

Victims in the Criminal Justice System

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Executive Summary

Introduction

This is the first in a series of four joint inspections by the Inspectorate of Prosecution in Scotland and Her Majesty's Inspectorate of Constabulary in Scotland into how victims are treated within the criminal justice system in Scotland.

Background

In 2001, the Scottish Government document "The Scottish Strategy for Victims; hereafter called The Strategy, was launched. It was developed in response to developments throughout Scotland, Europe and internationally, including the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

The three main objectives of The Strategy are:-

1. To ensure information provision to victims (both in respect of the criminal justice system generally but also concerning the case in which they are involved).
2. To ensure provision of emotional and practical support to victims.
3. To achieve greater participation by victims in the criminal justice system.

The police and Crown Office and Procurator Fiscal Service (COPFS) both committed to The Strategy which provided the baseline for our inspection.

Overall

Most stakeholders that we contacted considered that over the lifetime of The Strategy victims had become more central to considerations within the criminal justice system although there was a perception that the pace of improvement had slowed in recent years and the focus on victims as opposed to witnesses, had lessened.

In this first phase of our inspection we have focused on victims of summary crime¹ which does not result in court proceedings eg the case is dealt with

¹ This refers to the likely outcome to the accused ie if the case were proceeded in court it would be at 'summary' level with expectation of sentence up to 12 months imprisonment, rather than the impact on the victim which is more subjective and can vary hugely depending on personal circumstances relating to the victim. Similarly 'more serious (solemn) crime' is crime with anticipated sentence of 12 months or more on conviction.

by caution, warning letter, direct measure² or no proceedings for any other reason. It is important to note that this is the majority of victims of crime. The police approach to this group of victims is broadly similar whether their case ultimately goes to court or not. For that reason we cover in this phase of our inspection some aspects of police service delivery which are common with subsequent phases. Equally, clarity about the handover of responsibility for updating victims between police and COPFS is an example which we cover within this report but that is relevant to later phases.

We also took the opportunity within this first phase of our joint inspection to examine how some particular groups of victims, especially victims of domestic abuse, were being treated. Reflective of its importance, this crime has been the subject of considerable joint work by police and COPFS and has been the subject of recent previous inspections.

The principal organisations - the police, COPFS and victims' groups had difficulty at times in delineating our phase one category of victims and the services that they receive from the wider groups of victims and witnesses.

Relevant to all of the above issues, we noted that;

- We found a pre-disposition to consider victims in terms of the court process and their likely role and needs as witnesses rather than as victims in their own right. The lead managers within the police and COPFS have victims and witnesses as joint rather than separate portfolios. Consequent meeting arrangements reflect this position and nationally the partnership group set up to deal solely with victims issues, has not met for a number of years.
- Over time, the police and COPFS have initiated new approaches and responded to changing legislation resulting in new or altered services to victims. This has resulted in an array of focused and welcome approaches towards victims of differing crimes, particularly those of more serious crimes or who are particularly vulnerable in some other way. Staff awareness and practice have not always kept pace with these changes.
- The public are becoming increasingly accustomed to responsive public and private services that provide them with relevant and timely information, and which frequently allow them to access this directly should they choose to do so.

Whilst noting the welcome focus on more vulnerable victims and victims of more serious crimes, perhaps inevitably it has highlighted the contrasting

² Direct measure refers statutory provisions which permit offer of a penalty to the accused without the matter proceeding to court

provision for the majority of victims whose crimes are less serious and who are not likely to become a witness at court.

More widely, we looked in other jurisdictions at how victims needs have been articulated and driven by regulation, legislation and in some cases the appointment of Victims Commissioners with all the supporting infrastructure that these can necessitate.

In this regard, Scotland benefits from being a small country. We have seen how in relation to other issues such as serious organised crime that a simple but effective national cross-sector focus can be brought to bear to deliver improvements. We consider that such an approach focusing on victims could be similarly effective.

Encouragingly for a strategy that is unusually long-lived, as it enters its tenth year, most stakeholders considered that its three strands are correctly focused.

We consider that greater clarity is required though to identify which agencies have primary responsibility for meeting victims needs under each of the three strands as victims progress through the criminal justice system.

In this regard, the Scottish Government as lead agency has an important role. This overall clarity would assist agencies to be clearer about their service provision and this in turn would inform and assist victims.

We noted that there currently is good general information offered by some organisations through websites and leaflets, although awareness of these seemed disappointingly low.

We also noted that where victims needs were unmet that this principally related to lack of information provision and this often fell within areas that COPFS and police policies already covered. This led us to conclude that encouragingly, the task ahead is to concentrate on clarity and delivery of what has already been promised rather than looking for new directions or approaches.

Specifically in relation to the three strands of The Strategy we highlight that;

Information provision

Victims have low levels of knowledge and understanding about the criminal justice system generally. In too many circumstances this lack of knowledge and understanding extends to what is happening with their own case.

We support the Victim Support Scotland (VSS) view that victims have a right to be informed each time a significant decision about their case is made.

In relation to COPFS, work needs to continue to develop clarity and consistency between stated strategic intentions towards victims and operational service delivery.

In relation to the police, greater clarity about what service victims can expect from forces across Scotland would assist staff to deliver this more consistently. Better recording of victim contact would allow forces to both monitor and improve service provision.

Practical and emotional support

The provision of victims' information from the police to VSS was highly variable and the current work to update the agreement supporting this process should be progressed quickly.

Although beyond the scope of this inspection we were struck by the variable and at times highly fragile nature of support to victims being provided by the voluntary sector. The Strategy does not seek to prioritise between its three strands and yet the governance and accountability for delivering support services to victims differs significantly across the three strands and between public and voluntary sectors.

The Scottish Government in its lead role for The Strategy and as part of its current review, should consider how best to ensure that public money provided to these agencies delivers effective services to victims consistently throughout Scotland.

Greater participation

This third strand of the strategy was recognised by all stakeholders as the most difficult to define and monitor. We accept the view that success under this strand flows naturally from effective delivery of the first two.

Participation begins with reporting crime and we noted that victims' groups valued the efforts made to help some victims report crimes without making direct contact with the police.

Equally our attention was drawn to restorative justice practices which also support the strategic intention of involving victims more in the criminal justice system.

Good practice

We highlight the implementation of the COPFS/ACPOS protocol on domestic abuse as a good example of what can be achieved in a complex area through strong joint leadership and organisational focus.

Underpinning this progress have been increased levels of awareness raising, training and supervision. These will remain central to its continued success.

The future

Testament to the strength of The Strategy is that some nine years after its launch, we conclude in this report that with some changes of emphasis, it looks fit for purpose for some time ahead.

Although these changes of emphasis may appear minor the principle that underlies them is not. A victim of crime remains a victim irrespective of their role within or utility to the criminal justice system.

For many victims, their needs and expectations are actually very low; they seek the simple courtesy of being kept informed about what is happening with their case.

The police and COPFS have expended considerable energy and resources on systems to record and exchange information. In doing so they have streamlined both decision making and the whole criminal justice process. It is important to ensure that victims share the benefits of these and future investments.

We are confident that the determined joint leadership that we have seen so successfully change outcomes in areas such as domestic abuse, can now do so equally for the issues that we highlight in this report.

RECOMMENDATIONS

Policy and Strategy

1. That COPFS set a timetable to move towards its business plan aim “to notify victims of the outcome of cases to include cases which are disposed of by Direct Measure or No Action decisions (including No Action Meantime)”.
2. That COPFS expedite the work to consolidate its ‘Commitments to victims and witnesses of crime’ and ensure through a tailored training regime this is brought to the attention of all staff.
3. That the consolidated ‘Commitments to victims of crime’ is published in an accessible form for victims of crime (on the website/forwarded by leaflet to identified victims) in order they are made aware of the minimum standards of treatment they are entitled to expect from COPFS.
4. That COPFS work with the Scottish Government, criminal justice partners and stakeholder groups to raise awareness of their website and the information available there.
5. That COPFS and police forces maintain a high level of supervision and monitoring of domestic abuse cases in line with the joint protocol and other related policies.
6. That COPFS and ACPOS consider whether their domestic abuse protocol could better reflect emerging knowledge about violence that takes place within the context of families and close relationships and within both existing and more recent communities in Scotland.

People

7. Domestic abuse being a significant portion of all offences reported to COPFS, awareness training currently offered by COPFS should be mandatory for all staff who may have some contact with these cases.

Processes

8. The current revision of the ACPOS/VSS information exchange protocol takes cognisance of the need to balance between providing sufficient information to allow VSS to make good decisions about how best to support victims, with the need to avoid unnecessary or inappropriate

detail being provided. The protocol should be developed in consultation with the Information Commissioner's Office.

9. That COPFS and police forces reach agreed protocols about which agency provides information at different stages of cases to ensure all victims have basic information about the progress of the case in which they are involved and who/where to contact for further information they require.

Results

10. Police forces, COPFS and the Scottish Government should ensure that their approaches to dealing with victims pursuant to The Strategy recognise that the majority of victims' cases will not proceed to court and will not receive the focus and support that the status of being a witness attracts.

BACKGROUND

1. The Scottish Government strategy document “The Scottish Strategy for Victims”, hereinafter called The Strategy, was launched in 2001 in response to developments and research within Scotland, Europe and internationally and specifically the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985. The Strategy (which has been the subject of two progress reports and a review in 2003, 2004 and 2005) remains the leading Scottish Government strategic statement on the treatment of victims³ and their place in the criminal justice system. It has at its focus the recognition that the needs of victims should be placed “right at the heart of our criminal justice system”⁴. The Strategy was adopted by the Crown Office and the Procurator Fiscal Service (COPFS) and police and other agencies within the criminal justice community.
2. The principles of The Strategy are based on recognition that victims should be afforded a position of importance within the criminal justice system; that there is a need to support victims, that victims are entitled to information both about the criminal justice system and the case in which they are involved and that victims should have a voice in the criminal justice system. These broad strategic aims are intended to afford compassion and respect to victims. The Strategy is still extant, the essential objectives are still relevant and we have found unanimous agreement it is based on sound principles.
3. The three main objectives of The Strategy are:-
 - To ensure information provision to victims (both in respect of the criminal justice system generally but also concerning the case in which they are involved);
 - To ensure provision of emotional and practical support to victims;
 - To achieve greater participation by victims in the criminal justice system.
4. While the Scottish Executive (as it was then known, now known as the Scottish Government) stated it would retain the leading role in developing The Strategy it sought and secured agreement that there would be a partnership approach to fulfilling its objectives. Both the police and COPFS respectively developed action plans to provide services to fulfil the aims and objectives of The Strategy. Since 2001 there have

³ A victim is for the purposes of this inspection the natural subject of any type of crime or, where a death has occurred, the next of kin. This is consistent with the definition used in 'The Scottish Strategy for Victims'.

⁴ Jim Wallace, Deputy First Minister and Minister for Justice in foreword to Scottish Strategy for Victims 2001

been an accompanying multitude of initiatives, specialist units formed, guidance notes issued, regulations and legislation passed by the Scottish Government.

5. Both the European and the Scottish strategic statements relating to victims are set to be reviewed in the near future. The European Justice Commissioner stated in March 2010 “As we work to ensure the rights of the suspected and the accused are fully enforced, we must equally look to the needs of those who fall victims of crime... *We must not forget that the right to a fair trial applies as much to the victim as to the defendant.....*”⁵ European legislation on the ‘rights’ of victims in the criminal justice system is anticipated in 2011. It is anticipated the Scottish Strategy for Victims will be reviewed, also in 2011, and this will both reflect the European position and strengthen and bolster the current strategy.
6. We therefore consider that it is an appropriate point in time to assess the position of victims within the criminal justice system.

AIMS

7. This inspection will:
 - examine whether the police forces and COPFS have, in their service provision, realised the strategic aims and objectives of the existing Scottish Strategy for Victims as far as it relates to them;
 - examine whether those services currently provided by the police and COPFS meet the needs of victims;
 - identify areas of good practice and assist in promulgation of these throughout Scotland;
 - provide an update on progress of relevant previous inspection recommendations.

PHASES

8. The inspection process is planned to be completed in four discrete phases. These are broadly defined as:-

⁵ Viviane Reding, European Justice Minister at: <http://europa.eu/rapid/pressReleasesAction.do?SPEECH/10/89>, 12 March 2010

- Phase 1 - summary crime⁶ which does not result in court proceedings (eg the case dealt with by caution, warning letter, direct measure, no proceedings for any other reason...)
 - Phase 2 - summary crime which results in court proceedings
 - Phase 3 - more serious/solemn crime excluding sexual offences
 - Phase 4 - sexual offences (to include inspection of the outcome of the COPFS “Review of the Investigation and Prosecution of Sexual Offences in Scotland” published in 2006 and the new Sexual Offences (Scotland) Act 2009)
9. All phases will examine provision of services from first reporting of the crime, normally by the victim, to conclusion of the case (whether court proceedings or not) including notification of prisoner release, which may well be some substantial time after initial contact. They will consider the effectiveness and appropriateness of such services from the victim’s perspective. Each phase will be reported as it is completed.

METHODOLOGY

10. Our inspection methodology is aligned with the Business Excellence Model of the European Foundation for Quality Management (EFQM). Our investigations and evidence gathering for this report were carried out under the following EFQM headings:
- Leadership
 - Policy and Strategy
 - People
 - Partnership and Resources
 - Processes
 - Results (people/societal/key performance)

and our report is written under these headings.

Our methodology included the following elements carried out predominantly in the spring and summer of 2010 :

⁶ This refers to the likely outcome to the accused ie if the case were proceeded in court it would be at ‘summary’ level with expectation of sentence up to 12 months imprisonment, rather than the impact on the victim which is more subjective and can vary hugely depending on personal circumstances relating to the victim. Similarly ‘more serious (solemn) crime’ is crime with anticipated sentence of 12 months or more on conviction.

Research

- we carried out desk research examining current (and former) policies of Scottish Government, ACPOS, police forces and COPFS relating to their treatment of victims.
- we examined current strategic statements issued by the Scottish Government, ACPOS, police forces and COPFS relating to their treatment of victims.
- we considered the results of published research including the 2009 Scottish Crime and Justice Survey (SCJS)⁷.
- we considered previous inspection reports including recommendations, made by HMICS and IPS as far as these related to treatment of victims.

Consultation

- we contacted a substantial number of key organisations or 'stakeholder groups' intimating the scope and nature of the inspection and inviting written submissions.
- we set up links on the HMICS and IPS websites intimating the scope and nature of the inspection and inviting submissions from any interested parties/organisations.
- we considered submissions received.
- to supplement written submissions we organised a programme of interviews to allow us to examine the perspectives of key organisations/'stakeholder' groups further and in more detail.
- we had meetings with those involved in the criminal justice systems of neighbouring jurisdictions (England & Wales and Eire).

Fieldwork

- all police forces and COPFS were contacted and invited to contribute to the inspection process and to provide details of good practice.
- a number of police forces and corresponding COPFS Areas were visited where interviews were carried out with a range of staff
- we also interviewed voluntary sector staff providing services to victims in the above force and COPFS Areas

Case Audit

Building on the HMICS crime audit carried out in early 2010 particular information was sought regarding the management of three crime types

⁷ www.scotland.gov.uk/Publications/2009/12/14120636/0

with identifiable victims; minor assaults, vandalism and domestic abuse. Police records for 104 reported incidents for each of these categories in each of the 8 police force areas were examined against national and force policies for victim contact, information, advice and referral.

Case Review

We looked at 627 cases, being all those cases reported to COPFS by the police in the above crime audit for offences relating to the three selected crime types with identifiable victims; minor assaults, vandalism and domestic abuse. Those cases which fell within the remit of Phase One were reviewed on IT systems used by COPFS to process cases and record actions. The cases were examined against COPFS policies for victim contact, information provision, advice and support referral.

Direct contact with victims

Working with Victim Support Scotland (VSS), Scottish Women's Aid (SWA) and its member groups and ASSIST⁸ we prepared and disseminated questionnaires to ascertain directly from victims their experience of service provision by police and COPFS. We sought to discover whether victims considered the services provided met their needs, whether this experience would affect their decision to report an incident in the future and their views as to what could be done to improve the current position.

ACKNOWLEDGEMENTS

11. We are grateful for the time and attention that staff across all agencies afforded this inspection but particularly acknowledge the invaluable assistance of VSS and SWA and ASSIST. Whilst acknowledging that this was additional to their daily work, we believe that their assistance has improved the quality of our evidence gathering and reduced the burden and discomfort on those the inspection is aimed at helping victims of crime.
12. We are particularly grateful to those individuals who gave of their time and shared their experiences as victims of crime and its aftermath.

⁸ 'Advice, support, safety, information services together' - a charitable organisation set up under Glasgow Community and Safety Services Limited specifically to complement the functioning of the Domestic Abuse Court in Glasgow

INTRODUCTION

13. This inspection report follows the three principal objectives of The Scottish Strategy for victims:
 - Information provision
 - Practical and emotional support
 - Greater participation

Information provision to victims of crime

14. The Scottish Strategy for Victims (The Strategy) has as one of its principal stated objectives a commitment to offer victims information about both the criminal justice system generally and also the case in which they are involved.
15. This phase examines those incidents which are reported to the police and thereafter do not proceed to a prosecution in court. There are a variety of reasons for this outcome. It may be because either the police or COPFS consider there to be insufficient evidence to establish either the criminal activity or the identity of the perpetrator(s), a non court disposal is issued (such as a Warning or Fixed Penalty issued) or a decision is taken not to take action (eg court prosecution is considered disproportionate or there are mitigating circumstances which make further action inappropriate).
16. Accordingly the range of information available to the victim in this first phase of the inspection process is by definition self limiting.
17. The type of criminal incidents covered in this phase are not those at the extreme end of criminal activity but rather the 'volume' crimes which make up the vast majority of crime to which individuals fall victim⁹.
18. Nonetheless this phase covers crucial areas of importance for victims who find themselves in the midst of what is to some people, an alien and confusing criminal justice system. The kind of information envisaged that should be available for victims may include; arrangements for reporting of crime, information about the criminal justice processes, information about what might be required from them in the criminal justice system, information on the progress of the investigation, information on decision making, information about the

⁹ This will include the vast majority of crimes reported to the police. Of particular note for this phase of the inspection it includes most domestic abuse cases, minor assaults and vandalism. This does not necessarily reflect the impact of the crime on the victim - see footnote 5 supra.

outcome. Key features of information provision include offering information to all victims, providing a choice about the level of information provision and ensuring the information is of good quality, timely and in a form suitable to the victim's needs.

Practical and emotional support provision for victims of crime

19. The Strategy has as its second principal objective a commitment to provide for the emotional and practical support needs of victims.
20. The Strategy recognises the importance and place of the victim in the Criminal Justice System and also the need to provide practical and emotional support to assist the victim to recover and towards prevention of further crime or secondary victimisation.
21. The objective of The Strategy is to ensure access to provision of such support for victims without them having to seek this out for themselves. The intended outcome is that victims should feel supported throughout the criminal justice processes and indeed afterwards if they so wish. Phase One of the inspection does not deal with cases that result in court proceedings and as such we have not examined the provisions to support victims in the court process and in particular those provisions now available to assist victims attending and giving evidence in court. There are however still substantial areas where the victim may be supported. This support may be of a very practical nature to deal with the immediate after effects of the crime eg security/repairs advice or it may be referral to an appropriate agency for support to assist with longer lasting emotional consequence of the crime.
22. This objective also requires agencies in the criminal justice system to ensure provision of victim awareness training to all staff in contact with victims and more specialist training where appropriate. This is to ensure victims are treated with compassion and respect - the underpinning principles of The Strategy.

Greater participation by victims

23. The third principal objective of The Strategy is to encourage greater participation by victims in the criminal justice system. This objective aims to make it easier for victims to take part in the criminal justice system by ensuring that they are given a voice and that the system is more responsive to their needs. There are two aspects of this objective - to encourage the reporting of crime, which for many various and often complex reasons is significantly under-reported and to facilitate

participation by victims in the criminal justice system after reporting and thus encourage confidence in the system. It has always been understood that this is the most difficult objective to quantify or measure its success.

24. The remainder of this report is written under the EFQM headings:

- Leadership
- Policy and Strategy
- People
- Partnership and Resources
- Processes
- Results

CHAPTER 1 - LEADERSHIP

Scottish Government

25. The Scottish Strategy for Victims was published in 2001 by the Scottish Executive, now known and hereinafter referred to as the Scottish Government. The Strategy was adopted by all major criminal justice agencies including COPFS, the Association of Chief Police Officers in Scotland (ACPOS), the Scottish Court Service (SCS) and the Scottish Prison Service.
26. Whilst there was commitment to shared ownership of The Strategy the Scottish Government confirmed it would retain the leading role. There was also a clearly stated commitment to monitor the progress of performance and develop The Strategy over time.
27. The Victims Steering Group was set up to provide this leadership role and was chaired by the Justice Minister. It was a multi-agency group consisting of the main criminal justice agencies and supported by the Victims of Crime branch of the Scottish Government.
28. This group was responsible for:
 - establishing working groups to take forward The Strategy's aims and objectives
 - monitoring progress
 - publication of progress reports and
 - providing advice to Ministers
29. This group last reported in November 2005 and we can find no evidence of any subsequent works or meetings of this group. There were 'Progress Reports' published in February 2003 and November 2004 and a Review published in November 2005.
30. The absence since then of a Ministerially-chaired national leadership group focusing solely on victims has caused concern to some stakeholders. The fact that the remaining national group has a focus on witnesses amplifies that concern. Finally when as we discuss in the following sections both the police and COPFS have joined their respective portfolios for victims and witnesses, we can understand why victims' groups in particular have this concern.
31. The main multi-agency working group in this field now appears to be the Witness Issues Group. As its name suggests, whilst working towards implementing some issues that affect victims such as the Vulnerable

Victims legislation, its focus is no longer on victims purely in terms of The Strategy but rather as in the above example, where they are also witnesses in the judicial process.

32. Unlike some other jurisdictions, including England and Wales where there is a Commissioner for Victims and Witnesses in addition to the national 'Victims Champion' and Eire where there is a Commission for the Support of Victims of Crime, there is no such recognised independent position in Scotland to safeguard the position of victims in the criminal justice system. This increases the responsibility on the Scottish Government and the other parts of the criminal justice system to safeguard and promote these interests.
33. The Scottish Government has indicated that it is considering a further review of The Strategy and will likely publish this in 2011. However, throughout our inspection although we found some sense of frustration at an apparent lack of recent imperative relating to victims we found no wish to deviate from the original three objectives which were viewed as still broadly correct. We anticipate that the review will consolidate and add to the current strategy rather than rescind its principal aims and objectives.
34. We also understand that there may be an intention to revive the previously Ministerially chaired Victim Steering Group and as we highlight above this would appear to be a welcome step.

POLICE

National level

35. The Association of Chief Police Officers in Scotland (ACPOS) represents the chief officers across Scotland. It states on its website that it "is the professional voice of police leadership in Scotland".
36. ACPOS progresses its work through a number of working groups called business areas. The ACPOS Criminal Justice Business Area is chaired by a Chief Constable. It has four portfolio groups working under it, one of which is the Victims and Witnesses group chaired by a Chief Superintendent.
37. This group meets quarterly and has representation from police forces, Scottish Government, Victim Support Scotland (VSS) and more recently the Area Procurator Fiscal who holds the victims and witnesses portfolio for COPFS. Currently its work programme includes preparing to support the Scottish Government consultation on refreshing the Victim Strategy

and refreshing the ACPOS/VSS information sharing protocol. Representatives from this portfolio group also attend the Scottish Government-chaired Witness Issues Group.

38. ACPOS produces an annual document that assesses the context of policing in Scotland and seeks to focus activities on a number of priorities and outcomes. Of note to this inspection in its most recent assessment it highlights -

“Increasing confidence of victims to report crime”

as the first of a series of outcomes to be achieved in 2010/11¹⁰.

Force level

39. Forces generally focus their strategic liaison with victims groups through their community safety departments although some further work is carried out within functional portfolios. For example liaison with groups supporting sexual offences victims or domestic abuse victims is often undertaken by those departments and staff that work in these areas.
40. During this inspection some managers commented that the lack of a single victim’s portfolio in forces prevented an overview being taken of the various strands and activities that involve victims. This issue is also illustrated in the differing processes and IT systems that support different activities relating to victims. These have evolved over time as new legislation, for example the Vulnerable Witnesses Act or new policy approaches, such as the ACPOS/COPFS domestic abuse protocol have changed particular elements of service provision.
41. The differences in approach to victims across these areas have the potential to cause some confusion both to staff and victims. Some very tight procedural guidelines can result in quite different service outcomes for what victims might perceive as similar offences, for example offences that fall within or just outside of the ACPOS/COPFS domestic abuse protocol. (see page 39)
42. We highlight throughout this report that we consider that clarity of service delivery towards victims is important to them. More broadly it has three principal advantages:

¹⁰ <http://www.acpos.police.uk/Documents/Policies/Scottish Strategic Assessment 2010 11.pdf>

- internally it assists staff in identifying what should be provided to victims;
- it assists victims' awareness of and expectations about what may happen with their case; and
- It is likely to reduce the demand placed upon police and COPFS from victims seeking information about what is happening with their case.

43. While the issue of whether such a focus is best achieved through a single force lead or champion for victims is a matter for individual forces, we have seen this approach being successful however in other areas such as developing force responses to proceeds of crime legislation.

Divisional level

44. At a more local level policing across Scotland is delivered from within just over 30 divisions normally led by a Chief Superintendent. Similar to the force level, routine liaison will take place with local victims groups whilst individual staff will engage as appropriate in a more focused dialogue with partner agencies in relation to particular cases or areas of concern.

45. In relation to domestic abuse we saw some strong examples of leadership at divisional level with daily meeting structures focusing on case handling. Some policing areas that we visited were able to provide this level of focus across all crimes.

COPFS

Ministerial

46. Within COPFS we found a widely held understanding that the enhancement of the position of victims within the prosecution system is of fundamental importance to the Lord Advocate, the Ministerial head of the service.

47. Matters of significance are spoken to directly by the Lord Advocate. Of particular relevance to crimes covered by this phase of this inspection, we noted that during a debate in the Scottish Parliament in February 2005 the then Lord Advocate himself announced the departure by COPFS from its previous policy of not providing reasons or information on decisions not to prosecute cases in court.

48. "It was recognised that victims, witnesses and next of kin often have great difficulty understanding the reasoning behind the policy. Additionally it

was in contrast to the COPFS commitment to the Scottish Strategy for Victims which seeks to ensure provision of information to victims of crime.”¹¹

49. This was seen as being of seismic importance and a fundamental change in direction of COPFS. It was considered important that such a fundamental change was announced by the then Lord Advocate himself.
50. On appointment as Lord Advocate in October 2006, the current Lord Advocate Elish Angiolini stated “ ..I want to ensure the rights and interests of victims and witnesses are at the heart of our justice service.” Throughout the inspection the current Lord Advocate was widely cited as regularly attending events throughout the country in support of local COPFS initiatives relating to victims. This support was viewed positively by staff throughout COPFS as helpful in promoting this agenda.

National

51. Within COPFS itself the strategic leading national role to promote and safeguard the position of victims within the prosecution processes lies with the ‘Portfolio holder’ of the ‘Witnesses’ workstream. In 2009 COPFS initiated a system of national ‘Portfolio holders’ to take forward discrete areas of business within COPFS. This particular portfolio is not exclusively for victims but is for witnesses and incorporates victims and is variously called, *Witnesses Portfolio* and *Victims and Witnesses Portfolio*. This recognises that there is overlap of some of the issues that affect a victim in the criminal justice system with those that affect other witnesses. There are clearly other distinct matters of concern which relate to the crime and its consequences which lie exclusively with the victim. Currently a victim’s standing and the services they receive relies to a large extent on the initiation of court proceedings and on them being required as a prosecution witness.
52. The Portfolio holder currently holds this position in addition to her principal post as Area Procurator Fiscal and recent move to head of Strategy and Delivery Division. She had however been the lead for Victims and Witness matters for some time within COPFS prior to this restructuring. Albeit the position is additional to other duties the holder is widely recognised both within COPFS and with partner organisations as an active lead for victims within COPFS. The Portfolio holder sits on various national bodies which deal with matters relating to victims and witnesses

¹¹ <http://www.scotland.gov.uk/News/Releases/2005/02/10114701>

in the criminal justice system and it is clear from our inspection process that partners in the criminal justice system welcome her involvement.

53. The Policy Unit of Crown Office also has a lead for Victims in the position of **Head of Victims and Diversity**. This position is, as would be expected, more policy orientated than the Portfolio holder. There appeared to be some overlap in areas of responsibility between the new Portfolio holder and head of policy at the time of this inspection as the newer distinct function of Portfolio holder was being established. However the Policy Unit retains responsibility for development of advice and guidance for staff and the Law Officers in relation to victims, witnesses, bereaved relatives, vulnerable accused and child protection.
54. The head of Victim Information and Advice (VIA)¹², the VIA National Team Leader, is also recognised within COPFS, and by partner organisations, as a national lead for victims and vulnerable witness matters on an operational front. VIA previously operated as a discrete national unit within COPFS from inception in 2002 until it was fully integrated into the Area system in 2007. The position of Head of VIA National Team has been retained and remains a national resource for all COPFS staff, both VIA and non VIA staff.
55. There is a recurring theme in the national leads for COPFS, which is replicated in the police and ACPOS that there is combining of the position of victims and witnesses within the criminal justice system. Pragmatically there are reasons for this. In particular when victims are required to be witnesses many of the same support needs will be present for them as for non-victim witnesses to enable them through the judicial process.
56. The risk to provision for victims of this conflation is threefold:
 - (1) They are simply dealt with alongside all other witnesses.
 - (2) The ensuing standard of service is designed to be efficient for all witnesses rather than being enhanced where necessary for the smaller proportion of those who are also victims,
 - (3) Service provision may not start until a victim is considered a 'witness' - this was equated in the prosecution focussed service to being a witness in court proceedings.
57. In these ways we see provision at times failing to recognise the fuller consequence of the crime on the victim. The focus on the victim as a witness, simply like any other witness, may at times fail to recognise the particular damage and consequence to them as the victim of the crime and

¹² For more information about VIA see page 34 of this report

their legitimate needs relating to information provision and support. These needs remain irrespective of whether the criminal justice system 'uses' them as a witness in any court process.

58. At a time when all public sector provision is subject to scrutiny, COPFS may have to focus on its core functions of investigation and prosecution of crime. Within that context the levels of services provided to victims of crime, victims who are not called upon by the prosecution to be witnesses and those who are non-victim witnesses are necessary considerations.
59. This is an area which calls for wider discussion within the criminal justice community under the leadership of the Scottish Government which retains responsibility for all victim and witness needs.

Area leadership

60. COPFS is divided into 11 areas; these areas normally coincide with the boundaries of the eight Scottish police forces. The exception is Strathclyde which COPFS has divided into four areas.
61. Following on the appointment of the national 'Portfolio holder' for Witnesses COPFS has initiated a new structure of Area Champions/Members for the Witnesses Portfolio. It is intended the local 'Champions' assist the Portfolio holder generally and facilitate communication between staff in the areas, offices and units. This witness 'Champion' structure was relatively new at the point of inspection and their full remit and range of responsibilities was still being established and defined during the inspection process. This system is to be welcomed as COPFS increases its focus on the outcome of prosecution for the accused, the public and victims.

Local and operational leadership

62. There are local lead staff for some categories of crime. In particular in relation to this phase of the inspection process there are, in some areas, lead Procurator Fiscals for Domestic Abuse offences. It is generally recognised that Domestic Abuse cases have particular difficulties for the victims of those crimes due to the relationship between the victim and the perpetrator. This in turn often makes the prosecution of these cases similarly difficult and the contact between prosecutor and victim becomes critical. There was a common theme throughout the inspection process that across the country there was a high level of leadership and interest from senior management in COPFS in relation to the prosecution of cases of domestic abuse. In addition there is a dedicated Domestic Abuse Unit (DAU) within Glasgow Fiscal Office (set up in response to the Glasgow

Domestic Abuse Court pilot) which is headed by a Senior Principal Depute and a Principal Depute assisted by a team of 5 Procurator Fiscal Deputes and support staff. These members of the DAU are recognised within Glasgow COPFS, and the wider criminal justice partnership community dealing with offences of domestic abuse in Glasgow and elsewhere, as having a high degree of specialism and expertise in an often fraught and complex area for prosecution.

CONCLUSIONS

63. We found a strong level of leadership in both COPFS and the police. This was recognised both within the organisations by staff and also by other criminal justice partners and stakeholder organisations.
64. We noted a lack of direct focus on victims which to some degree appeared to be as a result of combining victims and witness issues. It is clear that the police and COPFS place considerable emphasis and focus on supporting victims who are also going to be witnesses within the judicial process. Whilst welcome, this can leave in quite stark contrast, the provision for victims whose cases don't progress to court.
65. This will obviously be more apparent in this phase of the inspection than in subsequent phases. As the Scottish Government prepares to review The Strategy we welcome their consideration of reconvening the Victims Steering Group particularly if it retains the leadership provided by a Ministerial chair. This could signpost an appropriate singularity of focus and strategic intention. It could ensure that victims' needs are addressed in their own right, irrespective of whether they are required as witnesses to support investigation and prosecution.

CHAPTER 2 - POLICY/STRATEGY

Police

66. Since committing to the principles of The Strategy, police forces have continued to develop their policies and approaches towards victims. In doing so their services have changed with, in general, increased focus on what the criminal justice system perceive to be more serious crimes.
67. Although not a focus within phase one of this report, this has seen the advent and development of roles specialised in supporting:
 - victims of sexual offences such as rape
 - bereaved relatives of victims of fatal road traffic collisions or homicides
 - domestic abuse victims
68. The issue of victim vulnerability, which need not be connected to the seriousness of the offence, has also had its profile raised by underpinning legislation and policy development.
69. These issues are mentioned within this phase one report as the successive layering of new approaches to victims has resulted in quite a complex array of possible interactions taking place between the police and victims of different types of crime. When individual force or other local practices are added to this mix the range of possible activities and outcomes increases.
70. We noted some strong underlying principles however. All force policies emphasised that providing victims of crime with updates was important. Forces have differing variations in timing and content of automatically generated letters being sent to victims, but they all have additionally created an expectation that personal contact will take place between officers investigating crimes and victims.
71. We spoke to a range of officers who confirmed that not only was this organisational imperative well known and understood, but that there was a genuine desire on their behalf to update victims.
72. Officers were frequently unclear about what interactions other than their own might take place with victims. This included what letters their forces might send to victims and how the victim might be put in touch with victim support services and groups.

73. The issue of frequency of contact with victims was very much subject to individual judgements with fortnightly to monthly representing the normal range. Some managers thought that it might be helpful to specify this more clearly in their force policies.
74. In our 2008 HMICS thematic inspection, **Quality of service and feedback to users of the police services in Scotland**¹³ as a result of our research into this area we recommended;
75. *“That all forces publish details of the service that members of the public can expect to receive when they call the police in order to promote a consistency across the service that nevertheless acknowledges local variations in service delivery, we propose that this take the form of a national minimum standard agreed by ACPOS that can then be tailored to take account of local differences. Publications should be sufficiently detailed that the public can understand what the police can and cannot do in various circumstances.”*
76. Some forces have produced a standard for updating victims eg Dumfries and Galloway Constabulary, others are in the process of doing so and some are awaiting the outcome of national considerations through the ACPOS consultation working group.
77. As we stated in 2008, we recognise that it cannot be correct to set national fixed time periods for all contacts with victims. Their needs vary, communities at any one time may be more sensitive towards certain types of crime and the police may also want to vary contact quantity and focus as part of an agreed policy such as with domestic abuse victims.
78. That said, some better information about what is likely to happen with most victims’ cases was a commonly expressed need throughout this inspection. Ambient levels of knowledge are very low. In 2009 the SCJS (see footnote 7) reported that 83% of adults contacted knew not very much or nothing at all about how the criminal justice system works in Scotland.
79. As part of this inspection we used data that we had collected in an earlier audit of incidents that were reported to the police. We had examined incidences of domestic violence, vandalism and minor assaults. In relation to the cases that we selected to audit, victim contact was not always easy to track and may have been updated on a number of different IT systems.

¹³ www.scotland.gov.uk/Publications/2008/05/29140329/0

80. As previously stated, most forces generate automated letters to victims. They expect officers to carry out further regular updating. What is difficult to understand therefore is why the overall levels of knowledge about what happens in the criminal justice system are so low, why some victims report that they don't know what happened with their cases and why this is reinforced by the submissions received from our wider contact with victims groups.
81. Irrespective of whether the cases we examined were typical or not the fact remains that whether through the SCJS, our own contact with victims and victims groups, or from our discussion with police officers and staff, there is a clear and consistent recognition that where victims expectations are not met, it is primarily in relation to the provision of information about their case.
82. We recognise the arguments put forward by ACPOS and some forces as to why they are reticent to set standards. The absence of at least an outline of what victims of crime might expect however leads to individual victims setting their own standards and subsequent expectations. This picture is further complicated when individual officers add their own views and act upon what standard they think is reasonable. In this scenario the chances of a mismatch between expectation and delivery seem unnecessarily high.
83. Victims at times articulated this quite clearly;
- "Would have liked to have known what happened after I had reported crime. Police told me they would be in touch but never phoned back."*
- and
- "I didn't try to find out because I kept hoping I would get a letter telling me what was happening."*
84. And some even tried to explain.....
- "I think I was not contacted with an update because the police have so much paperwork to do they don't have time to contact people."*
85. These comments are in contrast however with;
- "spoke to investigating officer a few times and was kept informed and up to date... well done."*
86. And positively for APCOS's previously stated desired outcome of increasing crime reporting in 2010/11;

“more likely to report crime in the future.”

87. Since the difference between those most satisfied and those less so may simply be some basic information about the progress of the victim's case, the opportunities for forces to improve satisfaction and increase confidence appear good.
88. There was a view expressed by some people that we spoke to that victims should have their service provision articulated as a single journey along the criminal justice system.
89. This sounds simple and has an obvious appeal. What this inspection has shown though is that there is no single journey – that victims' needs vary for a number of reasons.
90. That is not to say that some sort of outline would not be helpful for most people. To that end, we believe that the police and COPFS could be clearer about how cases are progressed and at least indicate in agreed broad terms what might happen and when.
91. We recognise that economically this is not the time to advance the case for large investments in new or extended areas of service delivery. Fortunately we don't think that this is required in relation to this issue.
92. Some simple explanatory information to victims about what is likely to happen with their case and over what timescales would, we think go some way to :
 - reduce the expectation gaps that some victims have relative to service delivery;
 - reduce the amount of time and resource that other agencies eg VSS expend either explaining what may happen with a victim's case or contacting the police to try and find out what is happening;
 - reduce the demand, principally by telephone, letter and e-mail that victims place upon the police by seeking information that they could have been provided with in the first place.
93. In relation to this last point victims who choose to do so will normally attempt to contact the officer dealing with their case who is quite likely to be working on a rotating shift pattern.
94. This often results in telephone calls to stations and contact centres with messages and notes being taken and left for officers. The administration and potential time delays inherent in this process can all cause frustration.

“Phoned lots of times but it took ages to get the officer dealing with it - messages not passed on, calls not returned....”

and

“Can’t get through to the investigating officer, called her at least three times - no response from her she got back to me once, told me she was going on holiday for 3 weeks - Gave up trying.”

95. The police need the public to report crime and disorder and to be active rather than passive in their interest in the well-being of their communities. These attitudes not only prevent crime but on those occasions that it has taken place, provides the motivated witnesses that are so intrinsic to successful prosecutions.
96. The criminal justice system needs such witnesses and without them the considerable investment that is made in policing, prosecution and courts will be less effective.
97. We noted the time spent by voluntary sector support agencies trying to find out information from the police and COPFS on behalf of victims. To do this we found that they were also spending time and resource in developing individual contacts to get the required information from these criminal justice agencies.
98. These voluntary sector agencies are provided with funding from local and central government primarily to provide practical and emotional support to victims.
99. This potentially represent double-funding in that criminal justice agencies are funded to provide effective services. Effective service ensure that their users understand what is available to them, they offer ease of access and keep users informed of progress. Therefore other bodies should not have to achieve this on victims’ behalf. It adversely impacts the core roles of those voluntary organisations and inhibits their providing support either to more victims or more in-depth services to those victims that need them.
100. Further, the uncertainties surrounding the funding of some voluntary organisations means that victims may not be able to access these services so easily in the future. Alternatively if public policy shifts towards moving some service provision from the public sector to either voluntary or commercial organisations, then clarity about which body is being paid to carry out which service, has even greater importance.

101. The Scottish Government engages across all of these sectors and is well placed to take an overview of this issue to ensure that effective use of public funds results in victims receiving not only the information, but the practical and emotional support that The Strategy provides.
102. In relation to the second strand of The Strategy, practical and emotional support, the police act principally in three ways;
103. First, at or near the time of reporting a crime, police will often provide immediate advice or assistance to victims for example in relation to personal safety or property security.
104. Second, recognising that many victims require more specialist and longer-term support, police forces have entered into agreements with VSS to supply victims' details where they consent to this, to VSS.
105. Third, they also provide information to allow self-referral to other organisations.
106. The majority of the police staff that we spoke to had very little knowledge of what happened post-referral to VSS. Few knew how this process worked in the first place. Although not articulated in any one place, the overall intention of forces nevertheless appears to be to increase referral rates. Supporting this intention appears to be the expectation that as principal funders of VSS, the Scottish Government oversees the quantity and quality of service provision thereafter.
107. As we have stated at as a consequence of the current review of The Strategy, it would be useful to be clearer about which agencies are primarily responsible for delivering particular strands of the strategy as victims pass along the criminal justice process. An example of where this clarity has been achieved in relation to family liaison is shown at (p 64).
108. The third strand of The Strategy, greater participation in the criminal justice system, is generally accepted to be most difficult to assess but is seen to flow naturally from successful activity under the first two strands. We would support this view.
109. Police forces have utilised restorative justice programmes for a number of years. These vary in terms of victim involvement from the views of a victim being relayed to an offender through to direct dialogue between victim and offender within a carefully supervised context.

110. The use of such schemes in the appropriate circumstances continues to attract support.

COPFS

111. Historically the position of COPFS was that information about their decisions on the prosecution of cases, including decisions not proceed to a court prosecution, could **not** be provided. This policy not to provide information extended to the victim of the crime itself. The historical reasons for this policy were based on a number of factors; these included the protection of the independence of the COPFS, fears that information provision could open for debate the confidentiality of documents and reports on which the decisions were made and further that it could lead to public/media discussion of the decisions which could subject the accused to trial by media with no right to defend themselves. This position did not sit well with the European Directive nor The Strategy which COPFS had adopted.

112. The Strategy makes commitment to provide for the information needs of victims. We found only limited evidence of debate, discussion or agreement between the relevant criminal justice agencies and the Scottish Government, as to which agency or body has responsibility for providing the information to the victim at any particular point in the criminal justice process. We return to this point later in the report.

113. Even prior to The Strategy COPFS had commissioned in 1995 published in 1998, research into the information needs of victims in the criminal justice system. That research found that there was general agreement by criminal justice agencies and victims that two distinct types of information were required by victims. These were:

- Case-specific information - information unique to each individual case.
- General information (about the criminal justice system) - not case specific.

114. There was not agreement however as to how this information should be delivered ie automatically or on request.¹⁴

115. In 2005 COPFS policy about provision of information on their decisions not to prosecute was changed. New 'interim provisions' were introduced in such cases to instruct (1) reactive provision of information where this was requested by the victim (unless there was compelling reasons not to do so)

¹⁴ Full details of this report can be found at www.scotland.gov.uk/.../176e8db7-0c51-4642-bcae-c93dae4ea655

and (2) pro-active information provision to certain categories of victims of the reasons for Procurator Fiscals' decisions to take 'No Proceedings' or non court decisions (eg offer of Fiscal Fine). This pro-active information provision was recommended as 'good practice' to victims in certain categories of cases:

- Domestic abuse
- Racially motivated cases
- Sexual offences
- Child victim cases
- Other cases where there is a particularly vulnerable victim

116. Although the 'General Minute'¹⁵ containing this instruction, which was a significant change in policy and working practice, was labelled as being 'interim guidance' with assurance it would be followed by detailed guidance for contact with members of the public, the detailed further guidance has not been issued. The guidance does however include some template letters and advice to be used by Procurators Fiscal when dealing with such requests.

117. Returning to the time of our inspection Victim Support Scotland (VSS), who had in the region of 100,000 victims of crime referred to them in the current year, submitted that "One of the most basic needs and rights for victims is to be kept informed of what is happening in their case." We found this position to be in line with the evidence gathered throughout this inspection from other stakeholder groups, other agencies within the criminal justice system, victims themselves, police and COPFS staff that we spoke to during this inspection. VSS suggest, and we would endorse a policy which would require professionals dealing with criminal cases to have, in addition to the current legal and process considerations, a simple 'victim' consideration:

- "1. Is there a victim in this case?
2. If yes - does that victim have a right to know about the decision I have just made?"¹⁶

118. This change in mind-set would require to be supported by appropriate process provisions - see Processes page 55.

119. Strategically the principal response by COPFS to The Strategy has been directed to supporting victims of crime at the more serious end of criminal activity and particularly vulnerable victims. To facilitate this COPFS has

¹⁵ General Minute to all staff No 2/2005

¹⁶ VSS submission to this inspection

established a national service provision 'Victim Information and Advice' (VIA).

120. Initially VIA was set up as a discrete unit within COPFS and more recently integrated within the COPFS area structure. The purpose of VIA is to facilitate information provision to victims, albeit currently to a limited category of victims based on either their vulnerability or the nature/gravity of the offence committed against them, to arrange for support for victims in the criminal justice process (through processes such as 'special measures' at court¹⁷) and to refer victims to the appropriate agencies to receive other support as required.
121. The COPFS operational instructions for VIA however commence at the stage court proceedings are initiated and therefore the vast majority of victims in this phase of inspection do not receive information or advice from VIA on the progress or outcome of their case. This anomaly between COPFS policy on information provision and VIA operational instructions became apparent during our inspection (see section on Processes).
122. In the COPFS 2009/10 Business Plan, COPFS announced new priority actions to meet a longstanding key objective of COPFS:-

"to provide services that meet the information needs of victims, witnesses and nearest relatives, in co-operation with other agencies".
123. The new priority actions, issued in the 2009/10 Business Plan, to assist meeting this objective were:

".....to extend the obligation to notify Vulnerable Witnesses of the outcome of cases to include cases which are disposed of by Direct Measure or No Action decisions (including No Action Meantime)."

and
124. "to increase the number of cases in which vulnerability is proactively explored with victims or witnesses who have been identified by use of the vulnerability flag by the police or otherwise highlighted by the Fiscal when taking the initial decision. Proactive exploration of vulnerability will take place in all cases referred to VIA and the outcome will be recorded, with special measures applications being made to the court or other necessary advice or assistance given where appropriate."

¹⁷ Arrangements, principally allowed by the Vulnerable Witnesses Act 2004, to allow certain witnesses to give evidence in a way that recognises and eases some of the difficulties some witnesses have in giving evidence in the traditional manner in open court

125. The 2009/10 Business Plan also includes a commitment to further this:

“Two Areas will pilot the extension of notification to Vulnerable Witnesses of outcomes in cases where we instruct Direct Measures or No Action.”

126. In any event, although we understand this pilot is due to take place sometime in 2010, this commitment appears to have been superseded. As this inspection report was being completed in June 2010, COPFS published the COPFS Business Plan 2010-11 in which the commitment to victims was extended further and the priority action stated as:

“To notify victims of the outcome of cases to include cases which are disposed of by Direct Measure or No Action decisions (including No Action Meantime).”

127. It is not clear if this is now to be adopted formally as COPFS policy in this regard. In any event this position is welcomed as a move towards both the stated outcome of The Strategy and also the stated need of victims during this inspection process and earlier (see reference to COPFS research published in 1998 supra). It is a welcome broadening by COPFS of its previous policy and indeed practice observed at the time of this inspection.

128. We found during this inspection process some lack of knowledge and understanding by operational staff in COPFS about the policies and strategic reasoning behind information provision to victims relating to the progress and decision making in their case. This extended to both those victims in the vulnerable criteria and victims of the stated categories of crime types to receive pro-active information about COPFS decisions.

129. We were advised that COPFS staff at the COPFS ‘Enquiry Point’¹⁸ have withdrawn from providing information about prosecution decisions to victims albeit their own operational instructions advised them to do so. We were advised this was as a result of criticism from some Procurator Fiscal Offices when they had provided this information. This lack of clarity has made their position more difficult when dealing with victims.

130. We also found a gap in the understanding of processes used by different parts of the organisation. Where deposes marked cases¹⁹ not to proceed to a prosecution in court, and those cases fell within the criteria where policy indicates it is good practice to intimate the decision to the victim, there

¹⁸ Enquiry Point – a national point where COPFS staff receive redirected telephone calls to COPFS offices and answer, as far as they are able, general enquiries about cases from information on the COPFS IT systems

¹⁹ ‘Marking’ a case is the terminology used for a Procurator Fiscal (Depute) making a decision on the progress or otherwise of a case eg ‘No Proceedings’ or to prosecute in court

were a number of examples where the depute had attempted to do so (see results of case review at page 66), they did so by marking the case to be passed to VIA. This was done on the understanding VIA would correspond with the victim. VIA however follow 'operational instructions' which only commence as court proceedings are raised. This leads to the unfortunate position that VIA may receive notification of the decisions but take no action to inform the victim.

131. Separate from the case specific information needs of victims are the general criminal justice system information needs of victims. Strategically much of the effort by COPFS to address these needs is again through VIA. VIA has a remit to provide this information to those victims and witnesses which are referred to it. VIA has a well developed system of provision of leaflets and literature however again the restrictions on their service provision, due to operational instructions starting at the point proceedings are raised, results in victims (in cases considered in this phase of the inspection) not receiving this information where COPFS has taken the decision to dispose of a case other than by way of court proceedings.
132. While the provision of emotional and practical support is one of the principal objectives of The Strategy it was considered by staff less likely to be the responsibility of COPFS in cases considered in this phase. Where summary level cases are marked not to proceed to court (as in this phase) the contact that COPFS has with the case is essentially 'on screen'. The decision making by COPFS will be some time after the crime complained of. In the vast majority of these cases there is no direct or continuing contact with the victim. COPFS proceed on the understanding that the agency receiving the complaint and carrying out the initial investigation with the victim (normally the police) has addressed the victim's immediate practical and emotional needs as required by The Strategy. We consider this strategic position to be pragmatically sound.
133. COPFS has a well developed website with information readily available to all who search it. It has discrete sections providing clear and readily available information and advice for victims and witnesses about the criminal justice system. This web site also links directly to the Scottish Government website for victims which again details clearly the general provisions for victims in the criminal justice system. We were surprised by the lack of comment about both of these websites by victims and other stakeholder groups.
134. Within COPFS there are a plethora of commitments which COPFS has made on its treatment of and to victims. These have evolved reactively over several years to different situations, crime types and policies. We found a lack of clarity of these within COPFS and perhaps more importantly with

victims and their representative organisations. We were advised during the inspection process that work was being carried out to consolidate these commitments and bring them to a succinct and readily useable form. We understand the consolidated *commitment* to victims and witnesses is due to be completed and launched both publicly and to staff in Autumn 2010.

135. As part of this inspection process we highlighted three different crime types to compare and contrast the effect of different policies, processes and outcomes. These crime types were domestic abuse, minor assault and vandalism. Of these three we found it of particular note that domestic abuse has been subject of substantial interest and a high level of specific and directed policy and practices in the last few years. This is across both the police and COPFS and in partnership with other criminal justice agencies. The difference in how this specific crime type is dealt with is quite significant and the positive outcomes, spoken to by many in this inspection process, striking.

We have therefore dealt with domestic abuse in a discrete section at page 39.

CONCLUSIONS - COPFS

136. There has been a substantial development in COPFS policies relating to victims since 2001. This is still developing as noted in the recent Business Plans.
137. Strategically much of COPFS response to The Strategy has been through the development of VIA which in turn addresses the needs of victims of more serious crime categories than those being considered at this phase of the inspection.
138. There is some disconnect between stated policy and the organisational response eg the operational guidelines to VIA staff.
139. There is some lack of knowledge and understanding by operational staff of policies and strategy although work is currently being carried out to consolidate this information to make it more accessible to staff.

RECOMMENDATIONS

140. That COPFS set a timetable to move towards its business plan aim “to notify victims of the outcome of cases to include cases which are disposed of by Direct Measure or No Action decisions (including No Action Meantime)”.

141. That COPFS expedite the work to consolidate its 'Commitments to victims and witnesses of crime' and ensure through a tailored training regime this is brought to the attention of all staff.
142. That the consolidated 'Commitments to victims of crime' is published in an accessible form for victims of crime (on the website/forwarded by leaflet to identified victims) in order they are made aware of the minimum standards of treatment they are entitled to expect from COPFS.
143. That COPFS work with the Scottish Government, criminal justice partners and stakeholder groups to raise awareness of their website and the information available there.

An Example of Good Practice across Policing and COPFS

Arrangements for prevention, investigation and prosecution of domestic abuse

144. The investigation and prosecution of cases of domestic abuse has received particular attention over recent years. The research, information and statistics relating to domestic abuse are quite startling. There is a substantial body of research which establishes that reports of domestic abuse will generally be after a prolonged series of incidents which have not previously been reported.
145. The figures for homicide in Scotland²⁰ show a 'domestic' background to be by far the single most identifiable risk. In 2007-08 of the 115 homicides in Scotland, 22 were 'domestic' in nature. In 2008-09, 18 of the 99 homicides were 'domestic' in nature. This is approaching 20% of all homicides in Scotland.
146. Similarly, across all levels of domestic abuse crime these constitute a significant volume of reported crime. In the year 2008-09 there were 29,238 crimes of domestic abuse recorded by police in Scotland and 18,691 of these were reported to the Procurator Fiscal. The number of cases reported to the Procurator Fiscal has increased significantly year on year and has effectively doubled since 2000-01.²¹
147. Accordingly this area has been subject to concerted action by COPFS, the police, other criminal justice partners and stakeholder groups and the Scottish Government to attempt to address this issue.

²⁰ Statistical Release Crime and Justice Series: Homicide in Scotland, 2008-09 at:- www.scotland.gov.uk/Publications/2010/02/19113939/6

²¹ Statistical Releases Crime and Justice Series 2008-09 as before

148. Notably there are specific policies relating to decision making and processing of cases of domestic abuse. The Joint Protocol between ACPOS and COPFS on domestic abuse²² sets out clear and precise instruction on the investigation, practices and processes to be deployed by both police and COPFS.
149. There was evidence of strong and consistent support for the protocol from leaders across both organisations. At operational levels we generally found sound knowledge and understanding of the protocol and there were detailed processes and guidance to ensure compliance with it. In fact at times it was clear that the high level of monitoring of compliance was the primary reason for compliance.
150. In this regard we highlight the Strathclyde Police Domestic Abuse Toolkit as good practice.
151. We looked in more detail at the arrangements within COPFS and Strathclyde Police supporting the domestic abuse court in Glasgow. Here we found highly developed multi-agency working relationships achieving good investigation and prosecution processes, frequently resulting in fulfilling the domestic abuse courts objectives including successful prosecutions, early pleas and shortened court timelines which were considered to be of critical importance to victims involved in the system.
152. It was encouraging to see this being delivered alongside excellent levels of service and support for victims delivered by the multi-agency partnership. It was clear that the success of the domestic abuse court lay with the strong sense of partnership working including not only the police and COPFS but also other agencies notably ASSIST which was formed specifically to support those victims in this process. They provided their service not only to victims who subsequently became witnesses in the criminal justice system but also to those victims who, for whatever reason, found that the crime in which they had been victim did not result in court proceedings.
153. There were effective measures in place throughout the country which ensured that information was provided to the victim in domestic abuse cases if the accused was to be liberated from custody without court proceedings. Essentially this is to allow the victim to make arrangements for their safety, or removal from their home address if they consider this necessary, where the accused is not to be remanded by the court nor

²² <http://www.copfs.gov.uk/Publications/2005/09/InPartnership>

subject to restrictive and protective bail conditions. This is specifically addressed as a requirement in the domestic abuse Joint Protocol and we found a variety of processes in different areas as to how this took place – in fact in some areas there appeared to be duplication of effort as some agencies used a variety of means to get this information to the victim as soon as possible.

154. Overall we found the implementation of the domestic abuse protocol a good example of how COPFS and the police can achieve significant success in delivering change and improving outcomes for victims across both organisations.
155. While there were still some localised complaints of poor practice, often related to the attitude of individual officers, there was an overwhelming positive view on progress in this area. There was a high level of recognition from victims and stakeholder groups that there had been a vast improvement in understanding, investigation and prosecution of these crimes in recent years. Indeed there was a similarly high level of admission by police in particular that they had historically not dealt well with these situations. The change in police attitudes in particular over the years was very highly recognised and appreciated.
156. “Across 10 Fiscal areas (there was no response from one area) reported on, there was a view that the police and COPFS seem to be proactive in taking cases forward and that incidences of “no proceedings” had reduced.”

And later they comment –

157. “The overall view was that the response from the police has improved and is generally positive...”²³
158. The Evaluation of The Pilot Domestic Abuse Court found a range of improvements in dealing with domestic abuse cases in this pilot. These ranged from increased efficiency of response, faster processing of cases, increased levels of guilty pleas, higher rates of conviction, better consistency and accountability together with an improved likelihood of participation and high level of satisfaction amongst victims.²⁴
159. The level of focus and strategic drive applied to this issue has been key to delivering these benefits. In relation to further possible improvements that

²³ Both from the formal submission from Scottish Women's Aid

²⁴ The SE valuation of The Pilot Domestic Abuse Court:- www://www.scotland.gov.uk/Publications/2007/03/28153424/14 (Chapter 5)

we highlight in this report, we are encouraged at the level of positive change that such a joint and coordinated focus and drive can achieve.

160. Separately, victims of domestic abuse are highlighted as one of the category who should proactively receive information about Procurator Fiscal decisions. While we found victims of domestic abuse do receive information about the accused being liberated from custody (as mentioned above) we did not find evidence of any consistent arrangements to update victims of the final decisions in their cases (we return to this point in Processes).
161. Domestic abuse is complex issue with strong cultural underpinnings and ingrained attitudes. In recognising the progress that has been made we also underline the importance of sustaining this momentum through detailed guidelines and at times close supervision. We have commented on some instances when service delivery has not reached an acceptable standard. This change process has not been completed. We saw some evidence of how, if left unsupported, attitudes and behaviours could slip back. At a time when victims and victims' groups told us how their readiness to engage with the criminal justice system was informed by perceptions and even folklore, police and COPFS must continue their broadly successful efforts to replace negative perceptions and historical legacy with positive experiences.
162. Finally we highlight one further issue. The domestic abuse protocol has a strict definition of the personal relationships that fall within it. There was comment from some parts of COPFS, the police and the wider criminal justice community as to whether this should be reconsidered - to allow for other familial cases or violence against women cases, to be provided with the heightened investigative procedures and presumptions in favour of prosecution. We consider that with the changing make-up of Scotland demographically and as more is understood about familial crime and power relationships in crime, that there should be further debate about the definitions within the protocol to potentially allow the good practice which it has generated to be promulgated more widely yet within a similar context.

RECOMMENDATIONS

163. That COPFS/ACPOS maintain a high level of supervision and monitoring of domestic abuse cases in line with the joint protocol and other related policies.
164. That COPFS and ACPOS consider whether their domestic abuse protocol could better reflect emerging knowledge about violence that takes place

within the context of families and close relationships and within both existing and more recent communities in Scotland.

CHAPTER 3 - PEOPLE

Police

165. Initial training for police officers includes elements focusing on victim care and wider considerations. These elements generally sit within the relevant themes such as sexual offences or domestic abuse. More broadly, inputs on the Vulnerable Witnesses (Scotland) Act 2004 and the role of appropriate adults have clear victim relevance.
166. In discussions with officers, most could contextualise some elements of the above training relative to the needs of victims although their understanding of the interaction between their role with victims and that of other agencies was frequently less strong.
167. Some forces had formal arrangements with victims groups to deliver inputs to their training and some further informal arrangements existed more locally where some awareness sessions had been held. Victims groups were keen to take part in such events as they saw that raising awareness was key to ensuring better outcomes for victims.
168. Diversity training is mandatory for all staff in all forces across Scotland and provides knowledge about a range of victims' needs and the prejudices that lead to hate crimes. Notwithstanding the considerable focus that has been placed on hate crime over recent years, we still heard sufficient concerns from victims groups about the handling of some incidents reported to the police, that we would underline that the service cannot reduce its focus on this issue.
169. During this phase of our inspection and in terms of specialist victim-facing roles, we had most contact with Domestic Abuse Liaison Officers (DALOs) Forces had invested additional training in these staff over the victim-related sessions that are integrated throughout the initial course at the Scottish Police College. Some forces provide specific training to call handling and control room staff who play a key role in dealing with such incidents. Strathclyde Police have developed further domestic abuse training which they are providing to a much wider pool of staff as part of their focus on reducing these offences.
170. The majority of DALOs that we spoke with were women. Some victims groups expressed strong views on the issue of gender for these roles with advocates for all women staff but with others stating that a mix was important. The rationale for the latter opinion being that some victims had expressed the view it had been a positive experience for them to hear from male staff, strong messages of condemnation of domestic abuse.

171. Although some forces held selection processes for these positions, a number had simply been posted to them. Whatever selection method is used, Forces should remain able to meet the needs of all victims including those within same sex relationships.
172. Overall we noted the general feedback from victims groups that they consider the treatment of victims has improved over the life of The Strategy. We also comment throughout this report about the importance of clarity about victim services and how monitoring and supervision play important parts in their successful delivery. Together these elements should ensure that the overall progress noted thus far, continues.

COPFS

173. Consistent with the main focus of COPFS being the investigation and prosecution of crime in Scotland, the reality is that all frontline staff, whether legal or support, have regular contact with victims of crime. On the whole staff, including those involved in frontline duties with a high level of public contact, are recruited and appointed on the basis of competence based processes which are generic rather than post specific.
174. The contact that victims have with staff is crucial to their confidence in the organisation. Professional, sensitive and accurate information engenders confidence in the Service and the criminal justice system. It also establishes a good forum for a constructive relationship between the victim and the Service providing the best scenario for successful investigation and prosecution of crime. The corollary is however that insensitive comments or attitudes can take on a heightened degree of importance for victims and cause not only undue distress and upset but also lessen the likelihood of the victim cooperating with the criminal justice system.
175. Awareness training is delivered not only to heighten the sensitivities and communication skills for those who have contact with victims but also to allow them to take a better and more informed perspective of the best decisions, conduct and strategy to be used in investigating and prosecuting cases. The dual function is therefore to deliver a better service to victims and also to secure convictions.
176. We received a number of submissions from groups representing various categories of victims eg those with learning difficulties, those at risk of hate crime, those subject to domestic abuse, children. A consistent thread in the submissions was that increased awareness training of frontline staff of the difficulties faced by these categories of victims of crime was

important and was necessary for participation by these victims in the criminal justice system. They suggested it would lead to more reporting of crime, better investigation and prosecution and also make the process less traumatic for the victims.

177. This should be considered in context of evidence that people in these categories are often at a higher risk of being victims of crime than society at large. Frequently they made comments jointly covering both police and COPFS staff and for ease these are dealt with in this COPFS-focused element of the *People* section.
178. Children 1st submitted “..professionals still sometimes lack the skills and training to engage with child victims in a manner that promotes and enhances their successful engagement in the criminal justice system.”
179. A number of similar submissions were made from those representing victims across the range of crime types, particularly those at risk of hate crime.
180. There was recognition and appreciation of progress in these areas to date.
181. “Generally the police and the Crown Office and Procurator Fiscal Service are aware of and sensitive to the needs of victims of prejudice incidents/crime including the importance of emotional and practical support a victim may require.”
182. There was however an overwhelming view that while progress may have been made there is still much to be done across both policing and COPFS relating to improving the general awareness levels of staff and that ongoing training was crucial to ensure continued improvement.
183. While all COPFS staff receive initial ‘induction’ training on joining COPFS this is in the main relating to processes. Victim awareness is not featured in all such courses.
184. Diversity training is a mandatory requirement for all new COPFS staff and is due to be completed within two months of joining the Service. This includes substantial elements of victim awareness training – the current two day course includes input from Fife Disability Action, Lesbian, Gay Bisexual and Transgender (LGBT), ‘Nil by Mouth’ and a ‘Cross cultural communication’. It does not however address some other specific areas of victim awareness and notably does not address issues surrounding domestic abuse either for the above mentioned groups or others. Domestic abuse is dealt with separately in its own dedicated, but not mandatory training.

185. While commending the requirement placed on staff to undertake diversity training which raises victim awareness, and the other victim awareness training available, there is no mandatory requirement on staff in respect of ongoing diversity training.
186. There are systems in place at the Learning and Development Division (LDD), the unit of COPFS responsible for providing training to COPFS, to track all staff after they join COPFS to ensure they receive Diversity training. We were told that at times operational demands took precedence and occasionally it took longer before staff attended this course. These difficulties particularly related to short term and fixed term contracted staff who may be withdrawn from training by their line managers. This is particularly undesirable for staff having contact with victims.
187. There are a number of other training sessions available on general and specific victim awareness issues and all staff may apply to attend eg these relate to dealing with children, people with learning difficulties and as mentioned above domestic abuse.
188. A prime example of COPFS staff with a high level of contact with the public generally and victims specifically are those in the new national 'Enquiry Point'. This is a centralised unit of COPFS set up over 2008/09 to deal with all external general phone call enquiries. It is mainly staffed by staff that are new to COPFS. These members of staff receive one week induction training and thereafter 'on the job' training. Like all other COPFS staff they are due thereafter to attend Diversity training within two months of joining COPFS and are eligible to apply to attend general COPFS training. In view of the direct contact these staff have with members of the public, including victims of crime, it is of crucial importance they provide a high standard of information to victims and all who call the service. Victim awareness training would be of particular assistance as these staff deal with calls which will often be a victims first contact with COPFS and should be incorporated in their induction training. We were advised the number of calls received by the 'Enquiry Point' had already reached 1700 per day (anticipated 440,000 calls per annum) as this inspection took place in summer 2010.

Domestic abuse cases

189. The various stakeholder groups we spoke to about this type of offence were highly commending of the improved standards of service provided by COPFS deputes and staff and in particular those with a specialist role relating to dealing with Domestic Abuse. The Domestic Abuse Unit in Glasgow received particularly favourable comment. Within the specialist

Domestic Abuse Unit (DAU) in Glasgow we were advised all staff have received the COPFS Domestic Abuse training. This training is delivered jointly by COPFS staff and stakeholder groups including Scottish Women's Aid. Those working within this unit have the advantage of gaining expertise in this sensitive and complex area.

190. Those within the specialist DAU, and a number of those we spoke to in related stakeholder organisations, indicated differing standards when other COPFS staff were called upon to be involved in Domestic Abuse cases. Stakeholder groups at interview indicated they hoped to see all COPFS staff more aware of the complexities surrounding victims of domestic abuse reporting and engaging with the criminal justice system.
191. “ Women’s experiences ...(of the criminal justice system)...were reported as being more positive when they dealt with specialised Units (where there is ...) better understanding and awareness of the issues surrounding domestic abuse...).....This seems to be particularly evident in those locations covered by the Glasgow Domestic Abuse Courts....)²⁵ .
192. There was also some negative feedback about issues of poor practice and inconsistent response often relating to individual officers. Although these tended to involve police as first point of contact there was some reference to insensitive response to requests for information by COPFS staff or dealings with cases in a manner indicative of a lack of understanding of the underpinning complexities of such cases. While training cannot always prevent such incidents it does militate against them.
193. We note the commitment in COPFS Strategic Plan 2009-112 in relation to its approach to specialist service provision that “...(in cases of) Domestic Abuse: All our prosecutors will be trained to deal with the specialist nature of these cases effectively”.
194. In view of the significant number of domestic abuse cases across the country we would anticipate there will be very few, if any, operational Procurator Fiscal Deputies who will not deal with domestic abuse cases. Similarly a high percentage of support staff will have direct contact with victims of this type of crime.
195. We were advised that 80 members of COPFS staff (out of a work force in the region of 1700) had received the COPFS Domestic Abuse training and that there was additionally some local training provided but that this was not monitored centrally.

²⁵Written submission from Scottish Women's Aid

196. There was a great deal of interest and goodwill exhibited throughout the country by members of stakeholder groups about providing both formal and informal awareness training on this subject (domestic abuse) and other specialist areas on a local basis. There was a sense that some elements of local contact had been lost as both COPFS and the various stakeholder groups had moved towards national training structures and provision. The benefits of local contact extend beyond the strict confines of the training delivered and help establish and bolster local partnership connections. It may be of value to COPFS, at a more local level, to investigate and take advantage of such offers.

RECOMMENDATION

197. Domestic abuse being a significant percentage of all offences reported to COPFS, awareness training currently offered by COPFS should be mandatory for all staff who may have contact with these cases.

CHAPTER 4 - PARTNERSHIP/RESOURCES

Police

198. At a national level, ACPOS represents the police service on the relevant national groups such as the Scottish Government chaired Witness Issues Group, along with working groups on Sexual Offences and on Domestic Abuse.
199. At a more local level although we focused on police and COPFS partnership relations, by definition they have to be seen within the wider local network of groups that jointly deliver services to victims.
200. These partnerships ranged from fragile and low performing to robust and high performing. In some ways we might expect to find good local working partnerships in smaller more remote towns where staff from the relevant agencies are more likely to know each other. In larger conurbations defining *local* can be a more difficult first step to developing and sustaining effective professional relationships.
201. In fact we found one of the most effective partnerships within Glasgow – the domestic abuse project described on page 40 and one of the least developed in a smaller rural town.
202. Where strong, these relationships were characterised in interviews with staff who spoke in detail about joint work generally and of specific cases. They highlighted issues that were successfully dealt with but also identified others where improvement was needed. In contrast, in other areas there was a much more vague awareness of other agencies and their staff with few and sometimes quite historic examples of joint practice.
203. This inspection is focused on how primarily police and COPFS work together to deliver The Strategy. Within that context, our findings are that this is a generally strong and effective relationship. The Strategy needs other agencies, particularly the voluntary sector, to work together effectively to achieve its aims. The creation and maintenance of these wider effective partnerships in localities across Scotland is a matter that the Scottish Government may wish to consider as part of its current review.

Resources

204. Resources were not suggested by police staff to be a particular barrier to providing victims with information or referring them to agencies who provide practical and emotional support.

205. Police officers that we spoke to across forces, whilst busy, broadly thought that organisational expectations of their updating victims were reasonable albeit the practicalities of achieving this were affected by the vagaries of shift patterns.
206. Managers also believed that updating victims was both important and achievable. In particular we were interested to see if busy urban policing environments differed in this expectation from more rural areas. In fact in one of the busiest, inner Glasgow, there was if anything an increased expectation of personal follow-up visits to victims. This was described as being a benefit from recent investments in community policing staff numbers.
207. Although policing faces some uncertain times ahead in predicting what resources it will have to deploy towards victim contact, the fact remains that a two or three minute phone call to update a victim does not represent an unmanageable task within a shift even if a personal visit is not always possible.
208. The growing number of people carrying mobile phones or using the internet extends the possibilities of using very efficient existing technology such as SMS messages and email. This was a matter we highlighted in our 2008 HMICS thematic inspection, Quality of service and feedback to users of the police services in Scotland²⁶. Progress in offering this range of options has been disappointing.

COPFS

209. COPFS sit on a range of national working groups with the Scottish Government, other criminal justice partners and stakeholder groups focussing on a variety of issues which relate to victims. These include the national Scottish Government chaired Witness Issues Group, ACPOS working groups on Sexual Offences and on Domestic Abuse and the COPFS chaired Expert Advisory Group on Sexual Crime. COPFS maintain an appropriately high profile in this area and commits resources to ensure they are well sighted and have proper input to issues concerning victims.
210. Similar to our previous comments at Leadership (supra) we note that there is not a multi-agency partnership group at this level which considers issues relating to victims as a single strand rather than relating to either the wider witness concerns or a particular crime type. To a large extent the Scottish Government chaired Victims Steering Group (mentioned at

²⁶ www.scotland.gov.uk/Publications/2008/05/29140329/0

Leadership supra) formerly provided this oversight. As The Strategy is considered for review and for the reasons we iterated previously, we would support the re-introduction of this group with a high level COPFS involvement.

Area/local level

211. On a more local level we observed a variety of local partnership groups relating to victims. In some districts there were quite active multi-agency groups eg MARACS²⁷ including victim representative groups but in others any multi-agency partnership working was quite under-developed leading to lack of knowledge about which agencies in the voluntary sector existed locally. Where these groups existed there were different levels of COPFS involvement. We were advised this was at times as a result of resourcing and geographical difficulties rather than lack of commitment.
212. We heard repeatedly from both within COPFS and the police, and from a variety of stakeholder organisations, particular praise for the Glasgow Domestic Abuse projects and the effort put into the success of that by COPFS, the police and the other agencies involved. ASSIST (mentioned previously on page 39) was notable in that it received universal praise from all those who had contact with this project. ASSIST chairs its local MARAC and we note this was the only one in Scotland chaired other than by the police. The Domestic Abuse project was described as the 'Gold Standard' of partnership working and demonstrates what it can achieve. Both COPFS in Glasgow and Strathclyde Police have input substantial resources to this project and it is an example of the success of well structured, resourced and considered partnership working across statutory and voluntary agencies.

VIA - internal partnership within COPFS

213. We found on the whole a positive attitude and working relationship within mainstream COPFS to its 'information provision arm' VIA.
214. We did observe however some lack of understanding by mainstream staff of VIA processes and operational standards which resulted in an unintended lack of provision of information to some victims (see Processes below where we address this point in more details).

²⁷ Multi-Agency Risk Assessment Conference - grouping generally consisting of statutory and at times voluntary bodies aimed at recognising and preventing high risk of crime

VIA - external understanding of unit

215. A number of victims and organisations acting on their behalf complained about information provision by COPFS but then proceeded to provide positive feedback about their relations with VIA and the information provision by them. This represented a misunderstanding that VIA was a separate entity from COPFS. This unfortunately perpetuated some misconception about the level of service provided by COPFS.

Enquiry Point - internal partnership within COPFS

216. As a new discrete unit within COPFS some 'teething' problems would be anticipated as the new service provision becomes established. We were advised some local offices had failed to initially understand the scope and remit of what the Enquiry Point should deal with and what should properly be referred back to the principal COPFS office dealing with the case. This at times resulted in callers being made to wait as a search was carried out for staff at the principal office to take responsibility for a call. At times this caused delays and frustration to staff, to members of the public and importantly in this context the victim.
217. During the inspection we were advised this was being evaluated and reviewed by COPFS (Strategy and Delivery Division).
218. While we received some negative comment from various organisations about their ability to contact COPFS to gain information about cases on behalf of victims it, would be difficult to assess the impact of the Enquiry Point at this early stage. This was not a focus of this inspection. We can say that the Enquiry Point does have the potential to make a marked improvement in service delivery to the substantial number of telephone call enquiries across the service.
219. The Enquiry Point itself has established itself within the COPFS structure and was nominated for an internal 'Excellence Award' in 2010.

Handover of responsibility towards victims from police to COPFS

220. We observed excellent working relations between COPFS and police at all levels throughout the country even where the multi-agency partnership relations were less well developed. This is not surprising when viewed in context of the inter-dependency of this relationship for each to deliver their core functions in the investigation and prosecution of crime.
221. In relation to the provision of services to victims however we have not seen evidence of discussion and agreement between COPFS and the police

around the 'handover' of the responsibility towards victims on either the provision of information or support to victims.

222. We would have anticipated that this would be a matter that the Scottish Government in their role as lead agency for delivery of The Strategy would have interest in to ensure there was clarity, agreement and no gaps in service provision.
223. We found the current position to be loosely based on assumptions that police would (as the first agency involved with the victim) provide some immediate practical support and provide information and referral for other support services. The responsibility for information provision then passed from the police to COPFS at or around the time of the case being referred to COPFS for their decision. In some more serious cases, out with the remit of this phase of inspection, there is clarity around handover processes from the police (Family Liaison Officers) to COPFS (VIA). (See processes at page 63). That clarity is useful for both staff and victims. While the resource involved in that transfer would not be necessary or appropriate for the vast majority of the cases being considered here the clarity around responsibility would be similarly useful.

Resources

224. COPFS has invested substantial resources in recent years to improve the position of victims and witnesses in response to The Strategy and other policies.
225. Most markedly this has involved the establishment of VIA. VIA is a distinct albeit integral part of COPFS which now employs approximately 100 staff nationally with a remit exclusively to provide for the needs of victims and witnesses.
226. COPFS is a relatively small organisation employing approximately 1700 staff and in that context the investment in VIA is quite considerable. That said the 100 staff cover all 11 COPFS areas. At times they are spread thinly- for example three VIA staff are employed in Highlands and Islands which covers a massive geographical area. This should be borne in mind when considering change in information provision across all victim cases and suggests these would need to be centred on an automated process eg using carefully worded template letters (or text or email contact).
227. The forthcoming review of The Strategy may well be an opportune time for fuller discussion of areas of responsibility for delivery of the various elements of it and where resources for this should best be invested.

Voluntary sector relationships and resources

228. In terms of voluntary sector groups, we principally made contact with VSS and Women's Aid groups as part of this inspection. As highlighted above, in some areas relations between these and other victims groups were less well developed.
229. This is important in that the outcomes for victims are likely to be improved where agencies have a good knowledge of other support mechanisms and referral between agencies takes place on this basis.
230. We also encountered some stark differences in resource and infrastructure between agencies that were attempting to deliver the same services in different areas. These were differences not only in terms of offices and IT equipment but in the availability of operational staff to provide core services. These agencies are often charities attracting donations and raising funds in a variety of ways. A number of these agencies also receive sums, sometimes quite large sums, from local or central government. Victims groups that we spoke to that relied on local authority funding in particular were concerned that this wasn't ring-fenced as Scotland enters a period of greatly reducing public finances.
231. We are conscious that we are in danger of straying into matters beyond the remit of this inspection but do so in support of the criminal justice system's need for victims to be properly supported. We consider that the Scottish Government as part of its review of the Victims Strategy could usefully assess whether the current patchwork of provision represents the best value that can be gained from the quite considerable funds that it and local authorities invest in voluntary groups providing victims services.
232. We are aware that there are other methods of engaging with voluntary sector agencies such as the *clearing house* or commissioning model used in Eire. It will be important in considering these issues to recognise that even within one sector, victims groups can have differing focii. Of note some groups base their activities on lobbying, some act as umbrella organisations for smaller local groups and some deliver frontline services.

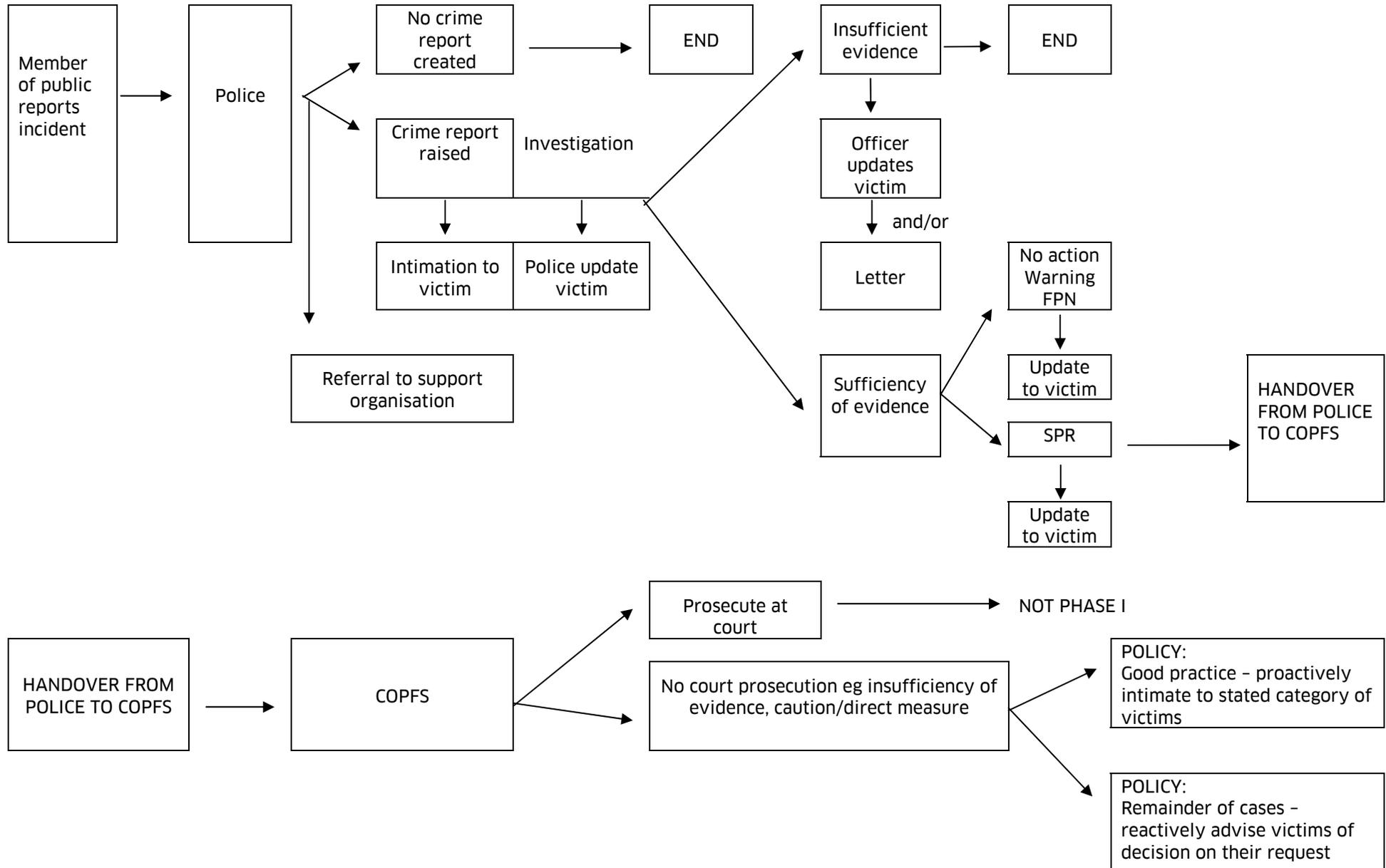
RECOMMENDATION

233. We recommend that in reviewing The Strategy, that the Scottish Government assesses whether the funds provided both locally and centrally to victims groups delivers the best value for money.

CHAPTER 5 - PROCESSES

234. We have prepared a simplified process map to illustrate the route a 'typical Phase One' victim takes through the criminal justice system. It is important to emphasise that we understand and expect this to be a markedly different journey for victims of crime of the remaining phases of this series of inspections as substantially different policies and processes are in place for them.
235. Similarly this process map illustrates the route from the point that the initial complaint is made to the police rather than any other agency which can report incidents of crime to COPFS. Police report the vast majority of cases where there is an identifiable victim, but there are a few notable exceptions where there may be a victim of crime investigated and reported by another agency eg Health and Safety Executive. We have not examined the provision of services by them.
236. A victim reporting an incident to the police should generally encounter the following stages where information and support is provided by the police and/or COPFS:

237. PROCESS MAP - INFORMATION PROVISION AND SUPPORT TO VICTIMS



238. Following the chronological process taken by cases we examined police processes, handover provisions from police to COPFS and finally COPFS processes as they relate to victims.

Police

239. When a member of the public contacts the police to tell them about an incident, the information they provide typically results in an entry being created and logged on an electronic incident logging system. Once the incident log is created, officers will examine the circumstances as reported and react accordingly. The Scottish Crime Recording Standard (SCRS)²⁸ gives guidance to police officers both on what scenarios should lead to an incident being recorded as a crime and further, which of the many categories of crime it should be recorded under. Should it be established that a crime has occurred, officers are expected to record the details within a crime report and then carry out an investigation.
240. In 2010 HMICS carried out an audit of crime recording across Scotland²⁹. The audit was designed to provide additional useful information for this inspection on victims. In focusing on crimes of domestic abuse, vandalism and minor assault, it was considered that a reasonable snapshot of a force's crime was being examined. Equally they represented crimes that APCOS were prioritising for action across Scotland.
241. Of relevance to our current inspection was that in addition to the abovementioned incident and crime recording systems, forces frequently also maintain other systems for example, to record details of victims and offenders. We did not find it easy to track the contact made with victims across all forces' systems and obtain a clear overview. This is also likely to make supervision of victim contact more difficult in those forces. The principal police IT systems were designed to facilitate investigation and prosecution. If victim service is to continue or increase in its importance then more effective means of recording and collating related information are important.
242. We noted high policy compliance levels in some forces that also ensured clear and comprehensive information was recorded accessibly. We also noted higher policy compliance levels where, as in domestic abuse cases, there were highly intrusive supervision regimes even though these were at times cumbersome due to multiple systems recording activity.

²⁸ <http://www.acpos.police.uk/Documents/Policies/CRIME%20-%20Scottish%20Crime%20Recording%20Standard%20Manual.pdf>

²⁹ <http://www.scotland.gov.uk/Resource/Doc/925/0103310.pdf>

Domestic abuse

243. Our audit found that a number of incidents had not been recorded as crimes and investigated further because the victim did not wish to pursue the matter. The SCRS is unequivocal in that where the circumstances amount to a crime it will be recorded as such irrespective of the victim's wishes.
244. As we know from our current inspection, in crimes such as domestic abuse there are various reasons why a victim might not want the incident investigated further. Yet to better protect them and other vulnerable persons including children, and to reduce the prevalence of this type of crime generally, all these crimes should be reported, fully investigated and where appropriate prosecuted. We discuss in the next section Results why this situation may lead to victims not being satisfied with the criminal justice system even though on balance the correct action has been taken. We also noted that organisations supporting victims of domestic abuse agree strongly with the presumption to prosecute, where sufficient evidence exists, irrespective of victims' wishes.
245. On the basis of the domestic abuse incidents we audited, four forces exceeded the 95% target for SCRS compliance set by ACPOS. The four were Dumfries and Galloway Constabulary, Lothian and Borders Police, Strathclyde Police and Tayside Police. Rates for the remaining four forces ranged from 83.6% to 91.3%.
246. As part of their efforts to improve practice, some forces, including Strathclyde, are now monitoring the proportion of domestic abuse incidents that are then recorded as crimes. This focus and the use of specialist guidance to staff is increasing the proportion of incidents which when more fully investigated are then recorded as crimes which in turn are subject to fuller investigation.
247. In 2004/5 Strathclyde Police recorded 20,658 incidents of domestic abuse of which 11,073 (54%) were recorded as crimes. In 2009/10 they recorded 25,119 incidents of which 17,606 (70%) were recorded as crimes.
248. As we report on page 38, the statistics for homicides in Scotland that are linked with a domestic relationship are startling. The earlier interventions afforded by the correct recording and investigation of these crimes, even where individual cases don't proceed to court, are an important step to reducing overall occurrences.

Updating victims

249. During our crime audit we took the opportunity of viewing recorded victim contact. In the majority of the records that we examined, victims were shown as having been updated. Since forces have different policies

regarding the nature and frequency of updating victims, comparative judgements are not straightforward.

250. To illustrate this if;
251. Force 'A' states that victims should be updated personally by the investigating officer every 14 days. The enquiry last three months and so the policy would expect six updates. The records show only four updates.
252. Force 'B' has no policy expectation other than the victim is "kept informed". An enquiry lasts six weeks and the record shows one update by the officer.
253. In the first example, policy has not been met and yet the victim has received more updates than the second which has complied with the force's policy.
254. We argue throughout this report that some consistency across Scotland would be helpful in terms of victims understanding of what they should expect.
255. Many forces already provide an updating service to victims based upon;
 - an initial letter to confirm that the force is dealing with the crime
 - a subsequent letter at the conclusion of the enquiry giving the outcome of the officer's investigation
 - intermediate updates usually somewhere between 14-28 days
256. We consider that this appears to be a reasonable baseline. We have also supported the VSS contention that independent of a particular timescale, practitioners should consider at every important juncture in a case's progression whether the victim should be updated.
257. What we found harder to reconcile however is the consistency of feedback from victims and victims' groups across Scotland that in a number of cases updates were not delivered at all.
258. The SCJS also found;

"in around a quarter of reported crimes (26%) victims did not receive any information or assistance about the investigation (or case) at all."
(P82)
259. This is an issue that forces will wish to better understand. Likewise it is something we intend to investigate further in later phases of this inspection.

Passing information to victims groups

260. We describe above the process of police forces recording incidents and crime. Some of these are then reported to the Procurator Fiscal and this is described below under handover.
261. Another process is the passing of victims' information primarily to VSS so that practical and emotional support can be provided. There is an agreed protocol between ACPOS and VSS covering these arrangements albeit we were informed that we would find that practice had now superseded policy. This turned out to be an accurate prediction and across Scotland we found a variety of arrangements in place with a variety of further informal mechanisms supporting them.
262. We were provided with a copy of good practice guidelines issued to forces from the Information Commissioner's Office (ICO) in 2007. Noting the degree to which some current arrangements had departed from these guidelines we contacted the ICO. They had some difficulty tracing their original document but have since confirmed that they are reviewing it.
263. There are a number of issues pertinent to this handover between the police and VSS.
264. Victims details should be passed only where the victim provides informed consent for this.
265. Support groups including VSS are unable to provide the same level of service to all victims and therefore need to be provided with enough information to allow them to decide which victims should be prioritised to receive which services.
266. This in turn has to be balanced with the need to avoid providing unnecessary or personally sensitive details of the offence
267. It further has to be balanced against the need not to provide details that may jeopardise subsequent prosecutions.
268. As we indicate above forces across Scotland have a variety of ways in which they transfer victims' information to VSS and other groups. We understand and support the jointly expressed need for clarity and consistency. We would highlight that whilst it may be easy to automate transfer of certain information from police systems to those of other agencies, care needs to be taken to balance the issues we highlight above.
269. The ACPOS/VSS protocol is currently being revised which we consider timely.

RECOMMENDATION

270. That the current revision of the ACPOS/VSS information exchange protocol takes cognisance of the need to balance between providing sufficient information to allow VSS to make good decisions about how best to support victims with the need to avoid unnecessary or inappropriate detail being provided. The protocol should be developed in consultation with the Information Commissioner's Office.

Remote reporting

271. We know from the SCJS and from what victims and victims groups told us throughout this inspection that crime is under-reported to the police.
272. Police forces offer remote reporting³⁰ facilities in an effort to increase reporting particularly of hate crime (eg homophobic or racist crimes) from those victims who prefer to use this method.
273. Whilst the numbers that use this facility are very small, the fact that the option is provided is recognised by victims groups as being important not only to encourage reporting but as a recognition of the difficulties that they might have.
274. We were reminded that small and rural communities can be intimidating for some victims whose greatest concern is that after reporting their crime subsequent investigation and prosecution may draw unwanted attention to them. Thus after taking the, at times, difficult decision to report their crime, it is particularly important to keep these victims updated on progress and decisions.
275. It was encouraging to hear that victims groups consider that the criminal justice system continues to recognise and improve its approaches to deal more effectively with issues such as domestic abuse and hate crime. We were told of contrary experiences though and it was apparent how powerful these were in affecting attitudes.
276. The police (and COPFS) have placed considerable emphasis on improving their approaches towards such issues with some success. The strength of this intention is likely to be tested in the near future as hard decisions will need to be made about what issues continue to be resourced generally and where investment, such as in additional training, is focused.

³⁰ This offers victims the facility to report a crime without initiating direct contact with the police

HANDOVER

POLICE to COPFS

277. Handover for case responsibility is generally considered to be the point at which the police submit a report, a Standard Police Report (SPR) to COPFS. There may occasionally be some crossover in provision of instruction about the investigation prior to this point but this is fairly unusual in cases considered in this phase of the inspection. In the vast majority of cases the first contact COPFS will have with these cases is when it arrives electronically in the form of the SPR. It follows that in most cases this is the first point at which COPFS have any knowledge about or consideration of the victim(s).
278. We found some ambiguity as to when this point occurs. We heard from police staff that they considered this to be when the reporting police officer set this process in motion. In custody³¹ cases this is effectively immediately as cases are delivered electronically to COPFS within a few hours of that system being set in process however in non custody report cases this process can take several days and occasionally up to 4 weeks for background reports to be carried out, the case agreed by a supervisor and forwarded to COPFS.
279. Unsurprisingly COPFS staff considered the 'handover' to be when the report actually reached them for consideration.
280. There is not clarity about responsibility for contact with victims at this stage. When responsibility for the case as a whole has transferred to the Procurator Fiscal, although we have indicated difficulties in pinpointing that time, the generally held view was that responsibility also transferred to the Procurator Fiscal for victim contact. Victims however appear unaware of how and when this might occur or that their point of contact changes.
281. At times in report cases the victim will have been advised by the police when this process was set in motion, that the Procurator Fiscal was now responsible for the case and victims may try to receive an update on case progress from COPFS even though the case hasn't reached them. At best this situation raises an unrealistic expectation with victims about timescales in which the case decision will be made by COPFS.
282. There appears to have been limited discussion but certainly no agreement as to whether police should cease their involvement with or responsibility towards the victim at this point as far as information provision or practical

³¹ A 'custody' case is one where the accused is detained in custody by the police following arrest and the report on the alleged crime is forwarded to the Procurator Fiscal in time to allow the accused to appear at court on the next (court) day

and emotional support is concerned nor, more fundamentally, if COPFS should take on this responsibility. In practice however this does appear to have become the default position.

283. We are aware from our inspection process that some stakeholder groups and victims consider the police officer, with whom they have built a personal relationship over the case, to remain their first point of contact for provision of case information. We heard regularly that investigating officers would at a victim's request return to cases and interrogate the IT systems and make other enquiries to assist victim's receive information on progress of cases well after the report has been forwarded to COPFS.
284. A clear and agreed understanding about transfer of responsibility towards victims is important. As discussed above it is generally understood that responsibility for contact with victims should lie in the hands of the body then having decision making powers in respect of the incident ie at transfer from police to COPFS. The 'handover' point therefore is of some significance.
285. We note by contrast that for the purposes of transfer of responsibility in cases involving police Family Liaison Officers to VIA a simple clear statement has been agreed as part of the Joint COPFS/ACPOS protocol on family liaison. We refer to this not to suggest there should be a formal handover meeting in the cases in this phase but as an example of a clear unambiguous process illustrated in an easily understood diagrammatic form which could provide assistance to victims, police and COPFS staff.
286. Excerpt from the Joint COPFS/ACPOS protocol on family liaison -

17. The Diagram below indicates the primary, though not sole, responsibility for Family Liaison at the main stages of case proceedings:

Case Proceedings	Primary Responsibility
Death Report	Police Family Liaison Officer
Initial Police Investigations	
Accused Person's 1 st Appearance at Court	
Accused Person's Full Committal Hearing	
COPFS Investigation and Precognition Process	Handover Meeting with Bereaved Nearest Relatives
	COPFS VIA Officer

Criminal Court Proceedings or FAI	
Any Post Conviction Proceedings	

COPFS

287. COPFS current policy about information provision is, as previously discussed, that victims should be able to obtain information on their case where there has been a decision not to prosecute the case in court.
288. There are many reasons why a crime might not be prosecuted. It may be either that no formal action is to be taken for a variety of reasons including that there is insufficient admissible evidence, or that the age of offence, mitigating circumstances etc make prosecution in court inappropriate. In many other cases formal action is taken as an alternative to court proceedings by way of 'warning letters' or 'Direct Measures'.³²
289. The number of cases reported to COPFS which resulted in no court proceedings is substantial. In the year 2009/10 of the 275,503 criminal reports received by COPFS 109,152 were dealt with other than by court proceedings ie 40% of the criminal reports received. The COPFS IT systems are 'accused' and 'prosecution' focussed and do not currently have the facility to immediately distinguish cases which have a victim. Not all of these cases will have an identifiable victim however it is clear that a significant proportion do.
290. In terms of COPFS policy and the process map above, any victims in these 109,152 cases should be able to access information about the decision in their cases. They should be able to do this either by requesting this information directly from the Procurator Fiscal dealing with their case, or if the case involved one of the limited category highlighted for special treatment (cases involving domestic abuse, racially motivated offences, sexual offences, child victim cases and other cases involving particularly vulnerable victims) COPFS should proactively provide this information.
291. Despite this relatively clear position we found that lack of information provision from COPFS about case progression to be an area where there was a high level of unmet need and criticism from victims and stakeholder groups speaking on their behalf.
292. The remote nature and limited extent of COPFS contact with those who are the victims of crime in this inspection phase is quite unlike police officers

³² Statutory provision of penalty on the accused without invoking the court system including Fixed Penalties and Compensation Orders

who will have had direct contact on at least one occasion (when receiving the report) and perhaps several other meetings pursuing the investigation and updating the victim. The 'marking' depute will receive a report electronically from the police, consider what if any action should now take place and input that decision online. In all but a very few cases in Phase One, that will be the marking depute's only contact with that particular case. There is no direct relationship with the victim. It was generally understood that the victim's need for immediate practical and support needs would have been dealt with by the agency receiving the complaint from the victim and forwarding the report, normally the police, and as such not be the responsibility of COPFS at that point.

293. We also found that it was generally accepted by COPFS staff that victims should be advised of the outcome of their case and willingness by COPFS to assist in that regard, but an acknowledgement that standard current processes don't deliver this outcome.

Case review of COPFS processes

Background

294. HMICS carried out a Crime Audit across all 8 police force areas in 2010. This involved examination of 104 reports to each police force area of incidents in each of the following three crime types:

- Domestic abuse
- Minor assault
- Vandalism

295. As part of this inspection we examined these cases and followed their progress. This examination found that of these 'logged incidents' 627 resulted in police reports to COPFS. Of these 627 reports 187 were not prosecuted in court and are relevant for this phase of the inspection.

Cases examined

296. These 187 cases were examined in more detail against COPFS policy for information and advice provision to victims. In particular the domestic abuse cases, and the minor assault and vandalism cases where there was a particular vulnerability identified for the victim, were examined for record of contact and information provision to the victim. The cases covered all 11 COPFS areas.
297. We report the results under the three crime types.

Results of Case Review

298. Domestic Abuse - 271 cases reported
- 58 cases not prosecuted
 - 58 cases examined for victim contact and information provision
 - 14 of these cases (24%) were referred by the marking depute to VIA
 - There was no evidence on the IT systems of the outcome of these cases being intimated to the victim by COPFS (either mainstream staff or VIA) however in some offices VIA do not record their actions on the common IT systems.
299. NB: In most domestic abuse cases the accused is detained in custody by the police prior to reporting to the Procurator Fiscal. As part of the joint Domestic Abuse Protocol the stated arrangement is that COPFS will advise the police of their intention to liberate an accused where they cannot take proceedings and request the police then ensure that information is passed to the victim as soon as possible. We found a variety of local arrangements throughout the country to ensure this occurred involving COPFS mainstream staff, VIA staff, court liaison officers, DALOs, duty sergeants etc. This process was generally carried out on the basis of a phone call request and confirmation.
300. While we found there were effective joint working arrangements to ensure information about the accused's liberation was passed to the victim we rarely found a record of this process on the COPFS IT systems. On the whole we are satisfied that in most cases this information was provided timeously to victims (see Policy and Strategy supra page 27). We did not find there to be a similar system for providing victims with information about the outcome of the case or reasons for prosecution decisions.
301. Minor Assault - 284 cases reported
- 101 cases not prosecuted
 - 101 cases examined for victim contact and information provision
 - 9 of these cases (9%) were referred by the marking depute to VIA
 - 15 of the Minor assault cases had contained information regarding vulnerability issues relating to the victim
 - There was no evidence on the IT systems of the outcome of these cases being intimated to the victim by COPFS (either mainstream staff or VIA) however in some offices VIA do not record their actions on the common IT systems.
302. Vandalism - 72 cases reported
- 28 cases not prosecuted
 - 28 cases examined for victim contact and information provision
 - 0 (0%) referred by marking depute to VIA
 - 5 of the vandalism cases contained information regarding vulnerability issues relating to the victim

- There was no evidence on the IT systems of the outcome of these cases being intimated to the victim by COPFS (either mainstream staff or VIA) however in some offices VIA do not record their actions on the common IT systems.

Awareness of COPFS internal processes

303. As discussed before at Policy and Strategy there was a lack of understanding by mainstream COPFS staff and VIA staff of internal processes and restrictions on operational activities carried out by discrete parts of the organisation. We were advised by a number of deutes they referred cases to VIA on the understanding VIA would make contact with and provide information about the outcome of the case to the victim. They were unaware that the COPFS operational instructions for VIA resulted in VIA staff not acting on the referral as court proceedings had not been initiated. We also were advised by a number of deutes that they were unaware of the policy guidance that related to proactive provision of information to some victims and accordingly they made no attempt to intimate decisions to victims.
304. These factors taken together exposed an unfortunate gap between COPFS policy and the practice existing at the time of the inspection. The results of this gap were that many victims who should have received notification of the outcome of their cases did not do so. We did not find any evidence of a robust system of information provision to victims about the outcome of the crime.
305. This supports the position we heard from various victims and stakeholder groups that there is no case progress or outcome information provided on a systematic basis.

Reactive case information

306. We found very little record of request for reactive provision of information in the case review. The case review was carried out on the COPFS IT systems and this would not record any such request. As such we are unable to comment, from the examination of these cases, about how such requests are dealt with.
307. A fairly consistent thread of complaint by stakeholder groups and victims in their responses to our questionnaires was of difficulty in contacting COPFS to receive information about the outcome of cases and information about decisions not to prosecute. As discussed before some groups had spent time and energy to form relations with individual members of COPFS staff as a means of circumventing what they found to be a 'difficult' system.

308. As discussed at Partnership and Resources (page 52) COPFS have recently invested in the 'Enquiry Point' as a means of addressing the large volume of requests for a variety of information and enquiries about cases (relating to matters such as dates for trial, witness queries etc). This also includes those requests for information about case decisions by victims.
309. We have no doubt the Enquiry Point has the potential to deal with many such requests in a speedy and straightforward manner but the lack of knowledge, clarity and guidance about case information provision (as discussed at Policy and Strategy page 36) fails to allow this new provision to currently deliver its full potential. As the inspection was being carried out some requests for case decision information were not being answered and callers required to put requests in writing, directed to their local Procurator Fiscal who then processed the response directly.
310. As discussed before clarity about policy in this area and better internal partnership working could provide a better outcome for victims and reduce workloads at Procurator Fiscal Offices. Similarly a system of proactive case decision information could reduce such requests which require this reactive response.

COPFS IT Systems

311. The current IT systems used by COPFS are 'offender' and 'case' orientated. Their purpose is to ensure proper and effective prosecution of accused. It is consistent with COPFS core functions that this is so. However we understand this is an opportune point to increase usability to be more victims orientated as they are being subject to a major review and update.
312. We were advised the IT systems could potentially be adjusted to better highlight victims and victim issues eg repeat victims, victim vulnerabilities, prompts for victim contact. We suggest this be investigated with a view to assessing the resource implications of generating better information providing 'standard' or 'templated' letters to victims as part of the current system redesign.

Domestic Abuse

313. There was evidence that the position regarding information provision has improved over recent years in relation to domestic abuse cases. This appears to be the result of specific policies and protocol rather than a general improvement in information provision to victims 'per se'. This information however tended to be restricted to the liberation of the accused rather than reasons for decisions or the outcome of the case as a whole.

314. However this improvement is recognised and appreciated by stakeholder groups:
315. “It appears women are made much more aware of how the incident/case is progressing, compared to how women were kept informed in the past. As you will know, this is in part due to more multi-agency responses and partnership working, and as we see it, due to the establishment of domestic abuse courts at Glasgow Sheriff Court and the work of ASSIST in Glasgow”.³³
316. However SWA, other stakeholders and our questionnaire responses indicated that information provision even for domestic abuse varied widely.
317. The SWA submission stated “(in some areas) information provision was poor and that women were having to chase police and COPFS to find out what’s going on - not super proactive at keeping in touch”. We did not find any significant geographical relevance to the level of information provision, as commented it can “depend on the officer dealing with the incident”.

Processes elsewhere

318. We are aware of different models used in other jurisdictions. We looked at neighbouring jurisdictions.
319. In England & Wales, Witness Care Units (WCU) have been established. The WCU are staffed jointly by representatives from the police and The Crown Prosecution Service. WCUs maintain responsibility for victim and witness liaison in all cases from point of ‘charging’ to conclusion. This service was established with the help of substantial investment, £36.1m. It now provides 165 local units across England and Wales. There are, in England and Wales, statutory duties which require to be met around the nature and level of victim contact.
320. In Eire there is a more limited level of information provision to victims in cases which are not proceeding to court. This is a fairly new system and is managed with the assistance of the Gardai (the Irish police force) in that they retain contact with the victim and deliver a ‘reasons’ letter from the Director of Public Prosecutions to victims.
321. It is unlikely in the current financial climate there will be any substantial investment to radically improve greater information provision to victims in Scotland.

³³ Taken from Response from Scottish Women’s Aid June 2010 submitted to this Inspection

322. There may however be some learning to be gained from the different approaches elsewhere, particularly the approaches towards more joined up partnership working.

CONCLUSIONS

323. We did not find robust systems to advise victims of COPFS decisions that there were to be no court proceedings in their case nor of the reasons for such decision.
324. This extended to all non court disposal of cases which includes those dealt with by alternatives to prosecution such as Warning letters or Direct Measures as well as cases where no action was taken.
325. Even in those cases where policy indicates there should be proactive intimation we found this often did not take place.
326. Therefore the current position is that victims of crime at this level are not routinely advised of the outcome of cases where there are no court proceeding. A victim who reports a crime will frequently be unaware of the outcome of their case. They will have to make contact with COPFS to find out what has happened. We were told this was not always an easy or straightforward exercise.

RECOMMENDATION

327. That COPFS and police forces reach agreed protocols about which agency provide information at different stages of cases to ensure all victims have basic information about the progress of the case in which they are involved and who/where to contact for further information they require.

CHAPTER 6 - RESULTS

328. *Results* in the context of the criminal justice system can mean different things to different people. For some it is the investigation and prosecution of crime and others simply the prevention of crime or at least its reduction both in terms of frequency and impact.
329. Comparatively more recently, perhaps in the last twenty years, expectations have risen that public services will focus on *how* their services are delivered in addition to more traditional and simplistic results. This change has its roots in initiatives such as citizens or service charters and then became embedded within legislation supporting Best Value.
330. Police and COPFS have responded to these developments taking a much broader view now of what constitutes their results. There is much more public debate and comment upon their services and this debate is more open, forthright and the comment at times more critical. Both the Police and COPFS invest in consultation with the public and satisfaction has become an increasingly important measure of success – in effect a result.
331. Unequivocally we consider the above developments to have been positive. As we move into a much more difficult period for public services this connectivity with the public takes on even greater significance. The decisions as to how services will be altered to accommodate large reductions in resources must take cognisance of public views. What is fundamental to this process is that the debate must be an informed one.
332. As we previously highlighted in this report, public awareness of the criminal justice system is generally very low. Scotland prides itself on being a small country with all the benefits that this can bring in terms of community and shared values. This same small country though is one in which many people will have either had contact with the criminal justice system or know someone who has. In this way the *results* of the police and COPFS are communicated far beyond the reach of any website, business plan or annual report.
333. Whilst not wishing to be complacent, this is significant. Since contact with the police and COPFS will often be as a result of something unfortunate happening, the victim's eventual satisfaction must be calibrated in that light.
334. Further, the criminal justice system has a duty towards society as a whole that has to be balanced with that of the individual. This means that the outcome can be the correct one yet still not meet the victim's expectations. In this regard victim satisfaction whilst an important result cannot be the single determinant of success for the police and COPFS.

335. So what are *results* for the purposes of this report?
336. In this report we have assessed results with regard to the following;
337. We have taken as a baseline the commitment of both the police and COPFS to The Strategy. Flowing from that we have looked at how and to what extent victims have been provided with information provision along with practical and emotional support. Although more complex to assess we have made some judgements about how this might lead to their greater participation in the criminal justice system.
338. We have recognised that overall satisfaction levels are relatively high and have tried to get below the surface of the headline figures to understand better, where and how satisfaction rates can be improved. In exploring these issues we have focussed on a qualitative dialogue with victims and victims groups along with practitioners and managers of both services.
339. Encouragingly there is a powerful consensus.
340. The police know from their own research and surveys that where victims are not satisfied it is very often with the lack of information about what is happening with their incident. In interviews a number of staff confirmed this view. HMICS reported similarly in 2008. (refer to previous footnote)
341. COPFS know from their own research that victims want to know what is happening with their case. The fundamental change in policy in 2005 was in recognition of this and the recent statements in COPFS business plans suggest that this view is still held and that the COPFS is moving towards information provision to all victims. Similar to the Police, our conversations with COPFS staff confirmed this was viewed as a positive outcome.
342. This consensus is useful in that we have then be able to concentrate on how victims perceive current information provision and compare this with how the police and COPFS perceive the same issue.

Police - policies and practice results

343. In the previous section on *processes* we highlighted that in relation to the police, compliance with policy was not a particularly good measure as policies varied across forces.
344. We noted that although generally police IT systems were not designed to facilitate and record contact with victims, that some forces were able to demonstrate this quite clearly.

345. Finally we noted that some victims appeared not to receive any update at all in relation to their crime which seemed incongruous with forces' policies which are designed to prevent this.

COPFS - policies and practice results

346. In the previous section relating to COPFS *processes* we highlighted the progression of policy and strategy relating to victims and the undoubted improvement in this. We noted this progression is continuing and suggest improved clarity regarding the current position and direction of travel to assist staff who require to interpret, understand and give effect to these policies.
347. Our findings indicated a gap in the service provision to victims between what was stated in policy would be delivered, to that delivered in practice.
348. Similar to the position with the police, the COPFS IT systems were designed principally for the purpose of case progression as it relates to the accused and prosecution. We do comment on the major review and update of COPFS IT systems currently taking place and suggest this is an opportune time to consider systems to increase focus on victim contact which could help eliminate or reduce this gap.

Outcomes

349. As Scottish Women's Aid comment in their submission:
350. "...provision of information also varied widely; some areas reported that this process was good but in others, information provision was poor and that women were having to "chase police and COPFS to find out what's going on."
351. Similarly Stonewall comment in their submission:
352. "Despite good central policy, victims on the ground continue to be dissatisfied with the information they receive regarding no proceedings being taken. We believe it should be made clear to the victim that insufficient evidence to prove an attack does not mean the incident hasn't been taken seriously by the authorities."
353. Grampian Racial Equality Council report in their submission:
354. "Overall GREC's experience and feedback from victims.....has been positive with respect to the provision of information from Grampian Police and the Crown Office and Procurator Fiscal Service. The main issue victims raise remains to be confusion regarding how case is being progressed through the justice system and at times the rationale regarding whether or not the

Procurator Fiscal Service proceed to prosecute a case in court etc. Any further improvement that can be made in this area would be appreciated by victims and would increase confidence in the criminal justice system.”

355. This supports our findings that although there has been progress in the development of policy and practice towards information provision and support to victims there are some significant gaps. The systems are not sufficiently robust to ensure all victims receive adequate information about their cases. We conclude this is at least partly as a result of the lack of clarity and knowledge of the policies.

Results – victims or witnesses?

356. In this phase of the inspection we have been focusing on cases that do not proceed to court. It has been challenging for stakeholders groups to make this distinction when describing what happens to victims overall and their ensuing satisfaction.
357. We think it is significant that victims’ groups and criminal justice agencies find it difficult to identify the group of victims who fall within this phase of our inspection. This pre-disposition to consider victims in terms of a court process rather than in terms of the impact of the originating event, conflates or confuses the needs of the victim with the needs of the criminal justice system. This issue is compounded with a second conflation; the joining of victims’ and witnesses’ needs within criminal justice portfolios and meeting structures.
358. Victims whose cases do not go to court may be difficult to identify but they are not a small group. We know from the SCJS that just under 40% of crime actually gets reported to the police. We know that of the circa 40% which is reported to the police, less than half is ever reported to COPFS. We know that of this half, around 40% will not go to court.
359. We know therefore that for the vast majority of victims of crime in Scotland, a court appearance and all of the attending focus and support that this brings, does not represent the reality of their experience.

RECOMMENDATION

360. Police forces, COPFS and the Scottish Government should ensure that their approaches to dealing with victims pursuant to The Strategy recognise that the majority of victims’ cases will not proceed to court and will not receive the focus and support that the status of being a witness attracts.

RESULTS - CONCLUSIONS

361. In this phase we have concentrated on those offences that represent by volume a significant proportion of reported crime and not those such as sexual offences and serious assaults where we recognise that there is enhanced victim provision from both the police and COPFS.
362. We have focused on The Strategy and its emphasis on information provision along with practical and emotional support. In that regard it was important to consider what police and COPFS policies were, whether they were delivered and perhaps more importantly whether they met victims' needs.
363. We have described earlier in this section the extent to which police and COPFS policies were delivered in practice. Where we have encountered victims' dissatisfaction it has generally been in areas that current police and COPFS policies already provided for. In other words at this stage of this inspection we consider that the greatest improvement to victim satisfaction would be to simply ensure that current strategies and policies are clarified and consistently delivered in practice.
364. This should be reassuring to both the police and COPFS. It means that the commitments that they have made, the policies that they developed and are continuing to develop to deliver them are broadly the right ones. It should also be reassuring to the Scottish Government that the 2001 strategy seems to be correctly focused and that issues of delivery rather than re-design are a finding from our inspection.
365. What should not be underestimated however is the difficulty in ensuring practice meets policy across the hundreds of thousands of interactions with victims that take place every year in Scotland.

CHAPTER 7 - OVERALL REPORT – CONCLUSIONS/FUTURE

366. As The Strategy moves towards its tenth anniversary there is a consensus that in general the focus on the victim has continued to improve. There is a feeling that the pace of this improvement has slowed more recently.
367. We attribute this to three factors:
368. The public are becoming used to much more responsive public (and private) services. As users of these services, they have become accustomed to receiving or being able to access relevant and timely information.
369. Set against this backdrop, information provision to victims from the police and COPFS appears not to match this wider trend.
370. Within both the police and COPFS, policies have changed over recent years as new legislation was passed and new initiatives launched. This brought necessary and welcome improvements.
371. Overall however it meant that service provision to victims has become quite complex particularly where policies overlap. Staff awareness and practice have not always kept pace with these strategic intentions and supporting policies.
372. Both the police and COPFS have brought strong leadership focus and supporting structures to bear on the needs of victims. That said, the needs of victims and witnesses have become entwined as portfolios within both organisations. This apparently convenient confluence has been signalled by the national Victims Steering Group becoming less active and attention turning instead to the national Witness Issues Group.
373. The police and COPFS rely on good witnesses to achieve successful investigations and prosecutions. It is not surprising therefore that the improved delivery of services to support witnesses has to an extent overtaken, and on occasion eclipsed, the needs of the majority of victims who do not achieve this status within the criminal justice system.
374. This inspection did not uncover any new or particularly complex needs from victims. Indeed in many cases the unmet needs we did encounter were already catered for within the existing policies of both organisations. This simplifies the task ahead and should concentrate minds on fulfilling current intentions.
375. Finally a significant element of the practical and emotional support that forms the second strand of The Strategy may be reasonably viewed by the police and COPFS as being better provided by other agencies.

376. The police having the initial contact with most victims have a principal role in ensuring that the appropriate information is passed to those agencies. In doing so we have commented on the need to ensure informed consent prior to passing enough, just enough, information to allow services to be tailored to victims' needs. Whilst doing so we have also highlighted the need to consider the wider implications to the potential prosecution case.
377. Although beyond the scope of this inspection we were struck by the variable and at times highly fragile nature of support to victims being provided by the voluntary sector. The Strategy does not seek to prioritise between its three strands and yet the governance and accountability for delivering support services to victims differs significantly across the three strands and between public and voluntary sectors.
378. Within the current review of The Strategy there is the opportunity to consider that amount of public money being provided to the voluntary sector, the method of distributing it and the best approach to ensuring services are provided effectively and particularly consistently across Scotland.



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