions to begin to impose measures designed to have the bar conform to their new initiatives which may not be in the best interests of the Bar let alone the vulnerable defendant. Perhaps the Irish Bar could develop its own toolkits for the treatment of vulnerable witnesses, whether they be the complainant or defendant, as I am leading and developing with the N.I. Bar.

**In conclusion**

The early engagement of an R.I. in A and B would have identified their vulnerabilities and communication issues.

The application of the above recommendations would better inform, guide and prompt the police to make appropriate decisions for communicating effectively with clarity and checking back on understanding of the suspect. This would ensuring that the system operated in the best interests of the vulnerable defendant giving them the same safeguards and rights as vulnerable witnesses enjoy in the trial process.

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