

31 January 2018

Ms Kathleen O'Toole, Chairperson

**Commission on the Future of Policing in Ireland**

Second Floor

St. Stephen's Green House

Earlsfort Terrace

Dublin DO2PH42

Ireland

Dear Ms O'Toole

**Submission on the Future of Policing In Ireland**

SAFE Ireland sees the role of An Garda Síochána as central to achieving a compassionate, professional, well-informed and trauma-sensitive response by the State to women and children who are at risk of domestic violence. A prompt and effective first response of a Garda attending a domestic violence incident can do a great deal to empower, reassure, inform, protect and support these victims of serious and sometimes life-threatening crimes. Of course, timely and appropriate collection and preservation of evidence at the scene is also a priority; and an effective investigation leading to a satisfactory and safe outcome itself can also help to protect, empower and support women and children.

We welcome very much this opportunity to make a submission on the future of policing in Ireland. We cannot stress enough the importance of all first responders as well as Regional Protective Service Unit members, having a good understanding of the dynamics and impacts of domestic violence, and we urge An Garda Síochána to take every opportunity to build that understanding not only through formal training programs, but also through regular and informal contacts and joint working with specialist domestic violence NGO's, both at local and national level.

SAFE Ireland also recommends that given the nature, gravity and prevalence of domestic violence-related crime, An Garda Síochána should always have at its disposal ring-fenced and adequate resources to ensure that they can address this area of crime effectively and thereby, help to deter it.

Please do not hesitate to contact us if you would like any further information on any topic discussed in the submission.

Yours sincerely



**Sharon O'Halloran**

Chief Executive, SAFE Ireland



Submission to the  
Commission on the  
Future of Policing of  
Ireland

SAFE Ireland  
January 2018

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## 1.1 Introduction

SAFE Ireland is the National Social Change Agency working to end gender based violence with a specific focus on male violence against women in intimate/domestic relationships. We believe that at the root of all violence is what happens in the home and that the single biggest barrier to achieving gender equality and human rights for women is the high prevalence of gender based violence and its wider personal, family, social and economic impacts. We are working to make Ireland the safest country in the world for women and children. We collaborate closely with 39 frontline domestic violence services across communities in Ireland, state agencies, civic society organisations, business, community, and cultural organisations throughout the country. We work directly with women to bring their experiences and voices into research, policy, service development and violence prevention programmes. Our core strategic focus is to change culture and transform the response to gender based violence in Ireland and to progress towards realising our vision for a safe Ireland.

This Submission focuses on the most relevant Terms of Reference of the Commission for women and children experiencing domestic violence, namely those on:

- training
- leadership
- appropriate management and supervisory systems
- culture and ethos which have regard to victims' rights and to accountability
- appropriate use of policing powers and procedures
- having the right legislative framework to carry out the job of policing

It draws on an extensive consultation with all SAFE Ireland member services. Their experiences with women at risk of domestic violence are reflected throughout this Submission.

This submission is also informed by the results, conclusions and recommendations of three recent research reports, "The Lawlessness of the Home"<sup>1</sup>, "In Search of Justice"<sup>2</sup>, and "Justice Sought, Justice Lost"<sup>3</sup>, which were based mainly on the experiences of women and their supporters, as they each engaged with the justice system. We are conscious also that the Garda Inspectorate Report from 2014, "Crime Investigation"<sup>4</sup>, made a large number of specific recommendations, which are now being implemented by An Garda

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<sup>1</sup> Published by SAFE Ireland 2015 and available through this weblink: <http://www.safeireland.ie/wp-content/uploads/SAFE-IRELAND-The-Lawlessness-of-the-Home.pdf>

<sup>2</sup> Published by SAFE Ireland 2016 and available through this weblink: [http://www.safeireland.ie/safeireland-docs/INASC\\_SAFEIreland\\_report.pdf](http://www.safeireland.ie/safeireland-docs/INASC_SAFEIreland_report.pdf)

<sup>3</sup> Published by SAFE Ireland 2016 and available through this weblink: [http://www.snap-eu.org/report/Report\\_Ireland.pdf](http://www.snap-eu.org/report/Report_Ireland.pdf)

<sup>4</sup> Available online through this weblink: <http://www.gsinsp.ie/en/GSINSP/Crime%20Investigation%20-%20Full%20Report.pdf/Files/Crime%20Investigation%20-%20Full%20Report.pdf>

Síochána.

This Submission is written in the context of the Irish State's obligations under two international instruments to which it is committed, namely:

- (1) The Council of Europe Convention on preventing and combating violence against women and domestic violence (2011), (the "Istanbul Convention"<sup>5</sup>), signed by Ireland in late 2015 and awaiting full ratification;
- (2) The EU Directive 2012/29<sup>6</sup> establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Directive 2001/220/JHA.

EU Directive 2012/29 has been transposed into Irish law by the Criminal Justice (Victims of Crime) Act 2017<sup>7</sup>. This Act has been commenced with the exception of Sections 19 (3) (c) and Section 30, both of which deal with special measures in court. While the Istanbul Convention has not yet been ratified, it is anticipated that as far as statutory provisions are concerned, the Domestic Violence Bill 2017<sup>8</sup>, now before the Dail having completed its passage through the Seanad, will advance that process significantly. The Bill includes certain provisions on coercive control, intimate relationship being an aggravating factor on sentence, forced marriage, and emergency barring orders. It also includes provisions which increase the range of available special measures for victims during investigations and during court proceedings.

Finally, this Submission also takes into account the current climate of positive change within An Garda Síochána, which resulted in their commitment to the roll out of 28 new specialist Regional Protective Services Units. SAFE Ireland acknowledges the work that has been done to ensure the completion of risk assessments in domestic violence incidents and to update the Garda Policy on Domestic Violence, as well as the extensive change in procedures necessary to ensure that every victim of domestic crime is assessed to identify any protection measures or special measures needed. We are also aware that new training initiatives are being commenced in the area of domestic violence. In this regard, SAFE Ireland submits that it is vital that Garda training in domestic violence at all levels includes input from specialist domestic violence services with proven expertise in this area. Not only is their perspective on domestic violence valuable, but such input also gives Gardaí an opportunity to learn about the range of support services available to women and children at risk of domestic violence, across the country.

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<sup>5</sup> Available online through this weblink: <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>

<sup>6</sup> Available online through this weblink: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>

<sup>7</sup> Available online through this weblink: <http://www.oireachtas.ie/documents/bills28/acts/2017/a2817.pdf>

<sup>8</sup> Latest version (as at 29<sup>th</sup> January 2018) is available through this weblink: <http://www.oireachtas.ie/documents/bills28/bills/2017/1317/b13b17s.pdf>

## 1.2 Terms of Reference of the Commission on the Future of Policing (paraphrased):

Note that the key terms from the point of view of women at risk of domestic violence are outlined in pink below. These will be the main focus of the Submission.

- (1) Commission should [...] carry out a fundamental review of the role, structures, leadership and management, ethos and culture of policing and existing oversight and consultative arrangements. [...]
- (2) Taking this into account, the Commission will inquire into policing in Ireland and, on the basis of its findings, bring forward to the Government proposals for the future of policing.
- (3) Having regard to current law enforcement challenges and best international practice in policing, and to recommendations made in previous reports, these proposals should address:
  - The most effective structures and management arrangements required for all AGS functions to be carried out as they should be;
  - Appropriate **leadership** to deliver same, supported by
  - **Management and supervisory systems which are fit for purpose**, including up to date and appropriate IT systems;
  - Appropriate composition, recruitment and **training of Gardaí, civilian employees and Garda reserve** to ensure that AGS reflects diversity of Ireland and that its members and other employees are recruited and trained appropriately to meet challenges of modern policing;
  - A **culture/ethos of policing which has regard to victims' rights, to accountability**, to diverse needs of the community, to the need to be flexible in responding to the changing needs of that whole community, and which maintains valuable elements of existing police culture;
  - Structures for **governance, oversight and accountability** which are clear and coherent, to ensure
  - Policing which acts only within the law;
  - **Policing powers and procedures** which are explained simply and clearly to the community;
  - Breaches of discipline which are effectively and fairly addressed;
  - Accountability for the best possible use of policing resources;
  - Effective and independent professional scrutiny of the police services' professional standards;
  - **Legislative framework for policing** – to make sure it is adequate to meet the challenges of modern policing.

### Final Note on Terms of Reference:

- The Commission should consult widely, including with the public and civic society and any other bodies or individuals it considers appropriate.
- The Commission will report in September 2018
- The Commission may bring forward immediate proposals and rolling recommendations for implementation, that it considers are required to be addressed in the short-term, and in advance of its final report.

- The Commission should address in its report(s) the implementation of its recommendations and the mechanisms required to oversee implementation.

### 1.3 An Garda Síochána: Gaps in Policy and Procedure in relation to Domestic Violence

**Inconsistency** - is an extremely prevalent theme across all three research reports and across the SAFE Ireland consultation. It is cited as a general problem, with reference to the following areas in particular:

- (a) in the responding Garda's attitude towards the woman reporting domestic violence, (with some "inappropriate comments", and inappropriate references to domestic violence myths, being reported)
- (b) in the rate of referrals by Gardaí to domestic violence services, and
- (c) in the way in which Gardaí approach the investigation of a domestic violence incident<sup>9</sup>.

**Lack of training on Domestic Violence** – is also cited repeatedly in the three research reports and in the consultation. In general, there needs to be more training at both initial training and CPD levels for all first responder Gardaí, so that they all have a better understanding of domestic abuse issues, including the patterns of control and aggression which underlie non-physical forms of abuse. It is important also that they learn to challenge certain widely believed myths about domestic violence.

Lack of training for first/early responders leads to inconsistent responses to victims of domestic violence and to their needs. In addition, it is vital that Gardaí who are members of the new specialist Regional Protective Services Units are supported to acquire in-depth knowledge of the dynamics and impacts of domestic violence, and of international best practice in policing in this area.

**Lack of, or slow follow up during, criminal investigations of domestic violence crimes.** Failures cited in the consultation (and usually echoed in the research reports), include:

- a failure to provide information on bail conditions post arrest
- a failure to provide information re criminal justice process (on how to make a statement etc)
- some instances of slow follow up where a crime had been reported.

There were also some failures to:

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<sup>9</sup> SI Members Consultation, December 2017/January 2018



- **instigate a criminal investigation** where a crime had been committed and reported
- some failures to arrest for breach of a Domestic Violence Act (DVA) order
- instances of failure to implement the Garda pro-arrest Domestic Violence policy.

A related issue, was a common failure to respond proactively to an incident of domestic violence, on the basis that as there was no DVA order in place, nothing could be done. The point was also made that where no action is taken although it could have been by first responder Gardaí, women are often very reluctant to call Gardaí when the domestic violence recurs.

**Information gaps** - The most prevalent problem in this area was a failure by some Gardaí to identify and advise women to seek, appropriate DVA orders for which they were eligible. Sometimes they were given information about orders for which they were not, and could not become, eligible.

**Other failures cited less frequently by consultees included:**

- (1) inadequate inter-agency liaison by Garda Domestic Violence Liaison Officer with Domestic Violence NGOs at local level;
- (2) one failure to record breach of an order, and
- (3) one breach of confidentiality, accompanied by a lack of accountability for same

## 1.4 An Garda Síochána: What is working well now for Women at Risk of Domestic Violence?

Garda practices and procedures which work well for women at risk of domestic violence were also cited in numbers by the consultees. Across all three SAFE Ireland research reports, there are also instances of good, even excellent practice by members of An Garda Síochána. These include:

- **Good rates of referral to DV services by AGS** – this is seen as very good practice (note that provided there is consent by the victim, referral to appropriately specialized support services is now a *statutory obligation* on Gardaí);
- **Good inter-agency working relationships between AGS and DV services:** Two comments which stand out among the examples given by consultees are: effective inter-agency working really does help women to access domestic violence (and sometimes other) services and also, the result of effective co-operation between Gardaí and local domestic violence services is that safety is maximized for women and children. It was also mentioned that local Community Gardaí often do a great job for women in domestic violence, and that the local JPC (Joint Policing Committee) can be and is often used as a forum in which to monitor numbers of domestic violence cases. Finally, it was noted that it is now much more common for Gardaí to use local domestic violence services premises to take statements from women.
- **Appropriate follow up by Gardaí** has resulted in increased trust and confidence by women in the Gardaí generally. In line with the Criminal Justice (Victims of

Crime) Act 2017, there has been a welcome increase in the number of female Gardaí taking statements from women.

- **Some training of operational Gardaí in Domestic Violence** issues which means that their understanding of the reasons why it can be difficult for a woman to disclose abuse, is increased. Also, some consultees referred to instances of women being well treated by Gardaí and the effect of this on them: they “felt believed and validated”.

## 1.5 An Garda Síochána: Recommendations

1. SAFE Ireland consultees recommended that **improved inter-agency links** be developed, especially where women and children are identified as at risk of domestic violence, including:
  - through the use of existing structures such as JPC's, Local Authority Homeless Forums, and also,
  - new Garda recruits should familiarize themselves with services provided by local DV service/refuge through direct liaison with them; finally in this regard
  - there is a need for monthly or quarterly visits to DV services by Community Gardaí, through which they would link in regularly with their local DV service(s) so that if any issues arose, they could be addressed through that structure quickly and effectively. Their response is very good if they are contacted, but more proactive liaison by them with DV services would be even better.
2. These consultees also recommended very strongly that **Domestic Violence training**, including on assessment and referral procedures be extended to all operational Gardaí, and also, those running training for undergraduate Gardaí should ensure that all trainees have a comprehensive overview of the domestic violence sector and the range of services which are available through dedicated domestic violence support organisations.

More generally, these two recommendations are to be found across all three SAFE Ireland research reports as well as in the Garda Inspectorate Report entitled “Crime Investigation” (2014)<sup>10</sup>. This Submission should be read in conjunction with the collated Recommendations made as part of each of these research projects. They are listed at the end of this document as an Appendix.

It is important to note that some have now been superseded by Garda obligations and victims' rights introduced by the Criminal Justice (Victims of Crime) Act 2017, and by other recent Garda initiatives. To the consultees' recommendations SAFE Ireland adds the following:

- **Training** in the complexities of domestic violence in relationships, and in how it impacts on its victims, is central to improving the Garda response to them, as far as both applications for DVA orders and criminal investigations are

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<sup>10</sup>See full reference to this Report at footnote 4 above.

concerned. It is the key to ensuring that women are treated with sensitivity and compassion, that they are given information about, and referred to domestic violence services whenever that is appropriate. Gardaí need to understand that much domestic abuse constitutes criminal behaviour, and should be investigated and where possible, prosecuted, as such. It is empowering for women whenever Gardaí take the time to ensure that they are informed not only about support services, but also about protection measures and special measures available to them during investigation and in the courts. Effective training in the dynamics of domestic violence, and which is trauma informed, also helps Gardaí to understand the fears of women at risk of domestic violence not only for their own safety but that of their children if they leave/apply for a DVA order/report a crime by “their” abuser against them. Finally, such training, ideally delivered in part by external domestic violence specialists, should do much to dispel some pervasive domestic violence myths – “it can't be serious domestic violence if she keeps going back to him”, for example. SAFE Ireland recommends that An Garda Síochána maintains and develops existing training on domestic violence, and includes the perspective of domestic violence specialist services in its training programmes at all levels.

- **Consistency of Garda response** is a dominant theme both in this consultation and in the SAFE Ireland research reports. In order for this to be achieved, SAFE Ireland recommends that it should be addressed in part through effective leadership and through management and supervisory systems which are fit for purpose. These systems should be in place at every level, so that it is straightforward both to devise appropriate policies and procedures and to monitor their operation to ensure that they are implemented in practice. It is clear that appropriate training also has a positive influence on consistency of response.
- In this regard, SAFE also recommends that, An Garda Síochána places a particular emphasis on developing and maintaining a consistent and as far as possible, proactive response to women who report that a criminal offence has been committed (including breach of a Domestic Violence Act order). If these orders are to be regarded as effective, clear breaches must be followed up, investigated and prosecuted as quickly and firmly as possible. Where a woman is willing, or may be willing, to make a statement to Gardaí about any criminal offence, it should be taken without delay and with every possible support for that woman in place.
- SAFE Ireland recommends that the following specific issues are continually addressed through training, policies and procedures, and appropriate supervision and monitoring of performance:
  - Safety and privacy: women's particular concerns about their own safety and that of their children (1) and also about privacy and confidentiality (2) - through the assessment process and otherwise – it should be understood that these are significant preoccupations.
  - Accurate, timely and clear information: With regard to information about criminal justice processes, about their own case, and about DVA

and other civil orders, Gardaí should take the utmost care to ensure that it is accurate and appropriate to the needs of the women receiving it.

- With regard to referrals, Gardaí should also take great care to ensure that these are always made to appropriately specialised services, including but not limited to, domestic violence refuges and support services.

The precise reasons why no arrest is being made in a particular case, despite the Garda proactive arrest policy, should be made clear to the woman concerned. However, every single domestic violence incident reported should be recorded fully and accurately, and it must be made clear to women that not having a DVA order in place does not necessarily mean that no arrest is possible.

- With regard to following through on good risk assessment with the best possible procedures for effective risk management, SAFE Ireland recommends that An Garda Síochána does its best to avoid the disadvantages of focussing the bulk of their attention and resources only on those cases which are identified initially as high risk, by having a flexible and dynamic approach to ongoing risk assessment and management which takes account of incremental escalations in cases which were originally identified as low- or medium-risk, and which is then capable of addressing these escalations at an early stage, in order to prevent future more serious or even catastrophic, outcomes.
- SAFE Ireland recommends that the good work now in progress to develop and maintain specialist Regional Protective Services Units, must continue as an absolute priority, and must be supported by appropriate training and further development of inter-agency links, particularly with local domestic violence refuges and support services.
- SAFE Ireland recommends strongly that the investigation of crimes of Domestic Violence, and Garda support of its victims, should have resources which are adequate to address this high volume area of work effectively, and which are ring-fenced, so that they cannot be moved away from this area into others as other priorities arise.
- With regard to the leadership theme in the Terms of Reference set out above, SAFE Ireland recommends that Domestic Violence should always be named explicitly as a priority area of work in Garda Policing Plans and other general strategy documents.
- Domestic Violence investigation as a whole should be underpinned by full and accurate data collection systems, which record not only criminal investigation data but also information on women's needs and supports offered and available to them. Our understanding is that this work is already in progress. SAFE Ireland recommends that it continues and that it includes domestic violence markers for

all domestic violence call outs as well as investigations. In this way, progress can be monitored effectively;

- SAFE Ireland recommends that An Garda Síochána takes a proactive approach with regard to the legislative framework for domestic violence investigations. Where necessary, they should not hesitate to recommend specific changes to increase their powers of arrest and investigation and to remove unnecessary obstacles thereto. While this is happening now, it is important that it continues to happen consistently over time and particularly, when the new Domestic Violence Bill 2017 is enacted.
- Finally, SAFE Ireland recommends that An Garda Síochána adopt the “one-stop”, all-inclusive approach set out in the St Paul’s, Minnesota (USA) Blueprint for Safety<sup>11</sup>. The guiding principle of this approach is that at every stage of the criminal justice process, victims of domestic violence should be surrounded not only by an effective and compassionate approach from police officers, but also by all appropriate supports, including those provided by others such as Domestic Violence support services, the Legal Aid Board, and so on. In this way, the chances are maximised that women enduring domestic violence will be able to access the criminal justice system and stay with that process to its conclusion – and that they will be empowered to maintain themselves and their children in safety while they rebuild their lives out of the shadow of domestic violence.

It will be seen that this multi-agency approach is followed in each of the three sets of recommendations which emerged from the three SAFE Ireland research projects undertaken in 2014-2016, cited above at page 1, and which are collated as an Appendix to this Submission.

## 1.6 Appendix

**Collated List of Specific Recommendations made to An Garda Síochána, sometimes in conjunction with other agencies, in each of the three SAFE Ireland Research Reports referred to at page 1 above, and/or ancillary documents:**

### **“The Lawlessness of the Home” – 2015:**

- Implementation of a systematic collection of evidence relating to any crimes perpetrated on the victim at all points of presentation across a coordinated multi-agency response system.

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<sup>11</sup> An introduction to this approach may be found through this weblink: <http://praxisinternational.org/blueprint-home/a-guide-to-becoming-a-blueprint-community-an-interagency-response-to-battering-and-domestic-violence-crimes/>

- Implementation of risk assessment tools for all front-line statutory and non-statutory professionals responding to women and children experiencing domestic violence.
- Professional development training which is based on the best available national and international evidence and delivered within a quality assurance framework on a regular basis to all relevant professionals across all statutory and non-statutory locations.
- Evaluation and monitoring systems in place to ensure consistent capacity to use risk assessment tools appropriately and effectively across all relevant statutory and non-statutory agencies.
- The establishment and resourcing of locally coordinated multi-agency response teams which prioritises the safety and autonomy and right to privacy of victims while working to hold perpetrators accountable for their violent behaviour.
- The development of formal protocols between various statutory and non-statutory locations to support the coordinated multi-agency response.
- The establishment of homicide review legislation and implementation structures which means that a multi-agency review is conducted, following a domestic homicide, to assist all those involved in the review process, in identifying the lessons that can be learned with a view to preventing future homicides and violence. (See Section 9 of Britain's Domestic Violence Act 2004.)

**“In Search of Justice” – 2016: These checklists and recommendations are taken from “Make It Happen!”, Guidance for Criminal Justice Professionals<sup>12</sup>, published alongside the research report and based on its findings.** Note that there are separate checklists and recommendations for each stage of the criminal justice process:

### **Protection and Support Needs on first response:**

Victims' fears for the safety of their children and themselves are at the forefront of their minds, not only immediately but over time. They are frightened not only of the perpetrator's potential to cause even more harm, but also of the legal process, both civil and criminal, and the practical implications of any such process, for their children and for themselves. Not the least of their worries is the fear of becoming homeless and/or dependent on the State or others. This means that they are often ambivalent about making a criminal complaint. The impact of the recent trauma makes it very difficult for them to process new information and to make decisions which may have far-reaching

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<sup>12</sup> Available online through this weblink: <http://www.safeireland.ie/safeireland-docs/Make-it-Happen-Guidance-for-Justice-Professionals.pdf>

consequences. It also makes it hard for them to provide coherent and full information. There may also be additional difficulties, such as a language or cultural barriers to understanding their position, fears about immigration consequences of any legal action taken, and/or a disability. This means that any action to address any of these complex needs for protection and support, should be experienced by the victim as reassuring and sympathetic, as far as possible. It also means that the official response should be as straightforward as possible, by using simple language and giving complex information in outline first.

### **Recommendations to Address Victims' Support and Protection Needs on first response**

#### **Risk Assessment - It is recommended that initial Risk Assessment by AGS should cover the following areas at a minimum:**

- History of violence in the relationship and in other, domestic and non-domestic, relationships – to include, threats of violence to victim(s) and any children;
- Perpetrator's history of serious non-violent offending and also, any history of suicide attempts and/or threats of suicide;
- History of DV against victims, to include any DVA orders, previous, existing, or pending;
- Recent or imminent separation (well known flashpoint for incidents of domestic violence);
- History of perpetrator's drug or alcohol abuse;
- History of perpetrator's mental health;
- History of perpetrator's access to weapons;
- History of perpetrator's convictions for offences committed against the victim.

### **Recommendations to Address Victims' Support and Protection Needs at investigation and where applicable, prosecutorial stage(s)**

- **Follow up** for both investigatory and victim liaison purposes, should be as soon as possible, and should include reminders of all supports local and national (websites and/or helplines);
- Investigators should expect that the formal statement of complaint taken soon after the incident will need to be updated as the trauma associated with the immediate aftermath recedes, and certainly before the file is completed. It is likely that when they are calmer, victims will be able to recall more significant details about the incident itself and the surrounding circumstances. It is recommended therefore, that victims are given an opportunity to **add to and/or correct**, their statement before the investigation is finalised. This process will help to reassure victims that their evidence is taken seriously by the Gardaí and therefore, will help to reduce attrition.
- **Garda accompaniment** should be facilitated at victim statement taking stage, as far as possible, and where a reasoned decision is taken to exclude an individual accompanying person, this should be explained and where possible, a

reasonable opportunity to find a replacement person should be given to the victim;

- **The individual needs assessment** should be done very much in collaboration with the victim, who should be informed fully about any recommendations for special measures made as a result;
- Victim should be provided with a **copy of her statement** as soon as possible, unless there is a reasoned decision not to supply it, and if so, that reason should be fully explained to her;
- **Effective means of contact** with the investigating Garda, particularly if the investigation will take some time, is key here to preventing attrition and reducing trauma for the victim – this should be an area for a proactive approach, ideally one discussed with and agreed to by the victim; note that this contact may be vital to help prevent a further crime OR to enforce, any DVA order breached, and that following some contacts, it may be necessary to **revisit and update the Risk Assessment elements at least**, of the original individual needs assessment;
- **Repetition of important information** about legal supports such as special measures, DVA orders, bail conditions, etc., as well as about the criminal justice system generally, is also key at this stage, bearing in mind that it is difficult for victims to take everything in at the first, most traumatic stage but that as time goes by, the same victims are likely to have more and more questions;
- **Privacy** concerns are very significant for most victims of domestic violence. They should be addressed by Gardaí as far as possible, and where it is possible for proceedings to be held in camera and/or for reporting restrictions to be imposed, victims should be told about these possibilities. Gardaí should also ensure that the prosecutor is well aware of both these possibilities where they exist, and what the victim's attitude is in relation to them;
- Victims should be reminded regularly what steps they should take in the event of **intimidation and/or harassment behaviours** by the perpetrator and/or others acting on his behalf;
- Gardaí must be prepared to explain as far as possible, **the reasons why** any person suggested by victim as a possible witness, might not be asked for a statement, or if one is given, that statement might not be used; this is important, as few victims will have access to legal advice about the rules of criminal evidence, and so might well assume that relevant evidence is being ignored when this is not the case;
- When providing **regular, unprompted updates** on the case and explaining **Court procedures**, Gardaí should take care to project a **positive and supportive attitude** throughout;
- Victims should be fully briefed about **dangers to the case** which might be caused e.g. by speaking to the media in advance of a conviction, discussing the facts of the case with another witness or potential witness, and so on;
- If their case does not go to court, the victim's rights in relation to **reasons and/or a review of the decision not to prosecute**, should be explained in detail and website details/booklets provided;
- Garda should ensure that prosecutors are in possession of **Individual Assessments** carried out by Gardaí and should ensure that Garda recommendations re any special measures in relation to same, are advocated for with prosecutors in advance of hearing.

## Protection and Support Needs at court stage (if there is one)



Most people, including many lawyers, are nervous at the prospect of giving live evidence in open court and being cross-examined on it. For victims of domestic violence, telling an intimate, personal and harrowing story is extremely daunting. Much support is needed from criminal justice professionals and others at this stage. A DV volunteer can provide straightforward emotional support, but there is still much information about procedural matters which the victim must absorb from the investigating Garda. Victims should be briefed fully before the hearing, as on the day, the experience of being in court and facing a judge (and possibly, jury) as well as having to share space with the perpetrator, is so stressful that it is difficult to take in new information. Because in court so much may change very fast (e.g. plea), more new information may have to be absorbed. In these circumstances, communication should be as clear and brief as possible. Finally, the victim is likely to be very anxious about accidental meetings with the accused.

### **Recommendations to Address Victims' Support and Protection Needs at court stage (if there is one)**

- Garda should **liaise effectively with DPP** re pre-trial meetings, any preliminary hearings, and so on, not least to convey victims' wishes re any special measures available;
- Garda should check that victims know about all **court accompaniment services available**, including through Victim Support at Court, by providing details directly or by referring victims to DV/other court accompaniment service;
- Garda with prosecutor and Courts Service, should make enquiries and arrangements (where possible) in advance of the hearing to **minimise the chances of an accidental encounter** with the accused, who is usually on bail;
- Garda should ensure victims are fully briefed about **possible special measures** available in Court, and that they know what victims' attitude to each of these is, so that they can relay it accurately to the prosecutor;
- Garda should check that victims understand **the order of proceedings in court** and in particular, what has happened at any **decision point** in court (jury verdict, sentence, bail hearing, etc.);
- Victims should be briefed in particular about what to expect in both **direct and cross-examination**, but without being coached on their evidence in any way;
- Garda should check that victims are fully aware of all **practical arrangements for the court date(s)**, such as how early to come to court, where witness room is, where to get refreshments, how long case is likely to last, how to claim for expenses, and if person is convicted, how to request compensation, and/or get help to prepare victim impact statement [etc.].

### **"Justice Sought, Justice Lost" – 2016: Extract from Policy Paper<sup>13</sup>**

#### **An Garda Síochána: Recommendations**

1. Garda policy and training in domestic violence should stress the importance of ensuring that victims have understood information and advice given at every stage, particularly in relation to available supports, court decisions and possible actions;

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<sup>13</sup> Available online through this weblink: [http://www.snap-eu.org/report/Policy\\_Paper\\_Ireland.pdf](http://www.snap-eu.org/report/Policy_Paper_Ireland.pdf)

2. Both general and specialist team Garda training and performance monitoring should stress the importance of consistency in putting the Garda Policy on Domestic Abuse into practice, especially with regard to proactive arrests, prompt preservation of evidence, establishing and maintaining contact with the victim, and effective and appropriate liaison with other relevant agencies;
3. Both general and specialist team Garda training should include “unconscious bias” training to make it easier for them to avoid unconscious stereotyping of women with specific needs (she is Roma so she comes from a culture which accepts DV e.g)
4. Garda foundation training and Garda CPD training should each include input from DV support services on the dynamics of domestic violence, and on a trauma sensitive, trauma informed approach to its victims, to include material on how women with specific needs may be affected by DV;
5. All first responder Gardaí should be encouraged to attend any training on DV offered by DV support services at local and national level, as far as possible, and they should be allowed to do this in working hours and as part of their duties;
6. Breaches of DVA orders should always be investigated fully and prosecuted with vigour wherever possible;
7. The timely and thorough investigation of DV related crimes should be identified in Garda Strategy and Policing Plan documents as a constant high priority, even in areas where there is a high volume of non DV related crime, and Gardaí at high levels within the Force should not hesitate to seek increased resources aimed at reducing DV crime;
8. individual assessment processes to identify the specific protection needs (which will be introduced as it is a requirement under Article 22 of the EU Directive on Victims' Rights<sup>13</sup>), should take account of their fluid, complex and inter-related nature, and should be updated where necessary;
9. As far as possible and appropriate at local level, the Garda response to women experiencing DV and the Garda response on related issues (such as child protection, criminal investigations) should be co-ordinated;
10. Specialist approaches to investigation and prosecution of domestic violence should be supported, developed further, resourced adequately and publicised well;
11. Creating and maintaining regular inter-agency contacts at local and national level with DV and non DV support agencies, and with the Courts Service in relation to DV issues, should be named in the Garda Domestic Abuse Policy (forthcoming version) as the responsibility of a designated member in each Garda Division, and as a priority for the Garda National Protective Services Bureau in every Garda Strategy and Policing Plan;
12. Garda data collection systems: should identify DV incidents as such from earliest contact, should record them as such and should alert users to repeated contacts with same person or address.





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