

VICTIMS RIGHTS

Barry Donoghue

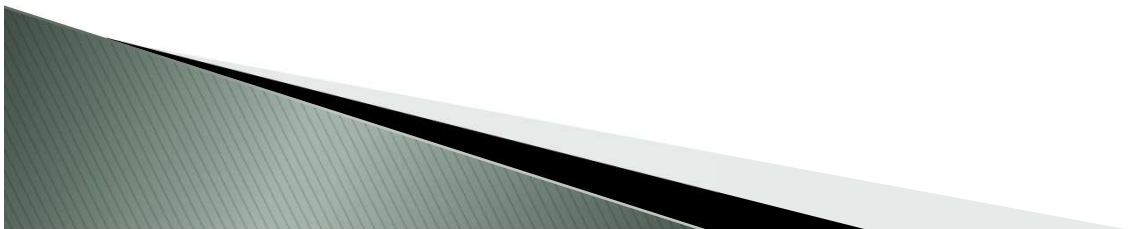
OFFICE OF THE DPP



Directive – overview

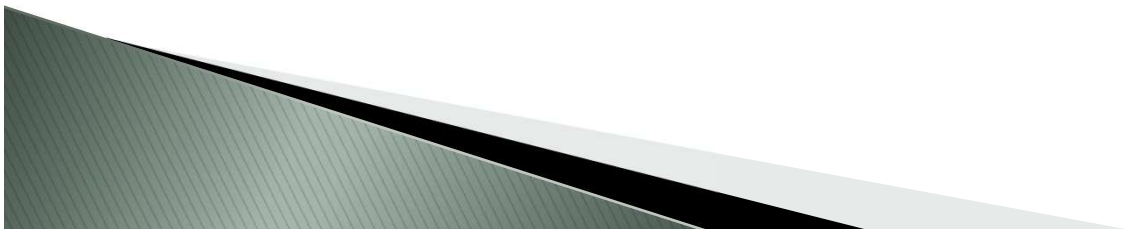
- ▶ Decisions to prosecute:
 - Information
 - Protection
 - Assist participation in court

- ▶ Rights in relation to decisions made not to prosecute:
 - reason for decision
 - review of that decision



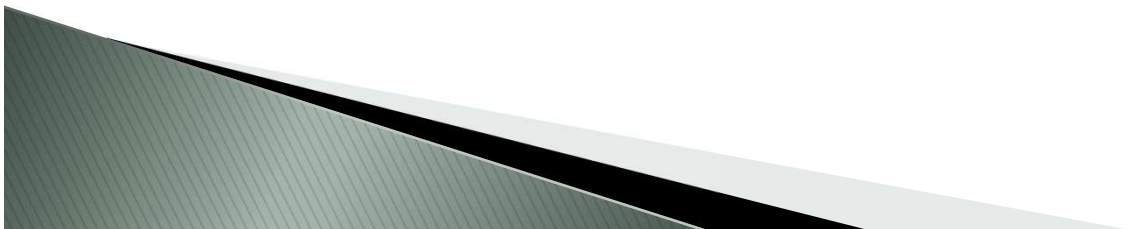
Pre Directive

- ▶ Policy – reasons not given – MacArthur case – case law
- ▶ October 2008 – new policy – reasons fatal cases – Art 2 cases
- ▶ Review – long standing policy – Eviston case [2002] – full review



What has the ODPP done?

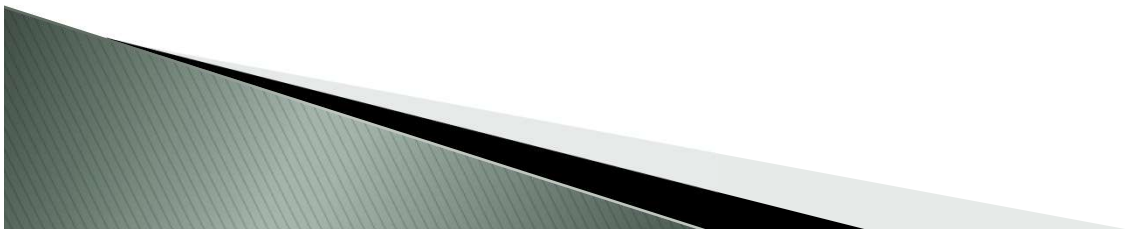
- ▶ Victims Liaison Unit since 15 November 2015
- ▶ Information service for victims – by telephone
- ▶ Training to ODPP staff, State Solicitors, Prosecution Counsel, An Garda Síochana, Law Society/Bar Council, NGOs



Who is a Victim?

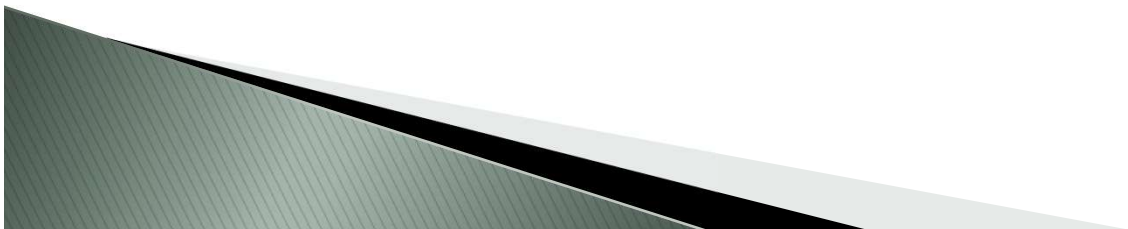
A Victim means:

- A natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence or
- Family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death.
 - see s.2 of the Criminal Justice (Victims of Crime) Act 2017 (and EU Directive 29/2012 Article 1)



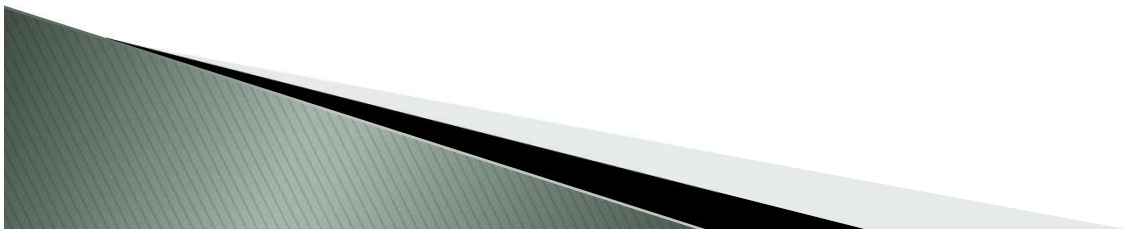
Garda decisions

- ▶ The Garda Síochána also make prosecution decisions
- ▶ General Direction – section 8(4) of the Garda Síochána Act 2005
- ▶ Garda Superintendent decides not to prosecute – victims may request reasons and review – from the Garda Síochána



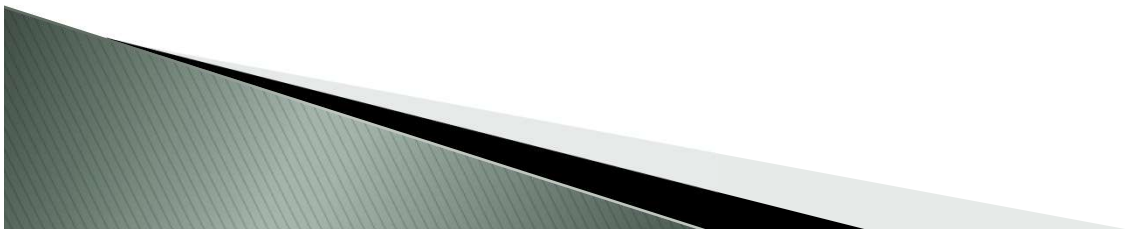
Responsibilities to victims

- ▶ **Respect** – To deal with victims in a respectful, professional, non-discriminatory and impartial manner and with due regard to the personal circumstances, rights and dignity of victims
- ▶ **Listen and Consider** – To listen and consider the views of the victim. The victim is not, however, entitled to give instructions to the prosecutor concerning the conduct of the trial or hearing of the case
- ▶ **Keep fully informed** – Work with the Garda Síochána to ensure that the victim is kept fully informed of developments in relation to the criminal prosecution and proceedings which result from the victim's statement of complaint and reporting of the crime
- ▶ **Update** – Update the investigating Gardaí, and through them the victim, on significant developments in relation to pre-trial applications, applications before the Superior Courts or appeals against conviction and/or sentence.
- ▶ **Arrange a Pre-trial meeting on request** – between the victim and the prosecutor who is dealing with the case.



Responsibilities to victims

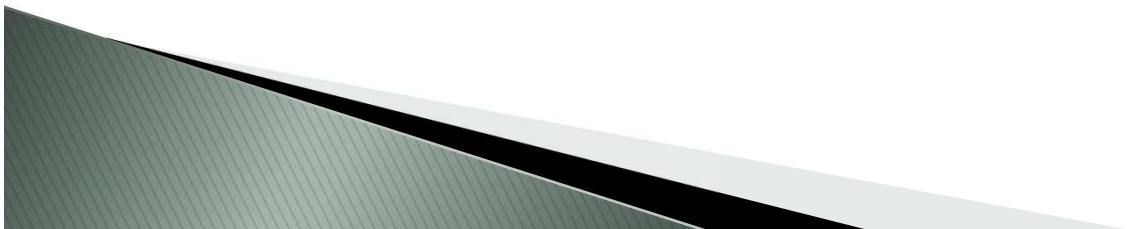
- ▶ **Explain** – to the victim the processes and procedures relating to the trial or hearing of criminal cases and answer any questions the victim may have about them.
- ▶ **Protect** – the interests of victims to the best of their professional abilities consistent with their duty to the court and their duty to conduct the prosecution on behalf of the People. Prosecutors should have due regard to the likelihood that a victim of crime when called to testify may experience again the emotional and physical distress caused by the offence.
- ▶ **Enable understanding** – To work with the Garda Síochána and the Courts Service to ensure that the victim can understand the criminal proceedings.
- ▶ **Inform the Court** – To draw the Court's attention in appropriate cases to issues and laws relating to compensation, restitution and sentencing.
- ▶ **Right to be heard** – To have due regard to Article 10 of the European Union Victims Directive 2012/29/EU right to be heard during criminal proceedings and to provide evidence. That right encompasses the sentencing stage of criminal proceedings.



Victims requiring Special Measures

Following the section 15 Assessment:

- Measures to avoid visual contact between victims and suspects (section 19 – use of screens)
- Measures to ensure victims can give evidence outside the courtroom (section 19 – use video-link)
- Measures allowing the hearing to take place other than in public (section 20)
- Measures to avoid unnecessary questioning about victim's private life (section 21)
- Use of Registered Intermediaries (section 30)



Reasons for decision not to prosecute?

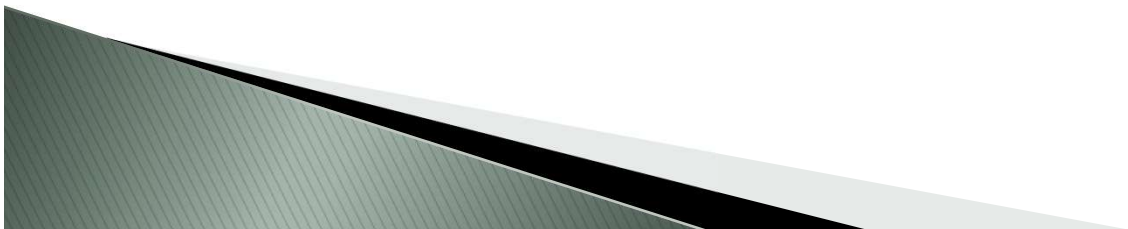
Annual Report 2016:

Reasons given – 977

Reasons refused – 136

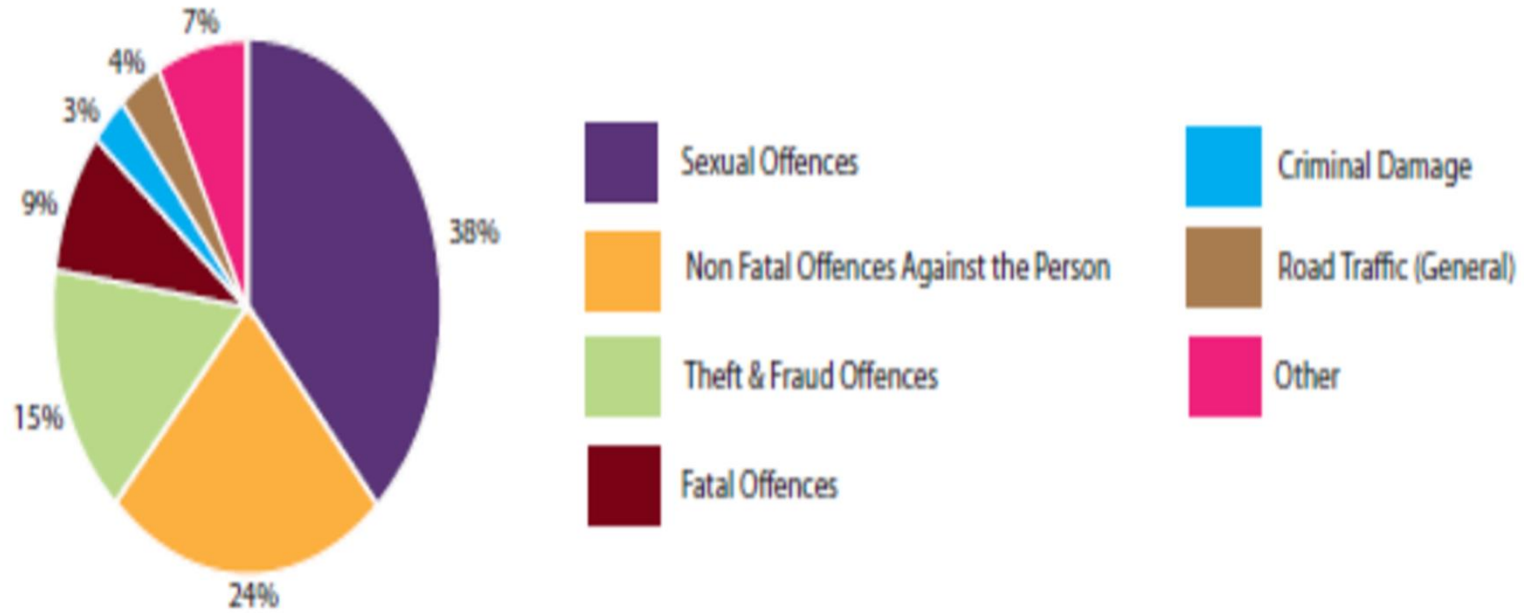
Pending – 67

TOTAL requests for reasons received: 1,180
(Period: November 2015 to October 2017)



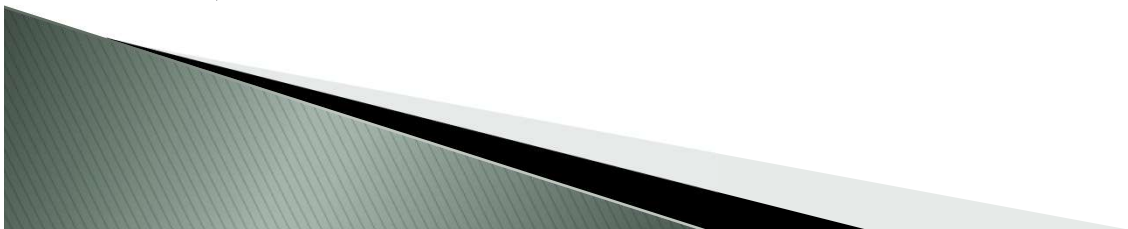
Reason for decision not to prosecute – offence categories

CHART 3.2.2 Categories of Offences which were the subject of Requests for Reasons



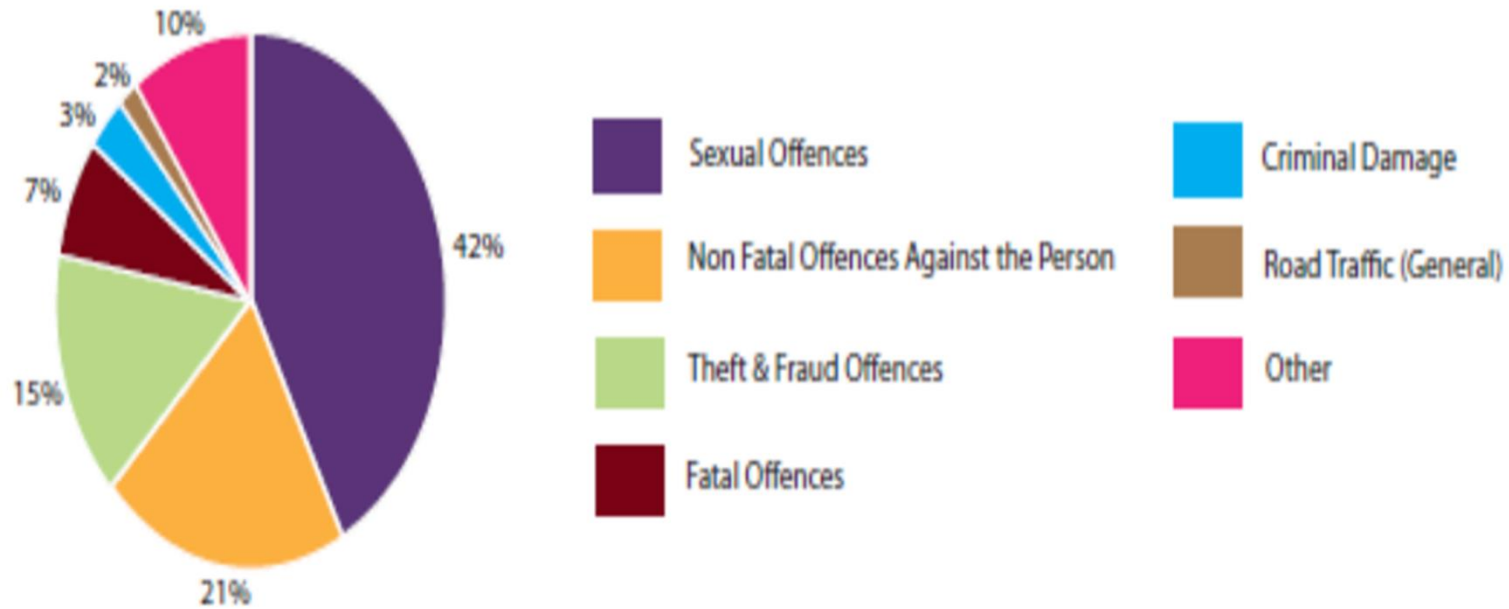
Reviews?

- ▶ Reviews – Original decision upheld 344
- ▶ Original decision overturned 8 (Three decisions related to three complainants in the one case.)
- ▶ Invalid request 34
- ▶ Pending 32
- ▶ TOTAL requests for review received: 418
(Period: November 2015 to October 2017)



Reviews – offence categories

CHART 3.2.4 Categories of Offences which were the subject of Requests for Reviews



Assistance to victims

- ▶ NALA
- ▶ Translation and interpretation services
- ▶ Co-operation with Gardai and partner agencies to assist in understanding
- ▶ Provision of information in an accessible format

