

# S.C.I.D.

## *Supporting Victims of Road Crashes*

### **Universal Periodic Review**

On behalf of SCID I would like to submit the following information to be considered in the next “stakeholder report” alongside the UK government’s report for Universal Periodic Review in 2012.

It may be helpful to provide a brief background on SCID.

SCID, (Scottish Campaign against Irrresponsible Drivers) was formed in 1985 by Wendy Moss as a result of a fatal road crash in which her only son was killed. Since that time SCID has helped and advised hundreds of Scottish families who have lost a loved one as a result of a road crash.

SCID Objectives:

- To help and advise victim families of road crashes
- To seek to restructure the Law as it applies to Criminal Traffic Offences which have caused death or injury
- To deter irresponsible drivers by the imposition of more relevant sanctions
- To encourage drivers, through education, to adopt safer standards.

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The World Health Organisation<sup>1</sup> has stated, “Road traffic crashes are one of the world’s largest [public health](#) and [injury prevention](#) problems. The problem is all the more acute because the victims are overwhelmingly healthy prior to their crashes”.

### **Absence of Human Rights**

1. **Victims seriously injured by criminal driving offenders denied recognition in law.**
2. **Victim families bereaved by road crashes and victims injured in road crashes denied access to police reports.**

<sup>1</sup><http://www.who.int/mediacentre/factsheets/fs358/en/>

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### **1. Victims seriously injured by criminal driving offenders denied recognition in law.**

Serious injury has life changing effects on victims and their families and yet these road crash victims in Scotland, England & Wales **are not treated as victims of crime, even when the law has been broken.**

While data is collected on the number of offenders who have killed innocent road users by criminal driving offences, in Scotland, England & Wales there is no data collected on the number of victims serious injured by culpable drivers; as there is no criminal driving offence which takes into account serious injury. The Road Traffic Act is a UK Act reserved to Westminster, yet in Northern Ireland there are criminal driving offences which **do** take into account the consequences of serious injury.

#### **Comparison of Legislation**

<u>Scotland, England &amp; Wales</u>	<u>Northern Ireland<sup>2</sup></u>
Causing Death by Dangerous Driving Section 1 RTA 1998	Causing Death or Grievous Bodily Injury by Dangerous Driving
Causing Death by Careless Driving when under the Influence of Drink or Drugs Section 3A RTA 1998	Causing Death or Grievous Bodily Injury by Careless Driving when under the Influence of Drink or Drugs
Causing Death by Careless Driving Section 2B of RTA 1998	Causing Death or Grievous Bodily Injury by Careless Driving
Causing Death by Driving whilst unlicensed, uninsured or Disqualified Section 3ZB RTA 1998	Causing Death or Grievous Bodily Injury by Driving whilst unlicensed, uninsured or Disqualified
Aggravated Vehicle-taking Causing Death (England & Wales Only)	Aggravated Vehicle-taking Causing Death or Grievous Bodily Injury

<sup>2</sup>Public Prosecution Policy for Northern Ireland - Road Traffic Policy

<http://www.ppsni.gov.uk/Site/1/Documents/PPS%20Press%20Office/PPSNI%20TRAFFIC.pdf>

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An announcement on the 7th October 2011 by The Rt Hon Kenneth Clarke QC MP, Secretary of State for Justice, outlined a proposed new offence, with increased penalties, of causing grievous bodily harm (or severe physical injury in Scotland) by dangerous driving. The rationale behind this announcement was that a victim can receive very serious injuries just short of death and the existing dangerous driving offence (Section 2 of the RTA) cannot take into account the consequences of serious injury in sentencing. Although this is a welcome development, it also gives cause for great concern. The proposed new charge recognises the consequences of dangerous driving but in doing so **discriminates** against those victims who suffer grievous bodily harm or severe physical injury by other criminal driving offences.

By way of example; in Scotland, England & Wales if a driver drives carelessly and kills an innocent road user then the judiciary can, since August 2008, take into account **the standard of driving and the consequences** of death in sentencing. However if a driver drives carelessly and seriously injures an innocent road user then the judiciary can only take into account the **standard of driving and not the consequences**.

**Innocent victims seriously injured in road crashes in Scotland and England & Wales have their right to life less well protected than those seriously injured in Northern Ireland.**

## **2. Victim families bereaved by road crashes and victims injured in road crashes denied access to police reports.**

A road death is an indiscriminate death, it is a sudden death, it is a violent death and it is a premature death, and where there is culpability the effect on a bereaved family can only be compared with a homicide. Many families in seeking answers to their questions ask for sight of the police reports only to be denied. This in turn leads families to believe, rightly or wrongly, there is something to hide and alienates these law abiding citizens from the Criminal Justice System they looked to for support.

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Part of the grieving process is access to information. The information bereaved families may want to access can range from very basic information about the investigation into their loved ones death, to very detailed information.

Human Rights<sup>3</sup> and Freedom of Information are intrinsically linked. The FOISA publication scheme for Scottish police forces states “*We are committed to openness and transparency in the provision of services to the public, and it is our intention to publish as much information as possible on subjects where there is known to be public interest and where the disclosure of that information would be both lawful and appropriate*” yet a bereaved family’s request for a police report, at the conclusion of an investigation or criminal proceedings, is **invariably denied**.

The police are a public body run with taxpayers’ money and exercise considerable power over the lives of members of the public. The information victim families seek is not about state security, drug cartels or the like it is about families having access to as much information as possible which in turn aids their understanding and aids the grieving process in the weeks, months and years ahead. To deny bereaved families the right to access this information leaves a long lasting aggravated grief from which they never recover.

**At the end of an investigation or at the end of criminal proceedings a family should have the right to access information in the police report if they so wish.**

<sup>3</sup>DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL - Establishing minimum standards on the rights, support and protection of victims of crime.

[http://ec.europa.eu/justice/policies/criminal/victims/docs/com\\_2011\\_275\\_en.pdf](http://ec.europa.eu/justice/policies/criminal/victims/docs/com_2011_275_en.pdf)

7<sup>th</sup> November 2011