



Submission to the Commission on the Future of Policing in Ireland

by One in Four

January 31st 2018

1 INTRODUCTION

One in Four is an NGO that provides professional psychotherapy and advocacy services to men and women who have been asexually abused in childhood and to their families. We also deliver a sex offender intervention programme to adults who acknowledge sexually harmful behaviour towards children and to their families. The majority of these offenders are not convicted nor do they have outstanding criminal complaints against them.

Although we work with adults, our primary focus is on protecting children from sexual harm. In 2017 we worked with 876 people.

Our Advocacy Officers provide practical information and support to clients who wish to engage with criminal and civil justice processes up to and including court accompaniment. They also are responsible for notifying Tusla of child protection concerns. In 2017 we supported 155 men and women to engage with the criminal justice system, from the starting point of making the initial Garda statement onwards. Of these, 31 cases came before the courts during 2017.

When a sex offender enters the One in Four intervention programme, we immediately notify the Garda Superintendent in the area in which they live – 51 cases in 2017.

One in Four staff are in regular contact with members of the Gardaí in the course of their work. We are well placed to observe the areas in which the Gardaí operate well and those areas in which we would recommend change.

2 WHAT WORKS WELL?

2. a We appreciate and value the cooperative attitude we experience when we support clients to engage with the Gardaí.

We have a close working relationship with members at all levels working in the Special Protective Services Bureau in Harcourt Square. They are very accessible and are open to regular meetings to discuss any concerns. They are also available to us to advice on particular situations, and they have often intervened when we have experienced difficulties with Gardaí investigating our client's cases in divisions throughout the country. They regularly solicit our views on how they are operating and are very open to constructive criticism.

We have formed good relationships with senior Gardaí across the country. We find them to be very open generally to discussing the concerns we bring to them regarding the experiences of our clients in engaging with the Gardaí.

One in Four recently commissioned an External Review of our work and several members of the Gardaí were interviewed. Their views of One in Four support our experience:

“They hold us to account and we should be held to account. One in Four is in a very good place to indicate what is wrong.” (Senior Garda)

“We have a very good, honest working relationship with them” (Senior Garda)

2.b Culture

We greatly value the major shift in the culture of the Gardaí regarding victims of sexual crime. In the past fifteen years, the approach of members to complainants has changed from one of scepticism and disbelief to one of openness and support. While we absolutely accept that the Gardaí have to investigate allegations of sexual crime rigorously and thoroughly, it is our experience that the majority of Gardaí are able to carry out investigations both sensitively and professionally.

3 WHAT CAN BE IMPROVED OR CHANGED?

3.a Communication

One of the most common frustrations and upset expressed by our clients is the lack of communication from the investigating Garda member. This ranges from failing to give general updates to not communicating when the file has gone to the DPP or when a decision has been made by the DPP. Sometimes it can take multiple letters of inquiry from us before a Superintendent responds with clear information on the status of the investigation.

We understand that the Garda may not be in touch with the complainant because there are no updates. However we often discover this likely hiatus in communication was not explained to the complainant in the beginning and so it then leaves the complainant feeling let down by the Gardaí.

We commonly come across situations where complainants have not been informed about the decision made by the DPP not to prosecute. We would strongly recommend Gardaí should not notify clients of DPP's decision over the phone but should do so in person and at an appropriate time.

In order to complete a task the Gardaí may call to a client without giving due notice or they may call them at an inappropriate time or meet them in an inappropriate place. This is detrimental for clients who feel too afraid not to comply with the Gardaí and are afraid to ask to change appointments or for Gardaí not to call them at hours that are not suitable. We have had incidences where Gardaí have called clients late at night or called to their house without making an appointment beforehand. In one instance a Garda gave client information about an upcoming trial when they met them at a traffic checkpoint. Another Gardaí called to a client at her workplace and took additional information from her in the back of a car outside her office, leaving her exposed to the curiosity of her colleagues.

Recommendation 1: The Gardaí should ensure that regular information is given to complainants at a time and place that has been arranged beforehand and is appropriate.

3.b Taking Statements

As stated above, the majority of Gardaí handle investigations sensitively and professionally. For example, it is very common that Gardaí will agree to take clients' statements at the One in Four offices where clients will feel comfortable and support is readily available to them. However, some of our clients have experienced difficulties when making a statement.

Some clients have been asked to attend a Garda station in the evening to make their statements. This can take hours and it can be late at night or in the early hours before they leave the station to

go home. We know that making a statement is one of the most difficult parts of the process; our clients regularly describe it as humiliating, bringing many of the traumatic feelings to the surface. Unfortunately the late hours mean it is not possible for the complainant to talk to a supportive friend, family member or professional when the statement is complete.

Some clients have felt very uncomfortable at the location in the Garda station where the statement is being taken. There are many instances of other Gardaí wandering into the interview room. In one instance the statement was taken in the canteen because nowhere else was available.

Recommendation 2: Statements should be taken at a time and place agreeable to the victim. Cognisance should be taken of the victim's need to have access to support following the interview.

Recommendation 3: Under the new Victims of Crime legislation, victims will be entitled to have a support person present when making a statement. It is important that the victim is informed of this fact.

3.c The Investigating Garda

At One in Four we have noticed over that past number of years that many older, experienced Gardaí have retired and that younger, inexperienced Gardaí are responsible for investigating serious sexual crimes. Many of the younger Gardaí have not undergone specialist training. It is also sometimes apparent that there is a lack of adequate supervision of the investigation and of cases by senior Gardaí.

On occasion our clients have raised concerns about the outcome of their case having been affected by a poor investigation. We recently had an experience of a young Garda member on her own for the entire court process with no one to assist or support her. The strength of this investigation was questioned heavily by the defence. It appeared that the investigation was not comprehensive or adequate enough. We are also aware of a number of trials collapsing where it has been claimed by the defence that an inadequate investigation had taken place.

The Gardaí can be a very supportive presence to the victim when a case goes to trial. However, there are also problems, particularly when the investigating Garda has never been involved in a Circuit or Central Criminal Court trial. Once a case goes to court we frequently witness a lack of experience and knowledge of the court process by the investigating member. Complainants are regularly given inaccurate information. Clients believe Gardaí who are in a position of power and if their information is incorrect it can be difficult to rectify or for the client to trust professionals and the justice system.

Recommendation 4: Gardaí investigating serious sexual offences should be properly trained and supervised. They should be properly supported during trials at Circuit or Central Criminal Court level. The roll-out of the regional Special Protective Services Units may address this concern.

3.d Vicarious Trauma

We know from speaking to investigating Gardaí that they can be heavily impacted by the histories of abuse that they hear and by the distress of the complainant. In many cases, the symptoms they

describe could indicate a level of vicarious traumatising. Unlike many other professionals, Gardaí do not routinely have access to supportive debriefing. This can lead to burnout.

Recommendation 5: Gardaí investigating sexual offences should have routine access to supportive debriefing.

3.e Negligence

While it is rare, a number of our clients have been victims of what could be perceived to be negligence by members of the Gardaí. Investigations have not been properly undertaken, cases have not been referred to the DPP, and files have been mislaid or lost. The common factor in all these cases is lack of proper supervision and case management.

Recommendation 6: That a reliable case management system be put in place so that Garda management can track the progress or lack thereof of investigations into serious offences.

3.f Case Reviews

As mentioned above, we are aware of some instances where trials have collapsed or “not guilty” verdicts obtained where the defence have pointed towards inadequate investigations by the Garda. Some of our clients have also had the experience of obtaining a “guilty” verdict only to have this overturned in the Court of Appeal.

We would like to see the introduction of reviews of all cases that proceed to trial. In the case of “not guilty” verdicts or the collapse of trials the purpose would be to identify lacunae in the Garda investigation which may have contributed to this outcome. In successful prosecutions, there may be valuable lessons to be learned that could be applied across the board to all investigations.

Recommendation 7: To introduce a system of case reviews of all cases that proceed to trial regardless of the outcome.

3. g Child Protection

We believe that that the Gardaí perform a crucial function in relation to protecting children from sexual harm. At One in Four we operate a mandatory reporting policy, and all allegations of sexual abuse are notified to Tusla. However, not all clients wish to make a Garda statement, and we respect this in line with the Criminal Justice (Withholding of Information) Act 2012.

A problem can arise when a client makes a statement to a Tusla social worker and also makes a Garda statement. It causes unnecessary distress to the client to make a similar statement twice. Tusla and Gardaí also have a different method of taking statement and this can create difficulties in that the information given may appear inconsistent. This can be used by the defence in a criminal trial to undermine the credibility of the victim. We are of the view that the Gardaí and Tusla should work together and operate a joint interviewing policy.

Recommendation 8: Interviews with adult victims of child sexual abuse should be conducted jointly by the Gardaí and Tusla.

4 SUMMARY OF RECOMMENDATIONS

Recommendation 1:

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Recommendation 2:

Statements should be taken at a time and place agreeable to the victim. Cognisance should be taken of the victim's need to have access to support following the interview.

Recommendation 3:

Under the new Victims of Crime legislation, victims will be entitled to have a support person present when making a statement. It is important that the victim is informed of this fact.

Recommendation 4:

Gardaí investigating serious sexual offences should be properly trained and supervised. They should be properly supported during trials at Circuit or Central Criminal Court level. The roll-out of the regional Special Protective Services Units may address this concern.

Recommendation 5:

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Executive Director

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