

THE COMMISSION ON THE FUTURE OF

POLICING IN IRELAND

SUBMISSION ON BEHALF OF

JUSTICE4ALL

ATTENTION OF:

Ms. Kathleen O'Toole

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Please see enclosed the recommendations of the Justice4all Committee, on the future of Policing in Ireland.

We note with great disappointment that there is not a representative from a victims group, appointed to the Committee on the Future of Policing in Ireland.

Justice4all represents the views of in excess of three hundred and fifty victims, who allege malpractice and corruption, at the hands of An Garda Síochána, and other justice related state bodies.

Recommendations of the Justice4all Group:

1. The paramount issue that requires confirmation is that there is political support for change and reform of An Garda Síochána. To date we have not seen any meaningful reform, the government have got to change their attitude towards oversight, accountability and transparency within An Garda Síochána.

It is appalling from our perspective, that the establishment chose to ignore the fabrication of 1.5 million breath tests, no accountability and no prosecutions. Many law abiding citizens have lost their lives, or sustained life threatening, and life changing injuries, at the hands of intoxicated drivers. We have evidence of an officer who prosecuted an innocent motorist who committed no road traffic violations and had sustained life threatening injuries (traumatic brain injuries) in a collision, in order to protect a driver who consumed alcohol and had driven past a red light, at the request of his garda colleagues who were personally connected to the offender.

There were 14,700 drivers wrongly convicted of motoring offences. Once again the establishment has turned a blind eye as to how this occurred, and the perpetrators were never brought to justice.

The Department of Justice dismissed ninety five percent of the 330 cases that were submitted to the Independent Panel Review Mechanism. The government was legally obligated to investigate allegations of criminality, carried out by certain members An Garda Síochána. Victims human and constitutional rights were breached

In some cases even after victims furnished the Independent Panel Review Mechanism with comprehensive evidence of criminality at the hands of An Garda Síochána in their case, the officer / officers were promoted.

2. Owing to our experience in the Justice4all group and based on the comprehensive amount of evidence we have seen, we believe a substantial amount of serving members of the Garda are not suited to the profession. The role of the Gardaí is quite unique, where in a member holds so much power over an individual, they can destroy lives by actions of malpractice and corruption. In Ireland the word of a garda is sacrosanct.
3. It is of our opinion that the next Garda Commissioner be from outside of the jurisdiction, where she or he will have no affiliations to serving officers in higher or lower ranks.
4. We maintain that there cannot be meaningful reform when there are a substantial amount of legacy cases, which have not been addressed. A prime example of this is, the harrowing Kerry babies case, and there are many, many more miscarriage of justice cases to come.
5. When a victim of garda malpractice / corruption contacts Justice4all, there is no adequate investigating body to send them to. The Garda Síochána Ombudsman Commission is just not fit for purpose. There is no deterrent for rogue gardaí, when there is no mechanism in place to investigate practice or procedures.
6. Of all the Justice4all cases submitted to GSOC, the majority of the cases were deemed inadmissible and not satisfactorily investigated.

In a substantial amount of cases comprehensive proof of garda malpractice and garda corruption were furnished to GSOC, which included instances of criminal conspiracy, breach of duty, neglect of duty, perverting the course of justice (including perjury) and malfeasance.

GSOC failed and refused to investigate prominent loss of life cases, yet they had an obligation to do so under the Garda Síochána Act 2005 as amended, which is the principal Act governing the Garda Ombudsman.

7. It is imperative that GSOC have the powers to investigate the Garda Commissioner and retired members of An Garda Síochána.
8. A radical change in attitude is required from certain solicitors, barristers and judges. When a person has been a victim of malpractice and corruption at the hands of members of An Garda Síochána, they in turn find that certain solicitors, barristers and judges take the word of the gardaí, even in the case where there is comprehensive evidence to prove that they are lying.

9. There is an urgent requirement for the immediate commencement of the Judicial Council.
10. It is vital that a Superintendent or another senior officer sign off on each case / incident, as there is a requirement for a senior officer to be accountable in each and every case, particularly in the event of loss of life or serious injury cases.
11. Owing to the experience of our former chairperson [REDACTED] (now deceased), we believe it be enacted by statute that a detainee in a garda station have access to their general practitioner of choice. It has been brought to our attention that detainees have had their request for life saving medication refused. A prime example of this is a diabetic requesting insulin.
12. It is recommended that a solicitor be present at all times, when gardaí are interviewing a detainee in a garda station, it has been brought to our attention that the video recording of interviews have been switched off, whilst the detainee is being intimidated and interrogated. We believe that by having the solicitor present as a compulsory measure, he or she can guarantee that no breaches of a persons human and constitutional rights can occur.
13. It is recommended that a person with intellectual disabilities be accompanied by either a guardian, doctor or / and a solicitor whilst being questioned in garda stations. We are aware of the mistreatment of disadvantaged people by certain members of An Garda Siochána, while they were being detained for questioning.
14. When there is a loss of life a Chief Superintendent / Superintendent should be assigned to the case. A loss of life squad should be assigned to the case from another province, where the Chief Superintendent / Superintendent will oversee the investigation, she or he should be accountable for the liaison between the investigating gardaí, scene of crime investigators, state pathologist, coroner and the DPP.
15. In the majority of the Justice4all cases the problem is not just one rogue member of An Garda Siochána being at fault, these cases involve a few members colluding in a conspiracy against an innocent victim.

16. There is a serious problem where certain gardaí are involved in the business world, this brings with it a conflict of interest situation, in dealing with cases that arise in their community. In certain cases submitted to Justice4all, it is clearly obvious that gardaí acted to protect their business interests, and not in the interests of justice.

17. It is recommended that a watchdog be established as an oversight body to monitor the Criminal Assets Bureau, there should be transparency and accountability regarding the funds (cash) and other assets seized from criminals and innocent parties, by CAB and the Revenue Commissioners.

When funds are seized, a receipt should be provided to the person, the persons next of kin or their solicitor, it should also be confirmed where these funds are retained. When these funds are retained , the person who owns same, should receive notification every three months, confirming that an application is being made in court, in order to retain these funds belonging to the person. If the person is not charged with any offence, the state is obliged to return the goods and cash. We are aware of certain cases where the Gardaí / Criminal Assets Bureau have retained substantial amounts of money without cause to do so.

In a case where the Gardaí / State make an application for a forfeiture or confiscation order, the person who owns the funds that has been seized, should be notified in writing, to allow the person to contest the order. In certain cases funds seized have disappeared, as there is no accountability or paper trail.

18. In certain cases Chief Superintendents have issued unlawful and unconstitutional warrants (Section 29). If Section 29 warrants are issued illegally, it should be mandatory that a criminal prosecution should follow.

19. In certain cases Chief Superintendents have issued warrants stating people were members of an illegal organisation, when he in fact knew that these people were never members of any such organisation, this was later proven to be true in a court of law. If an officer issues such a warrant illegally, it should be mandatory that a criminal prosecution should follow suit.

20. Where a case involves the removal of goods from a home or business, it is crucial that a copy of the list of seized goods be given there and then to the person, whose property the goods have been seized from. A set date should be in place for the return of these goods, unless the goods are required for a trial pending.

21. Where there is comprehensive evidence of criminal actions on the part of a member of An Garda Síochána, it is critical that the member be prosecuted and incarcerated. There should also be a financial penalty, suspension of their weekly wage whilst under investigation and if possible the loss of the occupational pension. In Donegal following the dishonest and corrupt garda scandal, members of An Garda Síochána retired with their substantial occupational pensions intact.
22. Where a detainee is interviewed under caution, it is critical that this person receives a copy of the interview that took place, prior to leaving the garda station.
23. Body cameras – it is recommended that cameras be worn by members of An Garda Síochána, while they are on duty, in order to act as a deterrent and protect members from assault, by a small sector of society, and also to act as a safeguard to law abiding citizens regarding false accusations. The body camera brings an accountability in all daily garda operations.
24. Requirement of cameras in court, with the exception of the family courts, in order to act as a deterrent and prevent gardaí from committing perjury. There is presently the digital audio recording systems in the courts. Owing to the experience of the Justice4all group, certain gardaí have no concerns perjuring themselves in a court of law. Examples available upon request.

It is imperative to prosecute gardaí that commit perjury in court. There is no deterrent for gardaí lying under oath. We are not aware of any member of An Garda Síochána being prosecuted for lying under oath in a court of law.
25. There are certain problematic areas regarding garda malpractice and garda corruption, an example of the worst affected areas are the following counties, Offaly, Athlone, Cork, Mayo Donegal, Galway and certain garda divisions in Dublin Central.
26. In certain malpractice and corruption cases in the Offaly and Cork division, the same names of rogue gardai appear repeatedly.
27. Many victims of garda malpractice and garda corruption are still afraid to come forward, they do not believe that there are any penalties for rogue gardaí. They also do not have the funds to instruct solicitors, in order to obtain justice.

28. There are few solicitors in Southern Ireland prepared to take cases against An Garda Siochána. Victims are having to seek representation from outside of the jurisdiction, such as Belfast and London. Victims of malpractice and corruption need access to justice, it is their human and constitutional right to have an effective remedy and clear their name.

29. We have grave concerns regarding the collection of data on the PULSE (Police Using Leading Systems Effectively) system. We have cases where certain gardaí have logged false data regarding individuals, when they know these facts to be untrue. This causes great distress to the person in question, when they have not committed any crime, and are in fact the victim of a crime. It is imperative that there are serious repercussions for members of the Garda who commit such an offence. A mechanism is required where an innocent person can have data removed from PULSE, upon the production of evidential facts, proving that the logged data is in fact erroneous.

30. A system needs to be established to ensure that homicide figures are recorded correctly. Between the period 2003 – 2017, 89 homicides were classified incorrectly, and between 2013 - 2015 there are concerns as to how a further 41 cases were classified. This has caused great distress for Justice4all members, who lost loved ones under tragic circumstances. This cannot occur again, it requires a comprehensive investigation as to how it occurred, and a senior officer needs to be appointed and be accountable for the collection of such sensitive data. Does this mean that the perpetrators of such homicides are walking freely and have not been brought to justice because of this unwarranted error.

Please see attached a report compiled by Dr. Vicky Conway, on thirteen sample Justice4all cases, furnished to her for her professional opinion.

This report was compiled by Dr. Vicky Conway, prior to her being appointed to the Policing Authority Board.

The Justice4all Committee.