‘Change doesn’t just happen, it is propelled by men and women whose spirits are provoked and inspired to make a difference’ – NGO ‘Brussels Declaration’.

IRVA Submission to the Dept of Justice Reform Unit, Dept of Justice & Equality - on the establishment of an Independent Policing Authority in Ireland

May 2014

Dear Sirs,

Thank you for your invitation to members of the Victims Rights Alliance to make a submission to you.

Members of the Irish Road Victims’ Association have lost a loved one in a road traffic collision or have been seriously injured in a collision themselves.

We very much welcome the establishment of an Independent Policing Authority as the current system has failed to meet the needs of Road Traffic Victims.

When a Victim of a road traffic collision becomes aware that the collision in which their loved one was killed has failed to meet a required standard they have nowhere to turn. There is nobody in the system as it currently exists, looking out for the interests of the Road Traffic Victim, or the Bereaved family. The Gardai liaise with the DPP while also acting as Agents of the Coroner. The Victim is completely outside of this process and the Coroner’s inquest is unduly restrictive.

As a Victim you are invited to make a complaint to the Garda Ombudsman Commission ‘if you are directly affected by the conduct of a member of the Garda Síochana that you believe is misbehaviour’. Does a failure to adequately investigate a road traffic collision qualify as ‘misbehaviour’?
We are advised that ‘The Garda Ombudsman Commission’s role and functions are limited under the provisions of the Garda Síochána Act, 2005. Under this legislation, the Garda Ombudsman does not have the remit to examine the efficient or effective operation of the Garda Síochána nor can the Garda Ombudsman adjudicate on the adequacy of a Garda investigation unless there are clear allegations of misbehaviour involved.’

We are further advised that, ‘bearing this statutory position in mind, the Garda Ombudsman’s determination not to admit our complaints is based on the Commission’s view that the Garda conduct in our case(s) does not meet the threshold for admissibility.’

In reaching its decision, the Garda Ombudsman Commission also takes into account the fact that Garda files were submitted to the Office of the Director of Public Prosecutions and whether that Office decided to bring prosecutions, or not. The Coroner may do likewise when deciding whether to admit questions relating to the Garda investigation at the Coroner’s inquest into the death.

IRVA therefore wishes to place our concerns on record in this submission regarding the adequacy of the entire investigation process, in terms of the State’s obligation under Article 2 of the European Convention on Human Rights (which requires an effective investigation into all instances of suspicious deaths).

Where an investigation is inadequate, families have no recourse to an effective remedy and all of this adds to their pain and suffering. The ‘system’ fails them.

GSOC is at present, in our view, restricted unduly under the Garda Síochana Act 2005 and therefore fails in their mission ‘to provide and promote an efficient, fair and independent oversight of policing in Ireland’ and in their vision to ‘be an active driver of ever-improving police accountability’.
The United Nations Human Rights Council Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, following her mission to Ireland November 2012, stated:

“While the Special Rapporteur welcomes the existence of the Ombudsman Commission to ensure the accountability and independent oversight of the police, she expresses concern at the serious constraints faced by the body, including financial and resource limitations, and the reported limited public awareness of its activities and responsibilities. While she takes note of the powers of the Commission to conduct public interest investigations into the behaviour of the police in accordance with section 102(4) of the Garda Síochána Act (2005), she remains concerned at the Commission’s excessive dependence on the Ministry of Justice and Equality when it comes to opening investigations relating to the practices, policies and procedures of the police, which requires permission from the Minister, as laid out in section 106 of the mentioned Act. The Special Rapporteur recommends that this provision be removed from the Garda Síochána Act (2005) in order to grant the Commission independent investigative powers.”(http://www.ohchr.org/EN/Countries/ENACARegion/Pages/IEIndex.aspx)

It is the experience of our Members that while GSOC felt that an examination of the Garda investigation into the deaths of our loved ones in road traffic collisions may have been required; the legislation was very restrictive and indeed prohibitive. In some cases, they have requested that the Minister and the Garda Commissioner agree to an examination of the files, without fear of their (GSOC) being challenged in the courts, but no agreement to such reviews was forthcoming.

The legislation needs to change to enhance GSOC and any new Policing Authority, statutory power to carry out their work, without fear of court challenges. The Garda Commissioner must also be brought within their remit.
Restrictions in relation to the timeframe in which complaints must be made should also be removed from the Act as these are unduly prohibitive. There is a 6 month limit in legislation at present. In most cases, a file has not been submitted to the DPP within this timeframe and the Victims and Bereaved families have no information. The normal statute of limitations should be considered in such cases, with special consideration for complaints received outside of this timeframe.

We appreciate the opportunity to make a submission to you and we are encouraged that there is now a willingness to improve the situation of crime victims. We very much welcome the establishment of a new Independent Policing Authority as it is very much needed and will help to fill a vacuum which exists for our families at present. There must be a Body to whom Victims of crime have some recourse when they are let down by enquiries into their loved one’s death.

We would welcome an opportunity to meet with you and with Minister Fitzgerald to discuss our concerns in more detail.

Yours sincerely,

For Irish Road Victims’ Association

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Donna Price, Chairperson

www.irishroadvictims.org

Pettitswood Close, Mullingar, Co. Westmeath

Phone 086 8634194