



Eoin Hayes TD
Dáil Éireann
Social Democrats

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Minister for Justice

Dear Minister,

First of all, I'd like to sincerely thank you for introducing legislation on historical disregards on convictions of men who engaged in consensual sexual activity - I know that legislation means a lot to many people, and it was right that you introduced it and shepherded it through the Oireachtas.

Recently, I met a group of criminal solicitors from our constituency who wanted to speak to me about the unfolding criminal legal aid situation. One rightly pointed out to me that many of the men who would have been erroneously convicted of historical consensual sexual activity would have been reliant on the same legal aid that is now under significant pressure.

My understanding is that the number of practicing solicitors supporting the criminal legal aid scheme for the indigent - or those who can not afford legal representation - is in the region of about 200-300. I hope you will share the view that they provide an essential legal service in access to justice and proper defense for those who do not have the means to privately secure legal representation. What struck me in my meeting with this group of solicitors was how passionate they were about their work - they had eschewed a more comfortable path in the law in the commercial or other sectors in service of those in our society who are often very vulnerable and suffer from major social issues. These clients are badly in need of proper legal support, and the solicitors I met who represent them are proud to do what is essentially a frontline public service.

It is in this context, then, this is not a typical cohort of criminal defendants. The population who need support from criminal legal aid is distinctly different from those who do not, and this was recounted to me by the solicitors I met. In particular, those availing of legal aid are often homeless, or dealing with severe mental health issues, or suffering from addiction. They often come from the most dire socio-economic circumstances. Many are juvenile offenders; and some are being prosecuted for relatively minor offences. There is a significant social trauma element to each of these cases, one which means the complexity of the cases, and of the individual, have a bearing on the legal services required.

These solicitors recounted to me some of the cases they defended:

1. A man suffering from severe schizophrenia and acute drug addiction who has been battling with both his entire life. His engagement with the courts has been for minor offences - he stole a bottle of wine even though he doesn't drink, for example, to use the proceeds of a black market sale to fuel his drug addiction. His solicitor told me how, as a result of his actions, there was a "neverending" cycle of legal engagements, counting over 30 appearances at court. It required engagement with social workers, healthcare professionals, rehabilitation services - an extreme level of legal work to both provide proper legal representation but also to ensure rehabilitation and social supports were available and engaged with.
2. A juvenile defendant, who has been represented by one solicitor for 2 years since their first day in court. This particular defendant has had 9 appearances at court, none of which could have been avoided, given the statutory requirements of the case and delays with probation reports. The case is still ongoing. I hope you'll agree that for juveniles, where there is a real possibility of rehabilitation, they should not be deprived of proper legal counsel and coordination with appropriate services.
3. A foreign national, threatened and pressured by drug gangs in their home country and forced to transport drugs to Ireland - a victim in so many ways, who needs legal representation to support their case in Irish courts. As a victim of gangland and organised crime, and someone for whom English is not their first language, you might imagine the significant legal services required to represent them properly.

Across all of these cases, there is a commonality - a reliance on the proper support of the State to provide legal representation and access to justice to navigate complex cases that take

much longer than your typical representation. One solicitor said she saw her role as much more than providing legal representation, as she had to often interact repeatedly with other social services - Tusla, youth diversion programmes, restorative justice programmes, social workers, medical practitioners, addiction services, etc. And that did not include interactions with the DPP, or the evening or weekend work associated with engaging with the defendants and their families or networks.

The solicitors I met said they do not believe the Department of Justice has a sufficient understanding of this complexity and the resultant workload associated with these kinds of cases. As reasons for adjournments are recorded by each judge, even if that data is not very readily accessible, perhaps there is an opportunity to properly re-assess the analysis already undertaken by the Department.

It would, of course, stand to reason that for a population dealing with significant social issues like poverty, deprivation, social exclusion, addiction, mental health issues, and complex needs, that legal processes would be more complex and longer and require higher levels of representation and engagement. It would also stand to reason then, that the costs of providing such services, as these issues grow in our society, would also increase. As much as I absolutely appreciate the need to ensure taxpayer funds are properly deployed, it would be incumbent upon us to ensure that the reasons for an increase in total costs are valid and important. Given what I have learned, I have reason to believe they are likely to be so.

I hope you might meet with the solicitors I met with (cc'd), also constituents of yours, and engage meaningfully with the Criminal Law Committee of the Law Society on the proposed changes to criminal legal aid. Perhaps by co-designing a proper financial framework to support our country's indigent, we can all do the State - and the most vulnerable in our society - a great service.

Yours faithfully,



Eoin Hayes TD

Social Democrats Social Protection Spokesperson