



Suggested Amendments for the Policing, Security and Community Safety Bill 2023

17 April 2023

NB This table is accompanied by a separate document that expands on the rationale behind all of our suggested changes on a Row by Row basis.

PART 2 - An Garda Síochána				
	Subject	Current Text of the Bill	Rationale for Change	Proposed Amendment
1.	Prosecution	<u>S10 - Prosecution of offences by members of An Garda Síochána</u> “(1) A member of An Garda Síochána in the course of his or her official duties shall not institute a prosecution except as provided under this section.	The retention of the power of AGS to prosecute cases contradicts best international practice and the recommendation of CoFPI.	Deletion of s10.

		<p>(2) Subject to subsection (4), any member of An Garda Síochána may institute or conduct prosecutions in a court of summary jurisdiction, but only in the name of the Director of Public Prosecutions.</p> <p>(3) Where a prosecution is instituted by a member of An Garda Síochána pursuant to subsection (2), the prosecution may be conducted by that member or any other such member."</p>		
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PART 4 – Policing, Security and Community Safety				
	Subject	Current Text of the Bill	Rationale for Change	Proposed Amendment (new language in red)
2.	Scope of Oversight	<p>S.122(1)</p> <p>The objective of the Authority shall be to oversee and assess in an independent and transparent manner the performance by An Garda Síochána of its function relating to policing services in order to support the effective provision and continuous improvement of such services to the benefit of the safety of the public.</p>	There is a missed opportunity to task the Authority with oversight of the Community Safety Partnerships provided for in Part 3 of the Bill.	<p>S.122(1)</p> <p>The objective of the Authority shall be to oversee and assess in an independent and transparent manner the performance by An Garda Síochána of its function relating to policing services in order to support the effective provision and continuous improvement of such services to the benefit of the safety of the public, and to oversee the effective functioning of the Local Community Safety Partnerships, provided for in Part 3.</p>
3.	Inspections	<p>S.122(2) Subject to this Act, the Authority shall have the following functions: (...) (d) to carry out inspections;</p>	The General Scheme referred explicitly to the power to carry out inspections in relation to adherence to “human rights standards and cooperation with other public service bodies to enhance community safety”. The Bill refers only to the power “to	<p>s.122(2) Subject to this Act, the Authority shall have the following functions: (...)</p> <p>(d) to carry out at its own initiative or at the request of the Minister inspections in relation to any particular aspects of the operation and administration of An Garda Síochána relating to</p>

			carry out inspections". The explicit language on human rights should be reintroduced.	policing services (including in relation to adherence to human rights standards and cooperation with other public service bodies to enhance community safety) and make recommendations to the Garda Commissioner or the Minister as the case may be for any action that the Authority considers desirable (as per the General Scheme, Head 104 (c)).
4.	Independence	s.137 (1) The Authority shall, not later than 3 months after the end of each year, prepare and submit to the Minister a report on its activities during the preceding year.	The Annual Reports of the Authority should be laid before the Oireachtas, in line with international best practice.	s.137 (1) The Authority shall, not later than 3 months after the end of each year, prepare and submit to the Minister lay before the Oireachtas a report on its activities during the preceding year.
5.	Independence	Accountability for accounts of Authority s. 139(3) In carrying out duties under subsection (2), the chief executive of the Authority shall not– (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy,	The Bill provides that the chief executive of the Authority shall not express an opinion on Government policy whilst carrying out their duties under these sections. Oversight bodies must be allowed to raise concerns, make recommendations and monitor and report on respect for human rights, including before Oireachtas Committees.	Remove s. 139 (3) and s.140(9)

		<p>Attendance of chief executive of Authority before other Oireachtas committees and s.140 (9)</p> <p>(9) In carrying out duties under this section, the chief executive of the Authority shall not– (a) question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such policy.</p>		
6.	Inspections	<p>Joint Inspections</p> <p>144. (1) The Authority and a prescribed inspection body may carry out a joint inspection where the Authority and the prescribed inspection body concerned are of the opinion that– (a) the joint inspection is appropriate, and (b) the functions and powers of the prescribed inspection body concerned are suitable in so far as they relate to the aspects of the joint inspection to be carried out by that body</p>	<p>There is a need for explicit reference to cooperation with and joint inspections with the new Inspectorate of Places of Detention and provision for joint inspections with the Independent Examiner of Security Legislation.</p>	<p>Joint Inspections</p> <p>144. (1) The Authority and a prescribed inspection body may carry out a joint inspection where the Authority and the prescribed inspection body concerned are of the opinion that– (a) the joint inspection is appropriate, and (b) the functions and powers of the prescribed inspection body concerned are suitable in so far as they relate to the aspects of the joint inspection to be carried out by that body</p> <p>(2) The Authority and the Inspectorate of Places of Detention may carry out a joint inspection</p> <p>(3) The Authority and the Independent Examiner for</p>

				Security Legislation may carry out a joint inspection
7.	Inspections	<p>S.142</p> <p>(5) As soon as practicable after specifying in writing the scope and terms of an inspection in accordance with subsection (4), the Authority shall give the Garda Commissioner a notice in writing of the inspection which shall include– (a) a statement of the nature and particulars of the matters to be inspected, (b) the scope and terms of the inspection as specified under subsection (4)(a), (c) a copy of the authorisation referred to in subsection (4)(b), and (d) such other information as the Authority considers appropriate.</p>	<p>Where joint inspections take place with the new Inspectorate of Places of Detention s.142(5), requiring notice to be given to the Garda Commissioner, should be disapplied as this would conflict with Ireland’s international obligations.</p>	<p>S.142</p> <p>(5) With the exception of joint inspections that take place with the Inspector of Places of Detention, as soon as practicable after specifying in writing the scope and terms of an inspection in accordance with subsection (4), the Authority shall give the Garda Commissioner a notice in writing of the inspection which shall include– (a) a statement of the nature and particulars of the matters to be inspected, (b) the scope and terms of the inspection as specified under subsection (4)(a), (c) a copy of the authorisation referred to in subsection (4)(b), and (d) such other information as the Authority considers appropriate.</p>
8.	Human Rights Expert	124 (5) (new provision)	<p>As is the case in Northern Ireland, provision should be made for the Authority to be staffed with a full-time human rights expert.</p>	<p>124 (5)</p> <p>The Service shall propose one member of the Authority as the Authority’s human rights expert.</p>

PART 5 - Police Ombudsman				
	Subject	Current Text of the Bill	Rationale for Change	Proposed Amendment (new language in red)
9.	Independence	<p>S.170</p> <p>The Police Ombudsman and the Deputy Police Ombudsman shall hold office upon such terms and conditions (including terms and conditions relating to remuneration, allowances and superannuation) as may be determined by the Minister with the consent of the Minister for Public Expenditure and Reform, at the time of appointment or reappointment.</p>	In order to meet the requirements of independence in the Paris Principles, the Ombudsman must not be subject to financial control which might affect its independence.	<p>S.170</p> <p>The Minister shall, having consulted with the Police Ombudsman and with the consent of the Minister for Public Expenditure and Reform, provide the Office of the Police Ombudsman with such funds, premises, facilities and services as may be necessary for the proper functioning of the Office.</p>
10.	Independence	<p><u>S179 - Governance framework of Office of Police Ombudsman</u></p> <p>“(1) The Police Ombudsman shall, as soon as practicable after the coming into operation of section 167, submit to the Minister a framework (in this</p>	This provision risks undermining the institutional independence of the Ombudsman and is unnecessary given there is an existing Civil Service Corporate Governance Code.	Remove S.179.

		<p>section referred to as the “governance framework”) that includes an outline of...</p> <p>(3) Where the Police Ombudsman revises the governance framework, he or she shall submit the revised framework to the Minister.”</p>		
11.	Independence	<p><u>S180 - Strategy statement of Office of Police Ombudsman</u></p> <p>“(1) The Police Ombudsman shall prepare and submit to the Minister a strategy statement in respect of the period of 3 years immediately following the year in which the strategy statement is so submitted...</p> <p>(4) The Police Ombudsman shall, before submitting a strategy statement to the Minister under subsection (1)– ...</p> <p>(5) The Minister shall cause a strategy statement received by him or her under subsection (1) to be laid before each House of the</p>	<p>This provision risks undermining the institutional independence of the Ombudsman.</p>	<p>S.180</p> <p>“(1) The Police Ombudsman shall prepare and submit to the Minister lay before the Oireachtas a strategy statement in respect of the period of 3 years immediately following the year in which the strategy statement is so submitted...</p> <p>(4) The Police Ombudsman shall, before submitting a strategy statement to the Minister Oireachtas under subsection (1)– ...</p> <p>(5) The Minister shall cause a strategy statement received by him or her under subsection (1) to be laid before</p>

		Oireachtas as soon as practicable after it is received."		each House of the Oireachtas as soon as practicable after it is received."
12.	Independence	<p><u>S181 - Annual reports and special reports by Police Ombudsman</u></p> <p>"(1) The Police Ombudsman shall, not later than 3 months after the end of each year, prepare and submit to the Minister a report on his or her activities during the preceding year (in this section referred to as an "annual report").</p> <p>...</p> <p>(4) Subject to subsection (6), the Minister shall cause a copy of a report under this section to be laid before each House of the Oireachtas as soon as practicable after he or she receives it."</p>	This provision risks undermining the institutional independence of the Ombudsman.	<p><u>S181 - Annual reports and special reports by Police Ombudsman</u></p> <p>"(1) The Police Ombudsman shall, not later than 3 months after the end of each year, prepare and submit to the Minister lay before the Oireachtas a report on his or her activities during the preceding year (in this section referred to as an "annual report").</p> <p>...</p> <p>(4) Subject to subsection (6), the Minister shall cause a copy of a report under this section to be laid before each House of the Oireachtas as soon as practicable after he or she receives it."</p>
13.	Human Rights Expert	172 (6) (proposed new section)	Provision should be made for the appointment of a dedicated human rights expert to the Ombudsman.	<p>172 (6)</p> <p>The Police Ombudsman shall designate one officer of the Police Ombudsman as the Ombudsman's dedicated human rights expert.</p>

PART 6 - Complaints, Investigations and Other Matters				
	Subject	Current Text of the Bill	Rationale for Change	Proposed Amendment (new language in red)
14.	Jurisdiction	<p><u>S189(1) - Interpretation</u></p> <p>""incident of concern" in relation to a member of garda personnel, means any act or omission–</p> <p>(a) that is not and has not been the subject of a complaint or a referral under section 199(1), and</p> <p>(b) in relation to which there is an allegation that the person who–</p> <p>(i) is a serving member of garda personnel, or</p> <p>(ii) at the time of the act or omission concerned, was a member of garda personnel, may have–</p> <p>(I) committed an offence, or</p> <p>(II) behaved in a manner that constitutes notifiable misconduct;</p>	<p>The limitation of incidents of concern to the commission of offences and "notifiable misconduct" excludes situations that should be scrutinised by the Ombudsman, but do not necessarily constitute misconduct.</p>	<p><u>S189(1) - Interpretation</u></p> <p>""incident of concern" in relation to a member of garda personnel, means any act or omission–</p> <p>(a) that is not and has not been the subject of a complaint or a referral under section 199(1), and</p> <p>(b) in relation to which there is an allegation that the person who–</p> <p>(i) is a serving member of garda personnel, or</p> <p>(ii) at the time of the act or omission concerned, was a member of garda personnel, may have–</p> <p>(I) committed an offence, or</p> <p>(II) behaved in a manner that constitutes notifiable misconduct;</p> <p>(III) misused weapons</p>

				(IV) behaved in a manner that violates human rights or risks public confidence in An Garda Siochana
15.	Jurisdiction	<p>189 (...) "serious harm", in relation to a person, means–</p> <p>(a) an injury to the person that–</p> <p>(i) creates a substantial risk of death,</p> <p>(ii) causes serious disfigurement, or</p> <p>(iii) causes substantial loss or impairment of mobility of the body as a whole or of the function of any particular bodily member or organ,</p> <p>(b) he or she is the victim of a sexual offence, or</p> <p>(c) he or she is the victim of an abuse of power for a sexual purpose</p>	<p>To ensure compliance with article 2 and 3 of the ECHR, the definition of serious harm should be expanded to include 'intense mental suffering'.</p>	<p>S189 (...) "serious harm", in relation to a person, means–</p> <p>(a) an injury to the person that–</p> <p>(i) creates a substantial risk of death,</p> <p>(ii) causes serious disfigurement, or</p> <p>(iii) causes substantial loss or impairment of mobility of the body as a whole or of the function of any particular bodily member or organ,</p> <p>(iv) causes intense mental suffering,</p> <p>(b) he or she is the victim of a sexual offence, or</p> <p>(c) he or she is the victim of an abuse of power for a sexual purpose</p>

16.	Oversight	<p><u>S195 - Admissible complaints</u></p> <p>(4) Where the Police Ombudsman determines under paragraph (a) of subsection (1) that a complaint is suitable for resolution by An Garda Síochána, he or she shall, as soon as practicable—</p> <p>(a) notify the complainant of his or her determination,</p> <p>(b) include, in the notification under paragraph (a), information in relation to the relevant arrangements, and</p> <p>(c) refer the complaint, together with any information or documents from inquiries made under subsection (3), section 194(9) or provided pursuant to a request under section 214, to An Garda Síochána for resolution by An Garda Síochána in accordance with the relevant arrangements”</p>	<p>International best practice allows for the Ombudsman to retain an element of control and oversight in relation to matters that have been referred to the police for resolution.</p>	<p><u>S195 - Admissible complaints</u></p> <p>(4) Where the Police Ombudsman determines under paragraph (a) of subsection (1) that a complaint is suitable for resolution by An Garda Síochána, he or she shall, as soon as practicable—</p> <p>(a) notify the complainant of his or her determination,</p> <p>(b) include, in the notification under paragraph (a), information in relation to the relevant arrangements, and</p> <p>(c) refer the complaint, together with any information or documents from inquiries made under subsection (3), section 194(9) or provided pursuant to a request under section 214, to An Garda Síochána for resolution by An Garda Síochána in accordance with the relevant arrangements”</p> <p>(d) the Police Ombudsman may approve the investigating officer in An Garda Síochána,</p>
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				(e) the Police Ombudsman may request that a report is submitted to it of the investigation on its completion.
17.	Jurisdiction	<p><u>S200(6) - Notification to Police Ombudsman of incident of concern</u></p> <p>"The Garda Commissioner shall notify an incident of concern to the Police Ombudsman under subsection (1) only to the extent that to do so–</p> <p>(a) would not be prejudicial to the security of the State, or</p> <p>(b) would not endanger the life or safety of any person who has given information in confidence to a public body in relation to the enforcement or administration of the law"</p>	<p>This provision is not found in equivalent jurisdictions. It restricts the jurisdiction of the Ombudsman and lacks provision for independent oversight of the decision. While the Independent Examiner is to be notified of such a situation under 200(7), no provision is made for independent review of the decision.</p>	Remove this section.
18.	Jurisdiction	<p><u>S201(10) - Investigation of matters in public interest</u></p> <p>"In this section, "relevant cause of concern" means a concern that a</p>	<p>As with s189(1) above, this provision excludes situations that may warrant scrutiny, but do not necessarily constitute misconduct, from the</p>	<u>See Row 14 above.</u>

		<p>member of garda personnel may have–</p> <p>(a) committed an offence, or</p> <p>(b) behaved in a manner that constitutes misconduct that would justify the bringing of conduct proceedings”</p>	jurisdiction of the Ombudsman.	
19.	Jurisdiction	<p><u>S201 - Investigation of matters in public interest</u></p> <p>201. (1) Subject to section 202(1), the Police Ombudsman may, if it appears to him or her to be in the public interest and without receiving an admissible complaint or a notification under section 200(1) of an incident of concern, undertake an investigation into any matter that appears to him or her to be a relevant cause of concern.</p>	Explicit provision should be made for the Ombudsman to have jurisdiction to investigate matters and complaints that have previously been raised.	<p><u>S201 - Investigation of matters in public interest</u></p> <p>201. (1) Subject to section 202(1), the Police Ombudsman may, if it appears to him or her to be in the public interest and without receiving an admissible complaint or a notification under section 200(1) of an incident of concern, undertake an investigation into any matter that appears to him or her to be a relevant cause of concern.</p> <p>This includes on any matter that may previously have been raised with the Ombudsman.</p>
20.	Duty to co-operate	New section proposed.	An explicit statutory obligation should be placed on AGS to fully co-operate with the	<p>S.204(13)</p> <p>The Garda Commissioner and members of garda personnel shall</p>

			Ombudsman in a full and timely manner.	co-operate with the Police Ombudsman in a full and timely manner in order to allow the Ombudsman to fulfil its functions.
21.	Power of search	206. (1) Where a designated officer is appointed under section 204(1) to undertake an investigation, any designated officer shall, for the purposes of undertaking, or assisting in, the investigation concerned and any matters ancillary or consequential to such an investigation, have all the powers, immunities and privileges conferred, and all the duties imposed, on any member of An Garda Síochána by or under any enactment or the common law, including those relating to the following matters: (a) the entry and search of any place (other than a Garda Síochána premises) pursuant to a warrant issued in accordance with law and the seizure of things authorised by the warrant;	This provision seriously restricts the powers of the Ombudsman and is not in line with international best practice or comparative jurisdictions.	206. (1) Where a designated officer is appointed under section 204(1) to undertake an investigation, any designated officer shall, for the purposes of undertaking, or assisting in, the investigation concerned and any matters ancillary or consequential to such an investigation, have all the powers, immunities and privileges conferred, and all the duties imposed, on any member of An Garda Síochána by or under any enactment or the common law, including those relating to the following matters: (a) the entry and search of any place (other than a Garda Síochána premises) pursuant to a warrant issued in accordance with law and the seizure of things authorised by the warrant; Delete S207.

		<p><u>S207 - Search of Garda Síochána premises</u></p> <p>“(1) Subject to this section, where a designated officer is appointed under section 204(1) to undertake an investigation, any designated officer may, with the authorisation of the Police Ombudsman, apply to a judge of the District Court for a warrant to carry out a search of a Garda Síochána premises.</p> <p>(2) Before authorising the making of an application under subsection (1), the Police Ombudsman shall consult with the Garda Commissioner for the purpose of establishing if the Garda Commissioner objects to a search of a Garda Síochána premises for reasons relating to the security of the State. (...)</p>		
22.	Discipline	<p><u>S212 - Other referrals by Police Ombudsman following investigation</u></p> <p>“(1) Where the Police Ombudsman is of the opinion that a report under section 204(10) or (11) discloses–</p>	<p>This provision is not strong enough to ensure that disciplinary actions are taken on foot of the Ombudsman’s report & recommendations, which deprives the</p>	<p><u>S212 - Other referrals by Police Ombudsman following investigation</u></p> <p>(4A)</p>

		<p>(a) any matter that should be dealt with— (i) by way of conduct proceedings,</p> <p>(ii) by way of performance proceedings, or</p> <p>(iii) under any other arrangements by or under which the unsatisfactory performance of a member of An Garda Síochána is dealt with by An Garda Síochána, or</p> <p>(b) a concern in relation to the practices, policies or procedures of An Garda Síochána or any other issue of a general or systemic nature in relation to An Garda Síochána, the Police Ombudsman shall provide a copy of the report to the Garda Commissioner, the Minister or the Authority, as appropriate, with such recommendations as he or she considers appropriate.</p> <p>(2) The Garda Commissioner shall, as soon as practicable after receiving a copy of a report under subsection (1), notify, in accordance with the</p>	<p>Ombudsman of proper oversight and is out of line with other common law jurisdictions.</p>	<p>Where the Ombudsman has recommended under subsection (1) that disciplinary proceedings are instituted against a member of An Garda Síochána, but the Garda Commissioner is unwilling to bring such disciplinary proceedings, the Ombudsman may, after consultation with the Garda Commissioner, direct them to bring such proceedings.</p> <p>(4B)</p> <p>Subject to subsection (4C)—</p> <p>(a) it shall be the duty of the Garda Commissioner to comply with a direction under subsection (4A);</p> <p>(b) the Garda Commissioner may not discontinue disciplinary proceedings which they have brought in accordance with—</p> <p>(i) a recommendation made under subsection (1); or</p> <p>(ii) a direction under subsection (4A).</p> <p>(4C)</p>
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		<p>protocols, the Police Ombudsman of the action (if any) to be taken by the Garda Commissioner in response to the recommendations in the report and the reasons for same.</p> <p>(3) In any performance proceedings, conduct proceedings or dismissal proceedings instituted in relation to a matter or concern in a report referred to in subsection (1), a document that purports to be that report shall, unless the contrary is shown, be evidence of the facts stated therein without further proof.</p> <p>(4) Where performance proceedings, conduct proceedings or dismissal proceedings are instituted following the receipt of a report referred to in subsection (1), the Garda Commissioner shall, upon the completion of the proceedings and in accordance with the protocols, notify the Police Ombudsman of the outcome and the reasons for same.</p>		<p>The Ombudsman may give the Garda Commissioner leave—</p> <p>(a) not to bring disciplinary proceedings which subsection (4B)(b) would otherwise oblige them to bring; or</p> <p>(b) to discontinue disciplinary proceedings with which subsection (4B)(b) would otherwise require them to proceed.</p>
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		<p>(5) Nothing in this section shall preclude the suspension of performance proceedings, conduct proceedings or dismissal proceedings pending the conclusion of proceedings for an offence in relation to all or part of the act or omission that is the subject of the performance proceedings, conduct proceedings or dismissal proceedings, as the case may be.</p> <p>(6) Subsection (1) is without prejudice to the power of the Police Ombudsman to forward at any time to the Garda Commissioner, for any action that the Police Ombudsman considers appropriate, a report on a complaint, or other matter, that, in the opinion of the Police Ombudsman, discloses a concern in relation to a member of garda personnel"</p>		
PART 7 – Independent Examiner of Security Legislation				
	Subject	Current Text of the Bill	Rationale for Change	Proposed Amendment (new language in red)

23.	Transparency	<p><u>S231 - Objectives, functions and powers of Independent Examiner</u></p> <p>"(1) The objectives of the Independent Examiner shall be– ...</p> <p>(c) to ensure that information relating to his or her functions is made available to the public to the greatest extent possible without prejudicing the security of the State, defence or international relations"</p>	<p>Extending the circumstances in which information is not made public to those bearing upon" international relations" is far too broad and vague, is not defined satisfactorily even on an ordinary interpretation and risks undermining the Examiner's ability to fulfil their role.</p>	<p><u>S231 - Objectives, functions and powers of Independent Examiner</u></p> <p>"(1) The objectives of the Independent Examiner shall be– ...</p> <p>(c) to ensure that information relating to his or her functions is made available to the public to the greatest extent possible without prejudicing the security of the State, defence or international relations"</p>
24.	Appointment	<p><u>S234(1) - Ineligibility for appointment and disqualification from office of Independent Examiner</u></p> <p>"A person shall be eligible for nomination or appointment as the Independent Examiner only where he or she holds or has held the office of judge of the High Court, the office of judge of the Court of Appeal or the office of judge of the Supreme Court"</p>	<p>The role of Independent Examiner should not be limited to who have held judicial office in the higher courts. Eligibility for the role should be based on the skills, expertise, and experience of an applicant and should, at the very least, be open to senior counsel, as per the General Scheme of the Bill.</p>	<p><u>S234(1) - Ineligibility for appointment and disqualification from office of Independent Examiner</u></p> <p>"A person shall be eligible for nomination or appointment as the Independent Examiner only where:</p> <p>(a) he or she holds or has held the office of judge of the High Court, the office of judge of the Court of Appeal or the office of judge of the Supreme Court or</p>

				(b) has been granted a Patent, as defined in Section 170 of the Legal Services Regulation Act 2015.
25.	Powers	<p><u>S239(5) - Additional powers of Independent Examiner</u></p> <p>“Where—</p> <p>(a) any information, document or thing is provided to the Independent Examiner in accordance with a notice under subsection (1)(a), or</p> <p>(b) the Independent Examiner puts a question to a person under subsection (4)(a), the information holder or person nominated by the information holder, as the case may be, who provides the information, document or thing or to whom the question is put shall ensure that the information, document or thing provided, or the answer given, as the case may be, is subject to such exclusions or redactions as he or she considers necessary to—</p>	<p>Limitation of the scope of the Independent’s Examiners to obtain certain classified information may have the effect of rendering the role ‘toothless’. The Independent Examiner should have access to all information without redaction.</p>	Deletion of S.239 (5).

		<p>(i) safeguard international intelligence sources, or</p> <p>(ii) conceal the identity of a person, where to reveal the identity of the person might endanger the life or safety of any person"</p>		
26.	Accountability	<p><u>S240 - Reviews and recommendations by Independent Examiner</u></p> <p>"(1) The Independent Examiner shall carry out a review in accordance with this section (in this section referred to as a "review") of the following matters:</p> <p>(a) a refusal by the Garda Commissioner, under subsection (5) of section 146, to comply with a request under subsection (4) of that section to provide information or a document to the Authority, referred to the Independent Examiner by the Authority under the said subsection (5);</p>	<p>This section requires amendment to ensure that the Independent Examiner has a meaningful function. Without an obligation placed on the Minister to respond to the Examiner's recommendations and to provide reasons for not following those recommendations, the Examiner would become simply an advisor to the Minister, instead of an accountability mechanism.</p>	<p>S.240(4A)</p> <p>The Minister must respond to the recommendation of the Independent Examiner within three months or receipt of the recommendation and, where the Minister does not follow the recommendation of the Examiner, they must provide reasons for such a decision.</p>

		<p>(b) an objection by the Garda Commissioner under section 207(14) to a search of Garda Síochána premises notified to the Independent Examiner by the Garda Commissioner under that subsection;</p> <p>(c) a refusal by a person, under subsection (5) of section 208, to provide any information, document or thing pursuant to a requirement under subsection (1)(a) of that section or to answer any question under subsection (4)(a) of that section, referred to the Independent Examiner by the Police Ombudsman under subsection (7) of that section;</p> <p>(d) a refusal by the Garda Commissioner, under subsection (3) of section 214, to comply with a request under subsection (1) of that section to provide any information or document, referred to the Independent Examiner by the Police Ombudsman under subsection (4) of that section.</p>		
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		<p>(2) A referral or a notification referred to in subsection (1) shall contain such other information in relation to the matter referred or notified as the Independent Examiner may reasonably require for the purposes of a review.</p> <p>(3) The Independent Examiner may, for the purpose of a review seek further information from An Garda Síochána or interview a person nominated by the Garda Commissioner for that purpose.</p> <p>(4) On completion of a review, the Independent Examiner shall issue to the Minister a recommendation in writing in relation to the matter to which the review relates and the reasons for such recommendation.</p> <p>(5) The Independent Examiner may agree a memorandum of understanding with the Garda Commissioner concerning the manner in which the powers of the Independent Examiner under subsection (3) may be exercised."</p>		
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Miscellaneous				
	Subject	Current Text of the Bill	Rationale for Change	Proposed Amendment (new language in red)
27.	Equality data	<p><u>Section 77 - Statistical information</u></p> <p>“(1) The Garda Commissioner shall ensure that, in respect of each specified period, statistical information concerning offences, criminal proceedings and the state of crime in the State is compiled and stored.</p> <p>(2) The Garda Commissioner shall make information compiled in accordance with subsection (1) available to the Minister and the Central Statistics Office at such times and in such manner as the Minister may require...”</p>	Express provision should be made for the collection for disaggregated equality data, for the purposes of ensuring transparency, accountability, and evidence-based responses.	<p><u>Section 77 - Statistical information</u></p> <p>(1A)</p> <p>The information collected under subsection (1) must include disaggregated equality data, relating to-</p> <p>(a) Gender;</p> <p>(b) Race;</p> <p>(c) Ethnicity;</p> <p>(d) Disability;</p> <p>(e) Geographic location;</p> <p>(f) Age; and</p> <p>(g) Income.</p>
28.	Equality data	<p><u>Section 122 - Objective, functions and powers of Authority</u></p> <p>“(2) Subject to this Act, the Authority shall have the following functions:</p>	Express provision should be made for the collection for disaggregated equality data, for the purposes of ensuring transparency, accountability,	<p><u>Section 122 - Objective, functions and powers of Authority</u></p> <p>“(2) Subject to this Act, the Authority shall have the following functions:</p>

		<p>...</p> <p>(l) to keep itself generally informed of– (i) trends and patterns in the use of force by members of An Garda Síochána, and statistics in relation thereto, (ii) trends and patterns in crimes committed, and statistics in relation thereto”</p>	<p>and evidence-based responses.</p>	<p>...</p> <p>(l) to keep itself generally informed of– (i) trends and patterns in the use of force by members of An Garda Síochána, and statistics in relation thereto, (ii) trends and patterns in crimes committed, and statistics in relation thereto”</p> <p>(2A)The information collected under subsection (2) must include disaggregated equality data, relating to-</p> <ul style="list-style-type: none"> a. Gender; b. Race; c. Ethnicity; d. Disability; e. Geographic location; f. Age; and g. Income.
29.	Public Sector Equality and Human Rights Duty		The Bill should provide for all public sector actors including AGS, the Authority and the Ombudsman to have regard to their public sector equality and human rights duty in creating their strategy	

			statement, governance framework and annual report.	
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