



GARDA  
INSPECTORATE  
PROMOTING EXCELLENCE & ACCOUNTABILITY

Report of the Garda  
Síochána Inspectorate

# Public Order Policing

A Review of Practices in the Garda Síochána

April 2019

## **The objective of the Garda Síochána Inspectorate is:**

‘To ensure that the resources available to the Garda Síochána are used so as to achieve and maintain the highest levels of efficiency and effectiveness in its operation and administration, as measured by reference to the best standards of comparable police services.’

(s. 117 of the Garda Síochána Act 2005)

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# Foreword

One of the objectives of policing in Ireland, as set out in the Garda Síochána Act 2005, is the preservation of peace and public order. Public order policing is an important arena where human rights are likely to be engaged. In recent years, the Garda Síochána has successfully policed several large-scale public order events. While the number of planned events and spontaneous incidents that require the use of specially trained public order units is low, the impact of disorder on public confidence when it does occur can be significant. As such, it is important to ensure that the Garda Síochána has sufficient capacity and capability to deal with all public order events and incidents.

The Inspectorate was requested by the Policing Authority to carry out an inspection of the Garda Síochána's policing of public order. This inspection marked a new departure for the Inspectorate, involving as it did a more focused examination of a single topic within a much shorter timeframe. However, as with all Inspectorate reports, this report contains a number of recommendations, in this case designed to deliver a more effective and efficient approach to policing public order events and incidents.

The inspection identified some areas of good practice, such as public order training and the professionalism of operational public order commanders. The Inspectorate also found a number of areas that required improvement, such as the need for a Strategic Threat and Risk Assessment. This is a vital tool that many jurisdictions use in public order policing and the absence of such an assessment is a significant organisational risk.

In dealing with the threat to public order it is important that the policy, governance, and accountability arrangements are clear and understood at all levels. The inspection found that existing public order policies and procedures are not always followed and this creates a significant risk that a disproportionate policing response will be employed or inappropriate tactics used.

In view of the significant number of members who are public order trained, there is capacity across Ireland to meet the demand for planned events. Although trained members are available to respond to spontaneous incidents, there can be considerable delays in assembling units and this is another area for improvement.

In event planning, it is important to engage with event organisers and local communities to assess and minimise the likely impact of an event. The current Garda Síochána approach to engagement is *ad hoc* and a more structured process needs to be implemented.

Despite the work carried out to progress recommendations from two internal reports into public order incidents, there are still a number of areas that require improvement. I am convinced that the implementation of the recommendations in this report will address the outstanding issues and ensure that the Garda Síochána is better prepared to meet its public order obligations.

The Inspectorate would like to thank the members and staff of the Garda Síochána as well as the representatives from other agencies for their invaluable contributions towards this report.



**Mark Toland**

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# Executive Summary

## Introduction

This inspection, requested by the Policing Authority, is a forward-looking examination of the effectiveness of public order policing by the Garda Síochána. It explores a number of themes, including: strategy, governance and accountability; capability and capacity; operational delivery; and post-incident management. An important objective of the inspection was to assess the relevant evidence of strategic planning by the Garda Síochána and its response to incidents that have the potential to undermine wider confidence in policing as a result of serious breakdown in public order.

The backdrop to the inspection was the consideration by the Policing Authority during 2018 of two particular Garda Síochána reviews of public order-related incidents. Both reviews identified a series of recommendations on a range of issues, including: garda policy, training, operational planning, tactical advice, communications and the management and conduct of post-incident investigations.

An important distinction between the Garda Síochána and other comparable police services, which can have mutual aid arrangements, is the requirement for the Garda Síochána to be self-sufficient as regards its policing response to public disorder.

## A Human Rights-Based Approach

Ireland is a common law jurisdiction with a written constitution providing a comprehensive human rights-based

framework. In 2003, the European Convention on Human Rights Act became law and allowed legal rights under the European Convention on Human Rights (ECHR) to be directly enforceable in the Irish courts. The ECHR sets down specific rights related to assembly or public protest, which may be restricted only in accordance with the law. In addition, there are certain positive obligations on states to intervene to guarantee the practical and effective application of these rights, such as, the duty to intervene to protect against violent opposition to a group exercising their right to assembly. The actions of the state are balanced by certain additional rights and protections. In particular, Article 2 (the right to life), Article 3 (the right not to be subjected to torture or other ill treatment) and Article 8 (the right to respect for private and family life). When planning an operation police are always required to exercise proportionality and restraint, minimise damage and injury and ensure medical assistance is available. They should always consider viable alternatives to the use of force reflecting a graduated and flexible response.

## Garda Code of Ethics

In the Garda Síochána, members are individually responsible for deciding to exercise powers and must be prepared to explain and justify their use. In this context, human rights and the Garda Code of Ethics should be central to all decisions relating to the use of force. The Code of Ethics commits members and staff to common ethical standards including to act responsibly and to justify their decisions.

## Strategy, Governance and Accountability

### Strategic Threat and Risk Assessment

The greatest risk as regards public order for the Garda Síochána as an organisation is not from the potential for widespread public disorder, which in an Irish context would be considered relatively low, but rather arises from inconsistent governance and application of garda policy.

An important issue to emerge from the inspection is the absence of a public order Strategic Threat and Risk Assessment (STRA). A STRA would examine the wider issues around organisational readiness, contingency planning and emerging protester tactics and would provide a robust evidence base for determining the most appropriate operating model for public order policing in terms of: capacity, capability and training. A STRA would also provide a clearer strategic link with public procurement of equipment, welfare and legal support. The absence of a STRA is a significant organisational risk and the Garda Síochána should urgently develop a formalised public order strategic assessment of threat and risk.

### Governance Structures

The Inspectorate considers that the Garda Síochána structures and responsibilities for the governance of public order are spread across too many functions, resulting in diffused accountability, and need to be streamlined. The inspection found limited strategic co-ordination, and that public order responsibilities overlapped across a number of assistant commissioners, chief superintendents and superintendents, a situation which limits their capability to drive the strategic changes necessary. In the Inspectorate's view, a single assistant commissioner should be responsible for

leading on public order governance, policy and compliance and a chief superintendent within operational support services should be responsible for overseeing public order standards, training, capacity and capability across the whole country.

### Monitoring Use of Force

The Inspectorate found that there was no internal governance group monitoring use of force by garda members, unlike the other police services visited during the inspection. This is a significant gap in governance. External accountability was limited to the reporting of incapacitant spray, Taser and conventional firearm use to the Garda Síochána Ombudsman Commission. Both the Police Service of Northern Ireland (PSNI) and Police Scotland have clearer governance arrangements for monitoring the use of force including in a public order context. The Inspectorate recommends that the external oversight of garda use of force trends should be incorporated into the performance monitoring activities of the Policing Authority and any subsequent oversight body.

### National Public Order Steering Group

The National Public Order Steering Group has an advisory function in relation to public order tactics, training standards, equipment and vehicles. The representation and focus of this group was considered to be too narrow. The group should have senior representation from support functions (such as training, procurement, human rights, intelligence and analysis) and its remit should cover all internal governance matters relating to public order. In addition, a training instructors group meets annually to discuss training standards and to develop new tactics, as necessary. The role of this group should be clearly set out in garda policy and it should be more closely integrated into public order governance arrangements.

### **Public Order Incident Command Model**

The public order incident command policy and procedures documentation lacks a clear definition of what constitutes a public order incident. A critical element of the policy is the Public Order Incident Command Model. The inspection found that the model is not consistently activated when the use of specialist public order tactics or personnel is planned. It can be activated only by a divisional officer (chief superintendent) and must be activated before the full range of principles and guidelines, in terms of strategy, planning and command, become effective. However, National Public Order Unit (NPOU) mobilisation rules also permit the deployment of public order resources without activating the model, which the Inspectorate found happens regularly at divisional level. This creates significant risk.

### **Authorisation**

It is crucial that the advice of a public order tactical advisor or a public order operational commander be obtained in advance of any pre-planned event where the deployment of the NPOU is being considered, and alternatives such as peaceful crowd management or additional high-visibility policing should always be considered before resort to the use of specialist public order resources. To ensure this the Inspectorate recommends that all planned deployment of the NPOU have the approval of the assistant commissioner with lead responsibility for public order. For spontaneous public order incidents, the Garda Síochána should develop an effective authorisation process for deploying NPOU.

### **Transparency of Garda Policy**

The Inspectorate found that a greater focus should be put on human rights and the Code of Ethics in the public order incident command policy, procedures and guidance. The Inspectorate also recommends that

public order policy could be made more transparent by publishing the policy documents on the external garda website, excluding only operationally sensitive material.

## **Capacity and Capability**

### **Public Order Capacity**

There are no garda members dedicated full-time to public order duties in the NPOU. Due to the part-time nature of the unit the Garda Síochána has determined the ongoing training requirement at 48 public order units or 1,200 public order members. This determination was based on historical considerations and professional judgement. While there are significant variations in regional distribution and rank ratios as between the identified requirement and actual numbers, the Inspectorate was satisfied that there was sufficient capacity to meet the demand for regular pre-planned public order events. It is considered that public order preparedness had taken significant strides forward over the past two years, including in relation to standardisation of training across divisions, increased training capacity and advanced planning for increasing command capacity during 2019.

### **Contingency Planning**

Spontaneous events of a serious nature are rare and local garda management indicated that the increased availability of public order trained members, spread across multiple units, had improved local readiness and contingency planning. Contingency and on-call arrangements in the divisions inspected were informal. While there was a requirement for communication rooms to hold lists for on-call public order commanders and public order tactical advisors (POTACs), the Inspectorate found that they relied more on personal contacts to mobilise the

NPOU in such circumstances. While NPOU members were available outside of normal duty times, it was accepted that there could be considerable delays in assembling public order units when necessary. Communication rooms were not equipped to take initial command of spontaneous public order incidents in the way they presently do in critical firearms incidents in the DMR. The Inspectorate was informed that the Garda College is examining a suitable IT solution, already used by other police services, which would improve the ability of the Garda Síochána to identify and mobilise public order members for deployment to a spontaneous public order incident.

### **Selection and Training**

Selection and training for the NPOU are closely linked. Members who are selected and who pass the initial fitness assessment and complete basic public order training are automatically appointed to the NPOU. The responsibility for selecting candidates for the fitness test lies with district officers, who are encouraged to consult with their local NPOU instructors when making the selection. The Inspectorate found that there were no processes to quality-assure selection and that inconsistent approaches were used across divisions. The Inspectorate recommends that standardised and transparent selection procedures, overseen by the Human Resources and People Development Department, be developed for the NPOU.

Due to low numbers, the Inspectorate recommends the adoption of a specific strategy to develop female representation in public order policing. In addition, selection should be contingent on up-to-date refresher training in use of force having been completed and selected members having signed the Code of Ethics. There have been delays in delivering refresher training beyond the timeframe specified in the policy

and any such decisions should be approved by the Public Order Steering Group

### **Leadership and Command**

The Inspectorate was impressed by the professional competence, knowledge and commitment of the public order command ranks (chief superintendents and superintendents) interviewed. An example of good practice identified during the inspection concerned briefing days for senior managers in February and March 2018. Updates were provided on new policy and key court decisions involving the European Convention on Human Rights as they relate to public order. There were also practical demonstrations, and overall the briefings were good evidence of continuous professional development for public order leaders. However, the Inspectorate was concerned that the breadth and depth of command capacity was insufficient. Furthermore, the Inspectorate recommends a mandatory recertification process for all public order commanders that ensures that they maintain operational competence, professional knowledge and a current understanding of relevant human rights issues. In addition, to enhance diversity the NPOSG should consider increasing the visibility of role models when determining the numbers and distribution of Public Order Commanders.

### **Operational Delivery**

#### **Community Engagement**

The strategic plan for an event sets the policing tone in terms of the centrality of human rights and community engagement. Event organisers, garda planners and event commanders all provided good examples of engagement with stakeholders during all stages of events. However, public order planning in the Garda Síochána could



benefit from a more structured approach to engagement, in particular, greater use of community impact assessments to identify community concerns and tensions, and crisis negotiators to engage with harder-to-reach groups. The production of the *Guidelines for Event Organisers* by Dublin City Council in consultation with the Garda Síochána and the Health Service Executive is another example of good community engagement practices and it was suggested during the inspection that additional guidelines from the Garda Síochána on issues such as route planning would be particularly useful for event organisers. The Inspectorate recommends that event sergeants and public order commanders have ready access to human rights legal advice when planning events.

### Media

While the Garda Síochána has improved its approach to communications over recent years, the advent of 24-hour news cycles means that policing more often now takes place in the full glare of publicity. Social media presents additional problems for the effective policing of operations. Dealing with evolving events is a critical role of the Garda Press Office and earlier engagement by commanders with the Press Office is promoted, particularly as part of promotion and commander training.

### Garda Decision-Making Model

Garda members are individually accountable for their own decisions and actions and effective decision-making is a critical skill which should be developed in any police officer. While the Garda Decision-Making Model (GDMM) reflects accepted international practice in this regard and provides a good framework for effective decision-making by members, the Inspectorate found that knowledge and use of the GDMM was limited. At the initial student training stage in the Garda College, the

GDMM is integrated into practical scenarios such as use of force to reinforce learning of the model. However, the Inspectorate understands that divisional-level refresher training in use of force does not integrate the GDMM into scenario-type exercises to develop and cement the process in policing practice for members or supervisors.

### Graduated Response

As a rule, the policing response to any public order situation should be graduated before specialist public order tactics are deployed. Interviews with sergeants and inspectors responsible for planning major events showed a good understanding of the graduated approach and the principle is well embedded in POTAC and public order commander training. However, the inspection did find that NPOU serials or units have been formed by district and divisional officers without the appropriate advice from a POTAC or operationally competent public order commander, creating the risk that a disproportionate policing response or inappropriate tactics could be utilised.

## Post-Incident Management

### Organisational Learning

There is growing awareness of the importance of learning and development to the garda organisation over recent years. In the public order context, however, organisational learning could best be described as an *ad hoc* process. The inspection found that there has been limited progress in implementing the recommendations from the reviews of the An Cosán and North Fredrick Street incidents. The findings from these reviews were not shared with key departments or with members of public order teams. The Inspectorate was told that many events are

not debriefed in line with the POICM and learning is dependent on the local instructors or trainers present identifying the relevant issues and communicating them to the training instructors group.

### **Multi Agency Debriefs**

The Garda Síochána has led multi-agency debriefs involving the National Ambulance Service and Dublin Fire Brigade after major events to draw on shared experiences of inter-agency co-operation and to identify strengths and weaknesses. This is good practice and should be formalised and more broadly utilised with other external stakeholders, including event organisers and affected communities. The process should also be linked to the NPOSG in order for it to better influence strategy, selection, training and the development of tactics.

### **Welfare and Wellbeing Supports**

There are extensive welfare supports available to garda members and staff. These include the peer-to-peer support network, the Employee Assistance Service (EAS), a wellbeing phone line and the Chief Medical Officer. The Garda Síochána also has a clear vision for the future development of welfare and employee services within the organisation. The Inspectorate recommends that the Garda Síochána enhance welfare arrangements by considering the Employee Assistance Services as part of public order event planning and debriefing; promoting the availability of Employee Assistance Services on all command and operational public order courses; and reviewing the current welfare support provided to members at superintendent rank and above.

During the inspection the Inspectorate found many examples at divisional level of supervisors and leaders within the Garda Síochána working closely with the EAS after an event to address welfare concerns. In

Limerick the Inspectorate was briefed about a particularly good example of best practice where the EAS and local management brought staff together for a welfare briefing in advance of a potentially disturbing operation. This prepared the garda members and staff concerned for what they might encounter and is an obvious model for future pre-planned public order operations.

This report contains a number of recommendations, set out in Appendix 3, which are intended to contribute to greater transparency, clearer governance and leadership and more effective public order policing.

# Introduction and Background

## Introduction

Serious public disorder which has the potential to undermine wider public confidence in policing is relatively rare in Ireland. While central Dublin has to deal with public order events on a regular basis, most of these will pass off peacefully without any significant disruption. Outside of Dublin, similar events are much less frequent. When disorder does occur, either associated with a protest or spontaneously in a public space, the policing of such situations now plays out in the full glare of the public gaze through social media and the 24-hour news cycle.

Disorder can happen anywhere and the Organization for Security and Cooperation in Europe (OSCE) in its Human Rights Handbook on Policing Assemblies has highlighted the great variation in public order situations (OSCE, 2016). They can range from temporary or short-lived events to the much longer, even semi-permanent, protests which have emerged in the last 20 years. There are numerous examples of these evolving protests in an Irish context, including the Shell to Sea protests, the Shannon Airport protests and the environmental protests at the road-widening scheme at the Glen of the Downs. Horizon scanning and responding to this constantly changing landscape, including preparing for an unanticipated event, requires that garda planning, policies, practices and tactics continuously adapt.

As the OSCE makes clear the police have an obligation to facilitate all peaceful assemblies. Where peaceful protests have an impact on the rights or freedoms of others it will be the Garda Síochána who will be responsible for balancing competing human

rights. Embedding a human rights-based approach in policy, procedure, training and operational practice is therefore essential.

Key to reducing the likelihood of conflict between the public attending an event and the police is effective engagement and communication. Whenever possible organisers and participants should be aware of planned police deployments, and what can be expected in terms of tactics, uniform and equipment. Likewise the police should be fully informed of the organisers' plans. This "no surprises" approach is a key pillar of international practice and can be summed up in the following terms: 'proactive policing of order is always preferable to the reactive policing of disorder' (OSCE, 2016).

Should disorder occur the overriding aim of the policing response must be the restoration of normality. However, in doing so the policing operation must be planned, commanded and carried out in a way that minimises garda use of force and actively seeks viable alternatives.

International security and human rights organisations describe how there should always be a graduated return to day-to-day or normal policing. According to the OSCE the policing operation should transition from the initial incident to a stand-by period and then to a stand-down period. The College of Policing<sup>1</sup> uses the Disorder Model to illustrate how any public order situation may go through several phases before returning to normality. The different phases of the cycle identified in the Model include: Normality (normal policing state), Tension (increased

1 The College of Policing was established in 2012 as the professional body for police services in England and Wales.

concern in the community), Disorder (change in mood and isolated incidents of violence), Serious Disorder/Riot (significant escalation in violent behaviour), Unrest (the sometimes prolonged period of re-establishing trust and relationships in the community) before a return to Normality (College of Policing, 2018).

Garda policy has adopted the College of Policing model, emphasising the return to normal policing. While it is not necessary to progress through all these stages of the Disorder Model before returning to normality, the Model does underscore the central role of engagement. In this way, managing the potential for public disorder needs to be seen as a continuous partnership process rather than as crisis intervention. It begins with the obligation on police services to always facilitate peaceful protests or events. Information and communication are critical to managing conflict within the community and between the community and the police service in any public order situation.

## Background to the Inspection

In October 2018, the Policing Authority requested the Inspectorate, in accordance with section 117(2)(c) of the Garda Síochána Act 2005, as amended, to examine the effectiveness of public order policing by the Garda Síochána. The Policing Authority's oversight of garda performance during 2018 had focused on two particular reviews of public order-related incidents, which formed the backdrop to this report.

## Garda Public Order Reviews

The first review ("An Cosán review")<sup>2</sup> concerned an incident at a graduation ceremony attended by the Tánaiste at An Cosán, Tallaght in November 2014. Because of the presence of the Tánaiste the ceremony had attracted the presence of a group of persons protesting at the introduction of water charges at the time. The public order situation arose over a period of approximately three hours during which the Tánaiste and a number of other persons were prevented from leaving the event. In addition, a large number of garda members were assaulted and garda vehicles and equipment damaged. The Garda Síochána carried out a thorough review of the incident and the subsequent investigation. This review made a total of 45 recommendations on a range of issues, including garda policy, training, operational planning, communications and the management and conduct of post-incident investigations (Garda Síochána, 2018).

The second incident occurred at North Frederick Street in Dublin in September 2018. A group of protestors, operating under the banner "Take Back the City", had been occupying a building there for some time. The owner obtained a High Court Order to vacate the property and engaged a commercial agent for this purpose. The Garda Síochána were requested to provide a presence at the property on the date in question and planned a uniform garda presence of one inspector, one sergeant and three community gardaí. The purpose of the garda presence was to prevent a breach of the peace. In addition a National Public Order Unit (NPOU) serial (one sergeant, a driver and six gardaí) and the Garda Dog Unit, with two general purpose dogs, were on stand-by in case additional resources were required.

<sup>2</sup> Full title: Review of Serious Public Order Incident at An Cosán, Kiltalawn, Tallaght, Dublin 24 on the 15th November 2014 during the visit of An Tánaiste and subsequent criminal proceedings. (Full report is unpublished)

Following some tension at the incident and negative publicity surrounding the policing response, the Garda Síochána carried out a review and identified a number of lessons. A key lesson to be taken away from this review (“North Frederick Street Review”)<sup>3</sup> was the need for advice from a public order tactical advisor (POTAC) or commander in advance of any pre-planned event or operation. This advice should be recorded in writing along with any subsequent decision regarding the appropriateness of a public order deployment.

### Terms of Reference

The inspection was not intended to be a review of these incidents but rather to be forward-looking and to focus on contingency planning and the garda response to incidents that have the potential to undermine wider public confidence in policing as a result of serious breakdown in public order. Specifically, the inspection was to assess the effectiveness of policing with reference to international best practice, and all the relevant factors affecting the following:

- > Effective leadership and the embedding of human rights and the Code of Ethics in all aspects of public order policing;
- > Organisational governance and accountability in terms of strategy, policy and strategic assessment of threat, risk and harm and evidenced adherence to these;
- > Operational capability (including outside Dublin), capacity, and delivery in terms of intelligence, risk assessment, planning, resourcing (to include equipment and technology), training, communications, decision-making and command; and

- > Post-incident management in terms of investigation, organisational learning, and health, safety and welfare.

## A Human Rights-Based Approach

The central objectives of policing in Ireland are set out in section 7 of the Garda Síochána Act 2005, which imposes a statutory duty on the Garda Síochána to protect life and property, preserve order, prevent the commission of offences, and where an offence has been committed to take measures to bring the offender to justice. In carrying out these duties the Garda Síochána must be guided by commonly accepted standards of ethical behaviour and human rights. These standards are embodied in the Garda Síochána Code of Ethics and human rights law, which require the Garda Síochána to have effective structures and processes in place and to make individual garda members accountable for their actions.

### The Human Rights Legal Framework

Ireland is a common law jurisdiction with a written constitution. The Constitution provides for the rights to free expression, assembly and association. While freedom of assembly is protected under the Constitution this right is qualified to the extent that the assembly must be peaceful. The common law also expresses certain liberties in terms of the freedom to protest on matters of public concern. But these liberties are qualified to the extent that they are permitted only insofar as they are not otherwise prohibited by statute.

<sup>3</sup> Lessons Learned Examination - Policing the Execution of a High Court Order on North Frederick Street on 11 September 2018. (Unpublished)

In 2003 the European Convention on Human Rights Act became law and made legal rights under the European Convention on Human Rights (ECHR) directly enforceable in the Irish courts. Prior to the 2003 Act anyone seeking to rely on rights enshrined in the ECHR had to bring proceedings to the European Court of Human Rights.

The ECHR sets down several rights which are related to assembly or public protest. In particular, Article 5 (the right to liberty and security), Article 9 (the right to freedom of thought conscience and religion), Article 10 (the right to freedom of expression), Article 11 (the right to peacefully associate with others) and Article 14 (the right not to be discriminated against in exercising any other ECHR right). However, these rights may only be restricted to the extent that the restriction is in accordance with the law and serves a legitimate purpose, which is necessary in a democratic society, and is proportionate.

In addition, there are certain positive obligations on states to intervene to guarantee the practical and effective application of these rights, such as, the duty to intervene to protect against violent opposition to a group exercising their right to assembly. The actions of the state are balanced by certain additional rights laid down by the ECHR. In particular, Article 2 (the right to life), Article 3 (the right not to be subjected to torture or other ill treatment and Article 8 (the right to respect for private and family life). In such circumstances the police are always required to exercise proportionality and restraint, minimise damage and injury and ensure medical assistance is available. They should always consider viable alternatives to the use of force reflecting a graduated and flexible response. Any use of lethal or potentially lethal force must be absolutely necessary. Expectations regarding the police response will depend to an extent on the degree of

control that the police have in terms of whether the operation is a pre-planned one or is in response to a spontaneous incident.

The statutory framework for policing public order and protest in Ireland and the legislative powers of the Garda Síochána in such circumstances are set out in the Criminal Justice (Public Order) Act 1994, as amended. The Act provides for certain offences related to public order, including intoxication in a public place, disorderly conduct in a public place, threatening abusive or insulting behaviour in a public place, failure to comply with a direction from a garda member and preventing or disrupting the free passage of any person or vehicle in a public place. In addition to the statutory offences the common law concept of “breach of the peace”, while not a criminal offence in its own right, is used as the basis for garda members to exercise their common law powers to prevent unlawful violence against people or property.

### **International Policing Principles**

The policing implications of the human rights framework are reflected in the principles and standards set down by the relevant international organisations. The most important document is the OSCE’s (2008) Guidebook on Democratic Policing, while other important documents include the OSCE’s Human Rights Handbook on Policing Assemblies and the UN’s Basic Principles on the Use of Force and Firearms by Law Enforcement Officers. These documents lay out the core principles for policing public order situations. Democratic policing is explained in terms of policing with consent, based on a human rights-centric approach.

The OSCE describes the four key principles for the policing of assemblies as follows: knowledge, facilitation, communication

and differentiation (OSCE, 2016). In order to facilitate the legitimate expectations of any group a police service must be aware of the group's norms, values and intentions and should be sensitive to its culture and history. This knowledge is gained through a combination of planning, community engagement and intelligence gathering. The majority of people who participate in protests or assemblies will have peaceful intentions and the policing strategy should always facilitate, as far as possible, organisers and participants to achieve their legitimate objectives.

The key to establishing and maintaining trust in a public order context, in accordance with the international policing principles contained in the listed documents, is effective communication based on a "no surprises" approach with all stakeholders. This should be achieved through engagement before, during and after an event. No group will be homogenous and a proper understanding of crowd behaviour in a given situation will differentiate between different individuals and groups and their intentions and any attendant risks. It is also critical to be sensitive to the potential effect of policing tactics or approaches on crowd behaviour and the policing response should always be differentiated accordingly.

Public order training, leadership, communication and de-escalation approaches as well as investigation, decision-making and record-keeping are crucial elements of a progressive and professional approach to public order policing. As well as providing specialist police officers with the necessary public order tactical and command skills, training should explore the challenges and dilemmas of balancing the various human rights at play in a public order context. In addition, it should equip officers with the awareness and skills to reflect and learn from operational practice. Finally, police services

have a duty of care to their own officers and staff, whose welfare must be equally considered in the planning, deployment and operational delivery of public order policing.

## **Garda Public Order Framework**

### **Overview**

A significant cross-cutting issue to emerge from the inspection is the absence of a thorough assessment of threat and risk to public order in the State. The greatest risk as regards public order for the Garda Síochána as an organisation does not come from the potential for widespread public disorder, which in an Irish context would be considered relatively low, but rather from inadequate preparedness resulting from inconsistent governance and application of garda policy.

Clear and unambiguous command structures are necessary to provide a proportionate policing response. In order to maintain public confidence following an incident, investigative procedures must be in place to ensure full and fair investigation of criminal incidents, as well as any alleged police misuse of force. All decisions must be justified and recorded, not just those which restrict the rights of participants.

### **Garda Policies on Public Order**

There are a number of supporting garda policies and structures relevant to public order policing. The garda policy on public order is set out in a series of documents: HQ Directive 75/2017 Public Order Incident Command, which is publicly available, and the Public Order Procedures and Guidance Document and the National Minimum Standards (NMS) Document, which are internal garda documents. The central aim

of garda policy is to set out a comprehensive framework for public order policing. The garda policy achieves this by laying out the fundamental principles and objectives of public order policing and providing a consistent approach to the planning, management and command of both pre-planned events and spontaneous public order incidents.

The garda policy established the National Public Order Steering Group (NPOSG). The Group is chaired by the Assistant Commissioner DMR and is made up of a public order inspector from each of the regions, the Director of Training, a nominated NPOU trainer and a nominated NPOU tactical advisor. The function of the NPOSG is to advise in relation to public order tactics, training standards, equipment and vehicles. The garda policy does not specify how often the NPOSG should meet, but it met twice in 2018. In addition to the NPOSG, there is a second group, the training instructors group, which is made up of the nine training instructors who oversee public order training at the division level. This group meets annually to discuss training standards and develop new tactics, as necessary.

The Garda Síochána has adapted important elements of the OSCE approach in its Garda Public Order Incident Command Model and in particular in the crowd management principles set out under the Garda policy. These principles apply equally to the planning, briefing and deployment stages of any public order operation. There are four principles involved:

- > Intelligence: which concerns identifying the groups involved, their intentions and preferred tactics, but also the groups' leadership and the perception of them by other groups;

- > Facilitation: which concerns the ongoing duty on the Garda Síochána to facilitate the lawful aims of any group, including when conflict breaks out;
- > Communication: which concerns the early identification of leaders and the opening up of dialogue in terms of a 'no surprises' approach; and
- > Differentiation: which distinguishes between different elements of the group and responds to them accordingly, while at the same time respecting their individual and collective human rights.

### **Mobilisation of Public Order Units**

Mobilisation of a public order unit involves authorising the potential use of public order tactics. The mobilisation rules are laid out in the National Minimum Standards Document. For a planned event, a district officer is authorised to mobilise one public order serial, which consists of a public order vehicle with one sergeant, six public order gardaí and a garda driver. A divisional officer is authorised to deploy one public order unit, which consists of three serials and one public order inspector. A regional assistant commissioner is authorised to deploy more than one public order unit or to request assistance of the NPOU from another region.

The policy requires that when considering any deployment of the NPOU at a pre-planned event the advice of a public order tactical advisor or a public order operational commander should be sought in advance and considered accordingly. This advice and any subsequent decision should be recorded. In the event of a spontaneous incident, a district officer or the inspector-in-charge of a garda communications centre is authorised to deploy a public order unit.



The policy specifies that the first member arriving at the scene is to assess the potential for public disorder at the scene and notify their immediate supervisor accordingly. In this way, the assessment of the situation is escalated up the chain of command to the divisional officer. Only a divisional officer is authorised to activate the Public Order Incident Command Model. As a general rule, every effort should be made to resolve an incident without resorting to public order tactics and the Garda Síochána adopts a graduated response to the policing of a situation.

It is also a requirement that each planned operation have a detailed operational plan, risk assessment and operational briefing order prepared by a public order tactical advisor or a public order operational commander. Tactical advisors are nationally trained and accredited to provide appropriate advice to commanders. Briefings should clearly stress the aim of the operation and the legal and human rights principles involved. After an event or incident, it is good practice for public order commanders to conduct a debrief. The Garda Decision-Making Model, described in Chapter 3, should be used as the basis for debriefing members.

## **Public Order Aspects Covered in the Inspection**

Over the next four chapters, this report explores in detail many aspects of public order policing with respect to; strategy governance and accountability, capability and capacity, operational delivery and post-incident management. The report also makes a number of recommendations intended to contribute to greater transparency, clearer governance and leadership and more effective public order policing.



# Chapter 1 Strategy, Governance and Accountability

## Overview

While public order events can be both unpredictable and difficult to plan for this should not detract from the need for effective governance arrangements and the considerable benefits of strategic planning for such eventualities. Furthermore, the difficulty highlights the importance of considering threats and risk in a strategic context. The relative rarity of significant public disorder in Ireland and the greater priority afforded to other strategic or imminent threats have the potential to result in insufficient public order capacity and capability. On an ongoing basis, the Garda Síochána must make critical choices as regards resources, tactics, training and testing of preparedness in order to maintain a viable public order response.

The governance of public order policing is about the systems, structures and procedures by which this function of policing is directed and controlled. Accountability, on the other hand, refers to the systems which hold individuals and organisations to account for their decisions. The Garda Commissioner and the Executive Team play a central role in all decision-making and in directing strategic planning for the delivery of all policing services, including public order policing.

## Strategic Threat and Risk Assessment

An important objective of this inspection was to assess the evidence of strategic planning by the Garda Síochána around public order, including an analysis of threat and risk assessment, capacity and capability, and

contingency planning. Equally important was an assessment of the evidence that the governance arrangements in operation were “fit for purpose” in the light of the strategic analysis.

In comparable jurisdictions, including Scotland and Northern Ireland, police services undertake a public order Strategic Threat and Risk Assessment (STRA). Such assessments are based on intelligence management principles, and are intended to support tasking and co-ordinating processes and to ensure that operations are not conducted in isolation. They generally include an analysis of the number, type, frequency and location of public order-related incidents along with a review of relevant control strategies.

In the UK, the College of Policing has described the STRA as providing a link between the relevant regional and national assessments. They reflect local commanders’ assessments of local threats and operational planning. The College has underscored the importance of the involvement of commanders in their individual service’s STRA process. The College also draws a ‘distinction between a service’s wider STRA and the threat assessment applicable to public order policing which relates to a single operation or spontaneous event’ (College of Policing, 2018).

Any STRA produced by the Garda Síochána should reflect international practice. In addition to a thematic assessment of threats, a STRA should assess the harm or impact that each identified threat could cause

should it occur. A STRA would also be expected to examine wider issues relating to risk, organisational readiness, capacity and capability, contingency planning and emerging protester tactics. In addition, a STRA should consider prevention, detection and reassurance strategies and should be reviewed on a regular basis. Each division and region should contribute to the overall assessment to ensure that it considers all possible threats and associated harms.

## Key Findings and Assessment

### Absence of a Strategic Threat and Risk Assessment

The Inspectorate found that there is no Strategic Threat and Risk Assessment relating to public order in the Garda Síochána. However, a component element, the threat assessment, which identifies the likelihood of public order occurring on a thematic basis, has been commissioned, though it is currently still in draft format.

The absence of a STRA is a significant organisational risk. The Garda Síochána should urgently develop a formalised public order strategic assessment of threat and risk. The assessment should include an analysis of the number, type, frequency and location of public order-related incidents along with a review of relevant control strategies. The Executive Team should regularly review the STRA.

### Minimum Standards Document

Awareness of the Public Order National Minimum Standards Document and the principles it contains was limited even among some individuals in key public order-related positions. The document is effectively part of the public order policy. It provides additional guidance regarding selection, training and deployment of the National Public Order Unit (NPOU), including the organisational

training requirement. The document has not been integrated into ongoing capacity development for the NPOU through training or equipment and procurement plans. In the Inspectorate's view, the Garda Síochána should rescind the document, and the relevant standards, capacity and capability should be developed as risk mitigation and integrated into the formalised STRA process.

### Identified Good Practice

As part of an operation to promote public safety in Kilkenny city, the regional analyst developed an analytical profile on patterns of assault, public order and drunkenness. The resulting report provided context to incident trends over the short and medium terms, along with temporal and spatial analysis of the incidents. This enabled decision makers to direct when and where preventative Garda patrols should operate. Beat patrols were then also analysed to establish if they were operating at the best locations and times. This intelligence-led approach to public order policing if replicated in every division would greatly enrich a future STRA.

### International Practice

Police Scotland commissions an annual public order STRA that assesses local, national and international incidents and events over the previous year and also looks at persisting and emerging issues. The STRA takes account of divisional strategic assessments and an assessment by the Specialist Crime Division. In addition, it identifies emerging and novel tactics used by protest groups and any additional training requirements that arise as a result. It is also used to inform decisions about public order capacity and is discussed at the quarterly

meetings of the Public Order Monitoring Group.

The PSNI also commissions an annual STRA. This document is compiled by a designated person working with an analyst. The lead for the STRA is a chief officer (Assistant Chief Constable Operational Support). The STRA is formally reviewed yearly and every three months by the Public Order and Public Safety Strategic Board.

## Recommendation

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendation.

### Recommendation 1

#### Strategic Threat and Risk Assessment

The Inspectorate recommends that the Garda Síochána develop a wider strategic assessment of threat and risk which should be formalised in a Strategic Threat and Risk Assessment document.

## Governance Arrangements

The need for strengthened governance arrangements has been a recurring theme in the reports of the Inspectorate, in particular, *Changing Policing in Ireland* (2015) and *Policing with Local Communities* (2018). Governance-related issues identified in the past included: ineffective systems of internal control, multiple strategic leads or departments responsible for the same issue, and departments responsible for oversight being under different command structures.

## Key Findings and Assessment

### Governance Arrangements

The inspection found limited national strategic co-ordination in relation to public order policing. In the DMR, which has the greatest public order policing demand in the State, the Assistant Commissioner's office routinely manages the strategic planning surrounding public order events or incidents. In addition, the Assistant Commissioner DMR acts as the nominal head of the National Public Order Unit (NPOU), is the national policy lead for public order and public order command, and is responsible for maintaining national NPOU deployment records.

The regional assistant commissioners, including the Assistant Commissioner DMR, have certain public order-related responsibilities. These include ensuring that there are sufficient numbers of trained personnel in their region, ongoing maintenance of public order vehicles and equipment deployed to their regions, provision of NPOU assistance to other regions when requested, and the appointment of a public order inspector to oversee the NPOU in their region. Local planning for public order events and operational delivery takes place at divisional or district level and busier districts will have dedicated events sergeants. Certain specialist public order resources are under the responsibility of the Assistant Commissioner Roads Policing and Major Events Management and major emergency planning and preparation of all threat assessments comes under the Assistant Commissioner Security and Intelligence.

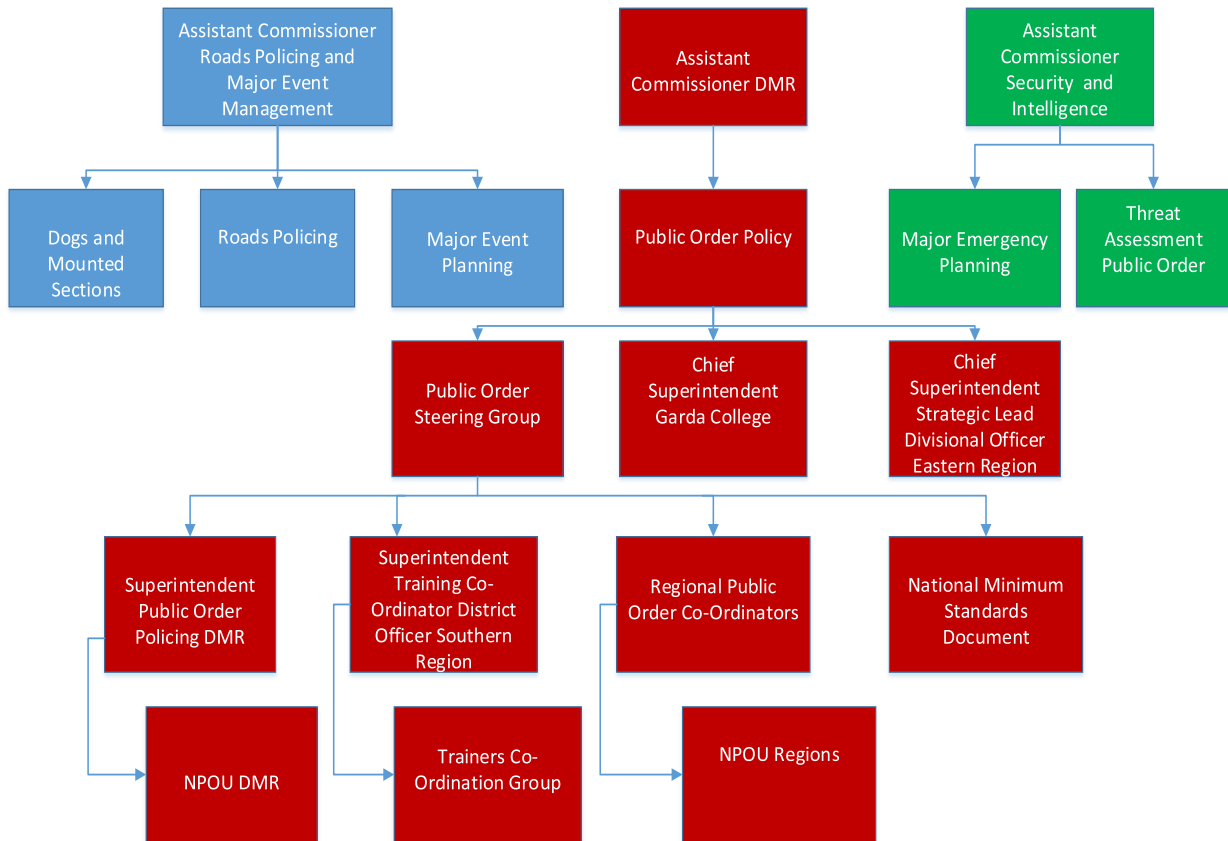
A number of key senior managers at chief superintendent and superintendent levels have responsibility for developing capacity, capability and tactics within the NPOU, but also have day-to-day operational responsibility as divisional or district officers. Many have also been assigned additional

policy responsibilities by the Executive Team. For example, the superintendent national lead for public order is also responsible for overseeing garda policy. This limits their capability to drive the strategic changes necessary. In the Inspectorate’s view there should be a chief superintendent within operational support services. Part of the responsibility of this chief superintendent should be to oversee public order standards,

training, capacity and capability across the whole country.

The Garda Síochána structures for the governance of public order are presented in Figure 1 and in the Inspectorate’s view show that the responsibilities for public order are spread across too many functions, resulting in diffused accountability, and need to be streamlined.

**Figure 1 Garda Síochána Public Order Policing Governance Arrangements**



Source: Information from the Garda Síochána; analysis by the Garda Inspectorate

## Developments in Public Order Policing

The pace of transformation of public order preparedness over the past two years as observed by the Inspectorate is impressive. The Inspectorate considers the standardisation of training across divisions and increased training capacity, as well as the advanced planning for increase of command capacity and competence in early 2019, noteworthy advances.

## Organisational Co-ordination

Structured liaison and co-ordination between public order strategic planning and other important departments such as training, public procurement, analysis, welfare and legal support were limited. In the Inspectorate's view, there needs to be formalised arrangements connecting the provision of legal/human rights advice, public procurement requirements, and any assessments by the Garda Síochána Analysis Service, to the governance process.

## National Public Order Steering Group Membership

The National Public Order Steering Group is too narrow in its representation and focus. A representative from the Garda College has never attended the NPOSG as specified in the Public Order National Minimum Standards Document.

## Implementation of Internal Reviews

There has been limited progress in implementing the recommendations from the reviews of the An Cosán and North Fredrick Street incidents. The findings and recommendations from these reviews were not shared with key departments such as the Garda College, the Legal and Compliance Section, DMR Command and Control Centre or indeed with members of public order teams.

## International Practice

In Police Scotland, the Operational Support Department is responsible for specialist services (which includes public order and firearms), C3 Contact Management Centres, Events and Emergency Resilience Planning (EERP), and Roads Policing. An assistant chief constable heads the Operational Support Department. The Specialist Services Section, which is led by a chief superintendent, has three decision-making fora: the Public Order Monitoring Group (POMG), the Use of Force Monitoring Group and the Armed Policing Monitoring Group. The POMG includes wide representation from C3, the Specialist Crime Division, training, armed policing, the Corporate Communication Office, the Taser Roll-Out Team, the Violence Reduction Unit, local policing divisions and the Police Federation (which is the staff association for police constables, sergeants and inspectors). The Scottish Police Authority also has a standing invitation to the Group. Functions of the POMG include formally signing off on the STRA, approving business cases around staffing, providing updates on emerging issues (local, national and international), providing updates on ongoing incidents, and monitoring marginalisation (i.e. deployment of specialist resources in remote areas to reduce fear of crime and increase public reassurance).

As regards the PSNI, the executive lead is the assistant chief constable for the Operational Support Department, who is responsible for all public order capabilities and relevant policy. A chief superintendent within Operational Support is the operational lead. The key elements governing the STRA process in Northern Ireland include the following: monitoring the public order tactical response, the delivery of an appropriate capability to protect the public from harm, the delivery of nationally agreed standards as the basis for interoperability,

the effectiveness of training (i.e. command training, testing plans and exercise of skills), and equipment to support national public order policing requirements. In addition, the Operational Support Department is responsible for providing accurate and timely information on public disorder and use of force to the Northern Ireland Policing Board and the Police Ombudsman for Northern Ireland.

## Recommendation

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendation.

### Recommendation 2

#### Governance

The Inspectorate recommends that the Assistant Commissioner Roads Policing and Major Event Management should have lead responsibility for public order governance, policy and compliance and chair the National Public Order Steering Group.

- The Group should meet regularly to commission and review the Strategic Threat and Risk Assessment, and to oversee all aspects of public order policy, practice, training and standards, including human rights and the Garda Síochána Code of Ethics. It should also produce an implementation plan for all recommendations relating to public order policing and garda use of force.

- The Group should have broader membership including senior representation from the training, public procurement and human rights departments and from the Garda Síochána Analysis Service and staff associations.

## Public Order Incident Command

As discussed the garda policy on public order is set out in a number of key documents. These policies and procedures/guidance contain many of the elements expected of an effective public order policy, including: command arrangements, descriptions of the key roles, the Garda Decision-Making Model and the importance of crowd dynamics in understanding public order situations.

A critical element of public order policy is the Public Order Incident Command Model (POICM). The POICM must be activated before the full range of principles and guidelines contained in the public order policy become effective. The POICM requires the creation of a unique strategy for each event and the appointment of strategic, operational and tactical commanders. The POICM cannot be activated by a garda member below the rank of chief superintendent, who should make this decision in light of the available information, intelligence and tactical advice.



## Key Findings and Assessment

### Activation of Public Order Command

The public order incident command policy and procedures documentation lacks a clear definition of what constitutes a public order incident. Nevertheless, training materials for POTACs describe a public order situation as ‘operations requiring the deployment of specially trained public order personnel’. The guidelines on when the POICM should be activated are too broad, another factor giving rise to the risk of an inconsistent approach across divisions, particularly in view of the variation in level of seriousness and frequency of public order situations between regions and divisions.

The POICM is not consistently activated when the use of specialist public order tactics or personnel is planned, including: weekend duties, football matches or other significant events. The Inspectorate was briefed during the inspection on a particularly pertinent example of a planned policing operation during 2018. During this operation, which crossed several divisional boundaries in the same region, several public order units were deployed but the POICM was never activated by any of the divisional officers concerned. This creates a significant risk that specialist tactics could have been deployed and used without the protection of a dedicated public order command structure supported by strategy, planning, briefing and tactical advice.

### Human Rights and the Code of Ethics

The public order incident command policy, procedures and guidance require a greater focus on human rights and the Code of Ethics.

The stated aims of this policy include respecting the human rights of all individuals.

This is further developed by stating that members of the Garda Síochána shall act with due respect for the personal rights of others. However, the policy does not clearly articulate the positive obligation on the Garda Síochána to uphold and protect human rights and freedoms. This is an important aspect, as public order policing frequently requires police to balance competing human rights. Neither does the policy explicitly outline the general circumstances in which human rights may be interfered with, for example, in the interests of preventing disorder or crime. References to human rights in the procedures/guidance are equally limited.

There are no references to the Code of Ethics, despite the policy commencement date being December 2017, more than a year after the launch of the Code.

### Transparency of Garda Policy

Wider garda practice on public order policing, which has important human rights implications, is essentially invisible to the public. Of the three key policy documents, only the POICM policy document is publicly available. Neither the National Minimum Standards Document nor the Public Order Procedures and Guidance Document is published on the garda website as they are internal garda documents. As regards the policy on the use of force, only the Overarching Use of Force Policy Document (HQ Directive 47/2012), is publicly available while the individual tactical use of force documents are not. Transparent publication of public order and use of force policy and guidance documents is essential to ensure that there is effective public scrutiny and debate surrounding Garda Síochána standards. Only operationally sensitive material should be excluded from publication.

## International Practice

The Inspectorate examined the publication and content of public order policy, practices and procedures in a number of other police services. Police Scotland publishes its full Public Order Standard Operating Procedures on its public-facing website. The Police and Fire Reform (Scotland) Act 2012 makes upholding human rights mandatory and human rights is explicitly referred to in all policies. Human rights and the Code of Ethics are embedded in many aspects of policing, including the decision-making model and oath of office. Engagement with organisers and protesters, often using police liaison officers, happens extensively and an overriding aim of public order policing is the prevention of conflict through negotiation. The “no surprises” approach to public order policing is a key element of policy. There is clear guidance on the requirements, functions and responsibilities of the gold, silver and bronze levels of the command structure.

Similarly the PSNI publishes its Manual of Policy, Procedure and Guidance on Conflict Management. The policy contains clear guidance on how command is to be structured. If the event straddles more than one command area, or the event has wider implications or is in any way sensitive or where it is likely that disorder may occur the matter should be referred up the chain of command for consultation and identification of appropriate command levels. The roles, responsibilities and accountabilities of commanders are clearly defined in terms of the command structure, including how the planning for such events should be undertaken.

## Recommendation

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendation.

### Recommendation 3

#### Public Order Incident Command Model

The Inspectorate recommends that the Garda Síochána Public Order Incident Command Model must be activated whenever specialist resources or tactics are being considered.

## Use of Force

Members of the Garda Síochána have wide-ranging powers, under both statute and common law, including powers of stop and search, detention and arrest, and the use of force. Members are individually responsible for deciding to exercise such powers and must be prepared to explain and justify the use of such powers. This is especially relevant in the context of public order policing.

In this regard, the public order policy stipulates that the Garda Decision-Making Model (GDMM) must be used to justify any decisions regarding the use of force. Gardaí are not routinely armed but are issued with incapacitant spray (commonly referred to as pepper spray), handcuffs and ASP batons. The Armed Support Units and Emergency Response Units also carry conventional firearms and conductive energy devices (Taser).

## Key Findings and Assessment

### Policy

The Garda Síochána introduced a policy on the use of force in 2012. This policy is laid out in a set of HQ Directives, including an overarching policy on the use of force and separate directives on batons, restraint and handcuffs, incapacitant spray, vehicle-stopping devices, method of entry equipment, use of force by garda dogs and horses, and Taser. While the HQ Directive on the overarching use of force policy has been published, none of the other policy documents are publicly accessible.

The overarching use of force policy stipulates the requirements for record-keeping and reporting the use of force by members. All incidents (other than in training) must be reported to an immediate supervisor and recorded on PULSE<sup>4</sup>. The procedure for reporting the use of force on PULSE has been standardised in terms of key words, which must be included in the incident narrative.

### Accountability

Unlike other comparable police services garda use of force statistics are not routinely published. However, there is an obligation on members to notify certain matters (discharge of firearms, use of Tasers and incapacitant spray) to the Garda Síochána Ombudsman Commission (GSOC). In its submission to the Commission on the Future of Policing in Ireland, (which was subsequently published), GSOC included selected use of force (incapacitant spray only) figures for the ten-month period January to October 2017. Over that period, members notified the use of incapacitant spray on 502 occasions. GSOC also articulated its concerns about garda members' compliance with the Garda HQ Directive requiring them to report the use of incapacitant spray within 48 hours of

use and pointed out that only 33 of the 502 incidents were notified within 48 hours of the use (GSOC, 2018).

Figure 2 compares selected use of force notifications by garda members to GSOC with the publicly available use of force statistics for two comparable police services. It is important to understand that certain tactical options, such as Taser, are more readily available to front-line officers in the Metropolitan Police Service than to the Garda Síochána or PSNI, where Taser is available only to specialist firearms units. Nevertheless, it is important that there is effective oversight of significant use of force by the gardaí.

**Figure 2 Comparison of Police Use of Force**

	Metropolitan Police (Jan-Nov 2018)	Garda Síochána (Jan-Nov 2018)	PSNI (Apr 17-Mar 18)
Incapacitant Spray	301	633	195
Taser	519	27	35

Source: Data from Metropolitan Police Service website, PSNI website and GSOC

External accountability for garda use of force is limited to those incidents which must be notified to GSOC in accordance with garda regulations. It is understood that GSOC intends to stop monitoring the use of incapacitant spray in 2019 because such referrals are non-statutory and are made pursuant to a Garda HQ Directive only. The reporting procedures for incapacitant spray do not, however, consider whether the garda member had received refresher training within the preceding three years and justification of use was not articulated in a way that reflected the GDMM. The Policing Authority does not currently monitor or analyse garda use of force under

4 PULSE is an electronic incident and crime recording system used by the Garda Síochána.

its performance monitoring activities.

The Inspectorate found that there is no internal governance group monitoring use of force within the Garda Síochána. This is a significant gap in governance. The effectiveness and proportionality of tactics, training and equipment needs to be closely monitored at the strategic level to ensure the safety and human rights of gardaí and the public are protected. Similarly Garda Síochána compliance with internal policies, such as use of force refresher training and GSOC notification, need to be kept under regular review.

## International Practice

In Northern Ireland, the PSNI's Public Order and Public Safety Board is responsible for internal monitoring of the use of force and public order tactics. The PSNI also regularly publishes use of force data. External oversight is provided by the Northern Ireland Policing Board, which holds the Chief Constable and Senior Executive Team to account for use of force. Civil claims and discipline cases are also used to monitor use of force issues. Figure 3 shows the PSNI published use of force figures.

**Figure 3 PSNI Use of Force Summary Table between 1st April 2018 and 30th September 2018 compared to same period in 2017**

Use of Force	1 Apr 2017-30 Sept 2017	1Apr 2018-30 Sept 2018	% Change <sup>(c)</sup>
AEP Pointed	22	25	14%
AEP Discharged	0	2	-
<b>AEP Total</b>	<b>22</b>	<b>27</b>	<b>23%</b>
Baton Drawn Only	184	187	2%
Baton Drawn & Used	86	76	-12%
<b>Baton Total</b>	<b>270</b>	<b>263</b>	<b>-3%</b>
CS Drawn ( not sprayed)	84	118	40%
CS Sprayed	106	102	-4%
<b>CS Total</b>	<b>190</b>	<b>220</b>	<b>16%</b>
PAVA drawn ( not sprayed)	1	0	-100%
PAVA Sprayed	2	1	-50%
<b>PAVA Total</b>	<b>3</b>	<b>1</b>	<b>-67%</b>
Firearm Drawn or Pointed	256	220	-14%
Firearm Discharged	1	0	-100%
<b>Firearm Total</b>	<b>257</b>	<b>220</b>	<b>-14%</b>
<b>Police Dog Used</b>	<b>115</b>	<b>79</b>	<b>-31%</b>
CED Drawn <sup>(a)</sup>	167	160	-4%
CED Fired <sup>(b)</sup>	19	7	-63%
<b>CED Total</b>	<b>186</b>	<b>167</b>	<b>-10%</b>
<b>Handcuffs/Limb Restraints</b>	<b>2740</b>	<b>2499</b>	<b>-9%</b>
<b>Unarmed physical tactics</b>	<b>3001</b>	<b>3010</b>	<b>&lt;1%</b>
Water Cannon Deployment	0	0	-
Water Cannon Used	0	0	-
<b>Water Cannon Total</b>	<b>0</b>	<b>0</b>	<b>-</b>

<sup>(a)</sup> Includes drawn/aimed and red-dot. <sup>(b)</sup> Includes Stun Drive. <sup>(c)</sup> % change figures rounded to nearest integer

Source: Information from the PSNI website

In Police Scotland a use of force monitoring group within the Operational Support Department reviews injuries on duty and assaults on staff as well as the use of force. It also monitors the recertification of officers in safety training. All use of force must be reported electronically by the officer responsible. This requirement extends to the use of batons, PAVA<sup>5</sup> spray and firearms, as well as to specialist tactics including use of shields and long batons. Exposure to violence is also reported electronically. These reports are reviewed from two perspectives: firstly, monitoring of use of force trends and secondly, from a staff health and safety perspective. In addition, the monitoring group examines reports from the Police Investigations and Review Commissioner<sup>6</sup> to identify and share lessons learned. While the service does not, at present, publish its use of force statistics, they are provided to the Scottish Government for monitoring purposes. It is understood that consideration is being given to the publication of use of force figures in the future.

## Recommendations

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendations.

### Recommendation 4A

#### Use of Force

The Inspectorate recommends that the remit of the Garda Síochána Public Order Steering Group be expanded to include the internal monitoring of use of force. In addition to use of force reports the group should consider wider information including Garda Síochána Ombudsman Commission findings, civil claims and injury on duty reports. The Garda Síochána should publish use of force data on its external website as well as all procedures and guidelines relating to public order and use of force, with only operationally sensitive material being excluded.

### Recommendation 4B

#### Use of Force

The Inspectorate recommends that the external oversight of garda use of force trends should be incorporated into the performance monitoring activities of the Policing Authority and any subsequent oversight body.

<sup>5</sup> PAVA is an incapacitant spray that the PSNI are piloting.

<sup>6</sup> The function of the Police Investigations and Review Commissioner is to independently investigate incidents involving the police and independently review the way the police handle complaints from the public.



# Chapter 2 Capacity and Capability

## Overview

Optimum public order capacity and capability in the Garda Síochána should be informed by a public order Strategic Threat and Risk Assessment and balanced against the other pressing and competing policing demands in the State. Making the right decisions in maintaining an appropriate balance between demands while prioritising risks and ensuring flexibility is undoubtedly difficult. There will always be a cost associated with training, equipping and maintaining public order capacity and this should be proportionate to the actual public order risk.

In common with any other police service, there will inevitably be times when public order capacity in the Garda Síochána will be stretched, such as during state visits. However, it is neither efficient nor effective to have a capacity which is under-utilised. Any capacity which is not regularly deployed or tested becomes less effective over time.

One of the key aims of the inspection was to examine the Garda Síochána's capacity to respond to public order situations. In this regard, the Inspectorate assessed preparedness in terms of capacity for planned and spontaneous public order situations, processes for selection and training of public order personnel, public order command capacity and capability, and public order equipment and technology.

## Public Order Capacity

A key challenge for the Garda Síochána is to manage the possible conflict between having available sufficient and flexible public order capacity when required while maintaining

the ethos of policing with the community. The approach in other jurisdictions, a good example of which was the response to widespread serious disorder in the UK in 2011, is to embed a more flexible workforce with multi-skilled officers capable of switching roles when necessary.

There are clear indications of such an approach in the adaptable model of public order policing used by the Garda Síochána. This model prioritises the use of general garda members for public order policing without recourse to specialist or standalone public order policing units. The member deployed on public order duties today is the same member carrying out their usual policing duties in their local community tomorrow. Members bring this experience and ethos of policing within the community to their public order role and the policing of public order situations is the better for it.

## Key Findings and Assessment

### Mutual Aid

Mutual aid is the provision of policing assistance by one service to another. It occurs when a policing situation requires resources that exceed a service's own capacity. It operates as a process in a number of jurisdictions. An important distinction between the Garda Síochána and other comparable police services is the requirement for the Garda Síochána to be self-sufficient as regards its policing response to public disorder. This is in contrast to the situation in other police services, most notably in the UK, where public order mutual aid arrangements exist between various police services and provide some level of reassurance. Garda

capacity and capability to respond to public order must accommodate the absence of mutual aid arrangements.

### Established Capacity

Overall capacity within the Garda Síochána is set out in the National Minimum Standards Document (NMS). The document assessed the public order mobilisation requirement across the State at 24 Public Order Units (i.e. comprising 24 inspectors, 72 sergeants and 504 gardaí). There are no garda members dedicated to full-time public order duties. Every member of the NPOU performs a full-time role within a district and will be abstracted, usually on overtime, for public order purposes.

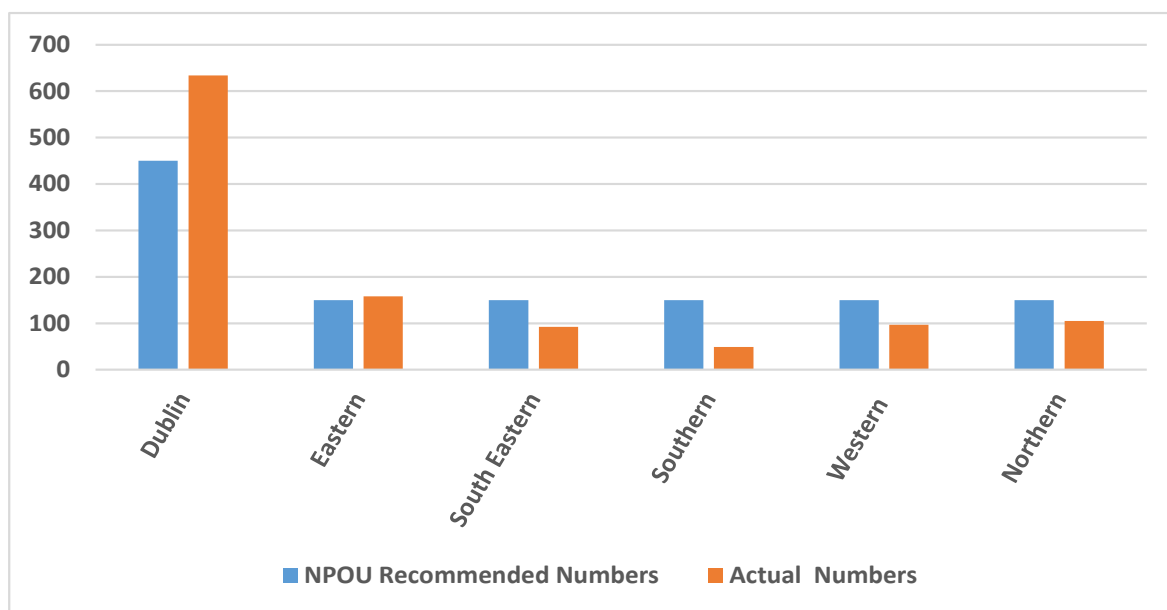
Due to the part-time nature of the NPOU, many trained members might be unavailable if required at short notice. Accordingly, the NMS determined the overall training requirement to be double the national mobilisation requirement, or the equivalent of 48 public order units, to ensure adequate capacity. This level of preparedness

required the training, equipping and annual recertification of at least 1,200 members for public order duties. While this is based on an historical understanding of the public order situation and professional judgement, it does not, as such, reflect the present level of demand, future known events, any identified local risks, or the ability to brigade capacity across regions. An examination of the minutes of the National Public Order Steering Group (POSG) suggested that the NMS assessment has never been formally reviewed to establish if it is aligned with current threat.

### Actual Capacity

The total NPOU capacity within the Garda Síochána largely reflects the NMS requirement; however, there are significant variations in regional distribution and rank ratios. The NPOU capacity as determined by the NMS, and actual numbers of trained garda members, are illustrated in Figure 4 below.

**Figure 4 Total Recommended NPOU Capacity versus Actual NPOU Numbers by Region**



Source: Data supplied by the Garda Síochána; analysis by the Garda Inspectorate



Figure 4 shows that training has not matched the mandated NMS capacity on a regional basis. The DMR has trained a total of 634 members (inspector, sergeant and garda rank) for NPOU duty despite the NMS setting the level at 450. In comparison, the Southern Region has trained only 49 of the required 150 members. The South Eastern, Western and Northern regions are all below the recommended numbers.

Closer analysis of the capacity on a rank basis shows that while the total number of trained members at 1,135 is close to the NMS required total of 1,200, only 20 of the required 48 inspectors have been trained. In comparison 181 sergeants have been trained as opposed to the 144 required by the NMS.

Collectively this is a significant deviation from the NMS requirement, and examination of POSG minutes does not identify any rationale for such a variation.

### **Analysis of Overall Capacity**

In view of the significant number of members who are public order trained, there is capacity across Ireland to meet demand arising from the regular pre-planned public order events dealt with by the Garda Síochána. The Inspectorate found the use of NPOU for pre-planned events outside of the DMR to be rare and confined to small numbers (e.g. the deployments of a public order serial at annual sporting or cultural fixtures in the Louth and Limerick Divisions). The Inspectorate found that NPOU members outside of the DMR might not deploy operationally between annual training activities.

### **Spontaneous Public Order Incidents**

The Inspectorate was informed that serious spontaneous public order incidents were rare. Local garda management indicated that the increased availability of public order trained members, spread across multiple units, had improved local readiness

and contingency planning. While NPOU members were available outside of normal duty times, it was accepted that there could be considerable delays in assembling public order units when necessary. The contingency and on-call arrangements in the divisions inspected were found to be informal. The arrangements generally involved the local public order sergeant or trainer making contact with NPOU members either directly by mobile phone or via social media messaging groups to find out what NPOU members were available for deployment on a public order unit.

Garda procedure requires communication rooms to maintain records of on-call public order commanders and POTACs. The Inspectorate found that rather than formal records these centres relied on personal knowledge of individuals. Other on-call records such as those for barricade commanders and crisis negotiators were maintained.

One area for improvement by the Garda Síochána is their ability to identify and mobilise public order members for deployment to a spontaneous public order incident. The Inspectorate was informed that the Garda College is examining a suitable IT solution already used by other police services. This will identify individuals by their operational qualification and enable staff in command and control centres and communication rooms to identify members on duty who are public order trained and to contact those off duty if necessary.

### **Preventative Public Order Policing**

In the DMR one full public order unit is deployed each Thursday, Friday and Saturday night on what was described as preventative public order patrols. This public order unit is generally deployed in what is described as level-three or soft-cap attire, which involves the wearing of only

standard Personal Protection Equipment (PPE) vests without protective pads, helmet, body armour or shield. Some members reported that specialist public order tactics were used during these deployments to manage public disorder. However, most members explained that this was rare, and that their role was to prevent public disorder occurring or escalating. The Inspectorate found that during such preventative public order patrols, the POICM was not activated and there was no strategic plan or tactical advice, in line with garda policy, in advance of the deployment. This creates a risk that a disproportionate use of public order tactics could occur. A more proportionate response in such circumstances might be to increase the number of regular uniformed members to support colleagues, reassure the public and prevent public disorder. The justification for the deployment of the NPOU as a proportionate tactic was unclear to the Inspectorate. Outside the DMR, preventative public order patrols were not routinely used in any of the divisions inspected. However, they have been used as a tactic to deal with large sporting or cultural events.

The Inspectorate considers that the Garda Síochána, when planning its response to an event, should make better use of analysis, intelligence, risk assessments and tactical advice in order to determine the necessity and the proportionality of deploying specialist public order resources. Ongoing community engagement and alternatives such as peaceful crowd management or the use of additional high-visibility policing should always be considered before resorting to the use of specialist public order resources.

### **Disorder Relating to Prisons**

The Inspectorate was informed that there is liaison with the Irish Prison Service in relation to providing a public order contingency in the event of disorder in a prison. While

the Garda Síochána has not been deployed inside a prison in recent decades, the Irish Prison Service does organise familiarisation exercises from time to time involving the Garda Síochána and the Army. These exercises are intended to familiarise gardaí with the layout of the prisons and security protocols. There are multi-agency debriefs after such exercises to identify any lessons learned.

### **International Practice**

Police Scotland's current Strategic Threat and Risk Assessment has identified a requirement for between 1,200 and 1,250 public order trained officers. An internal public order board regularly monitors the public order capacity and capability of Police Scotland. This board will adjust capacity and capability in line with the public order threats identified in the STRA. Public order capacity in Police Scotland is presently divided between 200 officers in the Operational Support Department available for public order on a full-time basis and 1,000 officers in divisions available for public order duties on a part-time basis. The full-time staff contingent are multi-skilled and are used for a range of different functions in addition to public order, including search, high-risk prisoner escorts and community policing. The service also maintains a training database, which provides an overview of individual training records. This allows supervisors to ensure that members are appropriately trained and certified and allows command and control centres to quickly identify public order-certified officers for contingency deployments. In addition, there is an on-call rota for public order tactical advisors and during core hours the full-time public order units are available. Outside these hours, the contact, command and control centres can assemble public order resources.

Similar to Police Scotland, the PSNI operates with dedicated full-time members of public order units (Tactical Support Groups) and non-dedicated part-time officers who are used to supplement the operational capacity at times of high demand. The dedicated officers are multi-skilled and are used for a variety of additional tasks including searches and prisoner escorts. They are available as the service's first response to a spontaneous public order situation during their core hours. They do not routinely patrol in public order uniforms or vehicles. Urgent redeployment of resources is conducted via a support hub. Based on their STRA, the PSNI has an operational capacity of 58 units made up of 13 dedicated and 45 part-time units.

As outlined at the start of the chapter, balancing the options for dedicated and non-dedicated public order resources is challenging. Maintaining dedicated resources brings resilience and assurance during core hours and can support planned events or respond to spontaneous ones, often without recourse to overtime. However, without a corresponding contingent of non-dedicated resources working 24-hour shifts the ability to provide a response outside of core hours is extremely limited. This is particularly the case in geographically large policing areas where dedicated units cannot provide a centralised response. A multi-centred distribution of dedicated public order resources creates a significant abstraction from front-line policing even if the resources are multi-skilled.

Non-dedicated resources are expensive to train and deploy. Many will have to be replaced on their parent units during abstraction and may be eligible for overtime and other allowances. Unless they are regularly used they will suffer skill fade and become unfamiliar with specialist tactics. However, if effectively distributed and managed they can bring a level of

contingency across a service should a spontaneous incident occur. When not deployed on public order duties their continued performance of duties within districts provides visibility, experience and resilience to front-line policing.

Both Police Scotland and the PSNI operate hybrid models, with between one-quarter and one-third of their total public order capacity made up of dedicated units and the remainder made up of officers who perform the role on a part-time basis. Decisions relating to this model are, however, based on a thorough understanding of the public order STRA. The overall capacity requirement is regularly reviewed and adjusted to take account of emerging or diminishing risk. Threats from unplanned events are mitigated through effective co-ordination processes.

To determine the operating model for public order resources in Ireland, the Garda Síochána needs to be similarly informed, and to make decisions regarding the level of risk it is prepared to accept taking into account their STRA-associated costs/benefits and other competing policing priorities.

## Recommendation

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendation.

### Recommendation 5 Capacity and Capability

The Inspectorate recommends that the Garda Síochána use the evidence base of a current Strategic Threat and Risk Assessment to determine its public order operating model, capacity, capability and contingency.

## Selection and Training

Selection to undergo training for the NPOU is important for a number of reasons, not least because the role is physically and emotionally challenging, requiring members to show restraint in the face of danger or significant provocation. In addition, members will need to operate as part of a close-knit team and have the resilience for long, demanding operations which must be performed within the human rights framework at all times.

The College of Policing has compiled a comprehensive set of Policing Professional Profiles. These profiles contain detailed sets of descriptors for particular policing roles. They describe the qualities, skills and professional standards which apply to such roles. The College has developed a profile for public order officers. As well as being physically able for the demands of public order policing, a public order officer would be expected to have the following qualities:

- > Be able to show courage and resilience in dealing with difficult and potentially volatile situations;
- > Be able to remain calm and professional under pressure;
- > Uphold professional standards, act honestly and ethically, and challenge unprofessional conduct or discriminatory behaviour;
- > Be able to apply professional judgement, ensuring their actions and decisions are proportionate and in the public interest; and
- > Be able to work co-operatively with others to get things done.

The National Minimum Standards Document lays down guidelines for the selection of NPOU members. At garda rank, these guidelines stipulate that members have proven effectiveness as regards use of force; have a good level of health and all-round physical fitness; are familiar with relevant legislation, policy and procedures; are willing to make themselves available for duty as part of the NPOU; and have the ability to respond to callouts for deployment at short notice. In addition, sergeant and inspector ranks should also be able to show strong decision-making and communication skills. While these criteria are clearly useful they are not articulated in the language of competencies, which would set out the core skills and tasks necessary to fulfil the role of public order officer. There is no reference to a requirement for members to have signed the Code of Ethics.

Selection and training for the NPOU are closely linked. Members who are selected and pass the initial fitness assessment and who complete basic public order training are automatically appointed to the NPOU. The responsibility for selecting candidates for the fitness test lies with district officers, who are encouraged to consult with their local NPOU instructors when making the selection.

A cultural audit of the Garda Síochána entitled *Play your Part* was carried out in 2018 (PwC, 2018). A key finding of the audit suggests dissatisfaction in relation to promotion and other selection processes in the organisation. In particular, it was found that among respondents there 'are strong perceptions of favouritism and nepotism' in such processes. A fair selection process should be transparent, competency based and open to scrutiny.

## Key Findings and Assessment

### Selection

The Inspectorate found that there were no processes to quality-assure selection and that inconsistent approaches were adopted. Some district officers were unaware of the guidelines on selection while others with a public order background took an active interest in selecting suitable candidates. Overall, there was a lack of understanding and consistency around selection processes. Some members who had been unsuccessful for selection received no explanation. Other members described being successful after lobbying training sergeants. The Inspectorate believes that there is a need to bring greater fairness and transparency to the public order selection process and that the Garda Human Resource and People Development Department (HRPD) should have oversight of the process. There is already a precedent for the HRPD overseeing and standardising local selection for other part-time positions such as crisis negotiators. Additionally, in the Inspectorate's view, only garda members who have signed the Code of Ethics should be eligible for training.

### Female Representation

The Garda Síochána has no process to monitor gender breakdown within the NPOU, or to identify factors that could discourage female members seeking selection. The Garda Síochána was unable to provide the gender breakdown of the NPOU; however, during inspections, indications were that female member rates are low, at between 5% and 8%. No specific reasons for such a low level of representation were identified during the inspection and the figures are similar to those of the PSNI. Senior members of the Garda Síochána were also unaware of the reason for low female representation. However, there are precedents for the HRPD tailoring the assessment and selection processes for other

specialised roles within the Garda Síochána to increase the representativeness of such units.

### Training

Training is delivered on a divisional basis by divisional public order instructors supported by supervising trainers. NPOU members reported that training has evolved to equip members with skills and tactics to deal with lower-level public order incidents rather than solely preparing the NPOU for protests and significant disorder. However, the Inspectorate found no structured process for varying or adapting training to reflect operational experiences or emerging risks. While the supervisory trainer group meets annually to review training and to discuss the development of new tactics, this operational learning process is unstructured and relies on local relationships.

### Training Records

The Garda College retains a record of all members who have completed public order training. However it is a divisional responsibility to ensure that garda members are operationally competent and they do not have access to college training records. The Inspectorate was informed that the College is preparing a business case seeking an IT solution that would allow for a divisional view of operational competence. In the Inspectorate's view, this would greatly enhance timely operational access to key skills.

### Refresher Training

Public order training was not refreshed within the DMR during 2018, but was scheduled for January and February 2019. Any decisions to defer NPOU refresher training beyond the timeframe specified in the policy should be approved by the Public Order Steering Group and the rationale for the decision recorded. Additionally, some

members of the NPOU reported they have not been refreshed in standard use of force techniques for longer than the three-year period stipulated by the use of force policy.

### **Embedding Human Rights Principles and the Garda Code of Ethics**

The Inspectorate reviewed training PowerPoint presentations in relation to NPOU, public order instructor, POTAC and commanders courses. The requirement to adhere to human rights is discussed in all of the courses along with the key principles of necessity, proportionality, legality and non-discrimination. The commanders presentation provides examples of key decisions dealing with the European Convention on Human Rights and uses the OSCE guidelines to explain that freedom of peaceful assembly is a fundamental human right. While the Code of Ethics was not discussed elements of the Code relating to the use of police powers were highlighted. The Garda Decision-Making Model used in the material did not have human rights or the Code of Ethics as constituent elements. Human rights and the Garda Code of Ethics should be central to all decisions relating to the use of force and the newly established Ethics and Culture Bureau in the Garda Síochána should take the lead in embedding this approach in use of force and public order training and practice. In particular, use of force and public order training should be among the first policies to be reviewed in terms of human rights and Code of Ethics compliance, in line with proposals for such reviews in the implementation plan for the Commission on the Future of Policing in Ireland.

### **Identified Good Practice**

There is a significant annual training requirement, circa 1,200 persons, for the NPOU. This training is delivered at divisional level by local instructors creating the risk that specific tactics may not be adequately trained or vary between divisions. It is critical to maintain professionalism and interoperability of the NPOU across such a decentralised system. In this regard, the Gardaí have adopted a supervising trainer approach. There are nine such supervisory trainers, at least one of which must be present to certify that divisional level training had satisfied the nationally agreed standards, before the garda members concerned are qualified to take up a position in the NPOU

### **International Practice**

Police Scotland has recently established a Women in Public Order Forum where female officers can give feedback about shift patterns, tactics and equipment. It is modelled on the longer-established Women in Armed Policing Forum, which has influenced changes in Armed Response Unit shift patterns and body armour, and instigated a review of weaponry.

The PSNI has a human rights training advisor who is required to examine the governance of all training delivery. This includes a review of all course content. The advisor provides reports to the Northern Ireland Policing Board and carries out a cycle of audits reviewing course outcomes and content and observing live training.

The advisor intends to audit public order policing and specifically the use of force, use of warnings, event planning and maintaining public confidence.

## Recommendations

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendations.

### Recommendation 6

#### Selection and Training

The Inspectorate recommends that the Garda Síochána develop a standardised, transparent selection process for the National Public Order Unit. This process should be overseen by the Human Resource and People Development Department to ensure consistency, fairness and equality of opportunity. Selection should be contingent on the member having up-to-date refresher training in use of force and having signed the Code of Ethics. Unsuccessful candidates should receive appropriate feedback.

### Recommendation 7

#### Selection and Training

The Inspectorate recommends the adoption of a specific strategy to develop greater female representation in public order policing.

## Leadership and Command

The unity of command principle, in terms of a single, clear chain of command, applies to a greater extent to the policing of public order than to other common policing functions. The OSCE's Human Rights Handbook outlines a hierarchical public order command structure comprising three separate levels – strategic, operational and tactical. The command structure is based on roles and responsibility rather than rank and specifies the key attributes of each level of command (OSCE, 2016). The roles and responsibilities of public order commanders are set out in Appendix 1.

A public order commander will need to give due regard to balancing competing human rights and develop strategies, plans and actions that minimise both the impact of the situation on an individual's rights and the likelihood of garda recourse to use of force. They should also have a good current understanding of all aspects of public order policing and tactics. This would include such matters as the implications and limitations of public order tactics as well as agreed protocols and practices regarding public engagement, evidence collection, intelligence, staff welfare and effective debriefing.

The Inspectorate considers that any public order commander needs to understand the key issues detailed above, and that they should be trained in how to make effective decisions. This will ensure that their decisions are consistent, well founded and informed, as well as cognisant of the legal parameters, the appropriate garda policy and applicable human rights. In the interests of accountability and transparency, commanders should also have an understanding of the importance of keeping a contemporaneous record of any decisions and the rationale for reaching those decisions

## Key Findings and Assessment

### Command Capacity

The Garda Síochána provided information that five chief superintendents are currently active as strategic public order commanders, with all but one based in the DMR. Furthermore, the number of suitably trained and competent operational commanders was reported to be as low as four. The An Cosán review identified ten commanders trained to operational commander level in 2017 but this number has since reduced due to natural wastage. Commander training was last delivered between 2011 and 2015. This training did not reflect the policy on the POICM now in operation and, in particular, the three-tiered command structure. The Inspectorate was informed that a strategic commanders course and separate operational commanders training are scheduled to take place in May 2019. Each course will take up to three days to deliver and will cater for 16 participants.

The Inspectorate was impressed by the professional competence, knowledge and deep commitment to public order policing among the command ranks (chief superintendents and superintendents) who were engaged during the inspection. Some of the commanders concerned had been members of the NPOU, while others had learned their skills as commanders. Notwithstanding this, the Inspectorate considers that generally the breadth and depth of command capacity within the Garda Síochána is inadequate.

The An Cosán review recommended that commander capacity be allocated on a regional basis. It was not clear to the Inspectorate if selection for commander training will be based on any understanding of local or national risk. The Inspectorate considers that allocation should be informed by a STRA. As part of the strategy to develop

stronger female representation in public order policing the selection of public order commanders should create visible female role models within the function.

### Commander Recertification

There has been no recertification of public order commanders since the initial training and there is currently no requirement for commanders to recertify or to conduct a minimum number of operations annually in order to retain operational competence. Briefing days for commanders were held in February and March 2018; however, these were voluntary and not classed as a re-accreditation. The An Cosán review recommended a recertification programme for public order commanders. As a general principle, the Inspectorate considers that all new strategic and operational commanders should shadow a live event as part of their initial certification of operational competence.

### Human Rights, the Code of Ethics and Command Training

Neither the syllabus nor training materials for the planned strategic and operational commanders training have been assessed to ensure that they embed Code of Ethics and human rights principles. In the Inspectorate's view the embedding of these principles would be an important foundation for any leadership training.

### An Alternative Approach to Command Training

In order to manage hostage, barricade and suicide incidents, the Garda Síochána has developed bespoke training for superintendents and inspectors. This training is well respected and tested. During "barricade" incidents a barricade commander must consider a number of tactical options ranging from the use of crisis negotiators to the use of public order



members and ultimately the use of firearms. The Inspectorate considers that a public order module on the course could enable barricade commanders to act as public order commanders and provide an alternative route for developing public order leadership capacity.

### **Command Capability Relating to Spontaneous Incidents**

Neither the DMR Command and Control Centre or the regional control rooms visited during the inspection have been developed to a point where it is feasible for them to take initial command of a spontaneous public order incident as recommended in previous reviews. This is in contrast to the situation for a critical firearms incident (CFI) where the DMR Command and Control Centre is responsible for commanding the incident until the on-scene commander arrives. In light of this, significant issues can arise should a spontaneous public order incident occur during the time it takes to contact, brief and deploy a certified public order commander. The ready availability of operationally competent public order commanders in Command and Control Centres will ensure that the garda member initial actions follow Garda policy and human rights principles.

### **Identified Good Practice**

In February and March of 2018 the Garda Síochána provided a briefing day for public order commanders, NPOU inspectors and members of the wider leadership. Updates were provided on new policy and key court decisions involving the European Convention on Human Rights as they relate to public order. There were also practical demonstrations regarding public order tactics. This represents a good example of continuous professional development for public order leaders and it should be replicated regularly.

### **International Practice**

Police Scotland's command capacity is informed by its STRA and is made up of 10 gold (strategic), 20 silver (operational), 25 bronze (tactical) commanders and 41 full-time public order inspectors. Police Scotland has mentoring and shadowing for newly trained commanders.

The present leadership capacity in the PSNI is 9 gold, 55 silver and 115 bronze commanders. PSNI commanders have to command two events per year to remain operationally competent.

### **Recommendations**

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendations.

### Recommendation 8

#### Leadership and Command

The Inspectorate recommends that the National Public Order Steering Group should determine the number and distribution of Garda Síochána public order strategic/operational commanders on the basis of the Strategic Threat and Risk Assessment. The need to enhance the diversity of public order policing through more visible female role models should also be a strategic objective of the group.

### Recommendation 9

#### Leadership and Command

The Inspectorate recommends a mandatory recertification process for all public order commanders that ensures that they maintain operational competence, professional knowledge and a current understanding of relevant human rights issues.

### Recommendation 10

#### Leadership and Command

The Inspectorate recommends that staff in the new regional control rooms and the DMR Command and Control Centre have the capacity and capability to manage all spontaneous incidents, such as critical firearms and public order incidents.

## Equipment and Technology

The National Minimum Standards Document lays out the requirements for the size and distribution of the NPOU fleet. The document also sets out the Personal Protection Equipment (PPE) for accredited members of the NPOU and the general equipment requirement, which includes public order shields, body armour, fire extinguishers, method of entry kits and loud hailer.

### Key Findings and Assessment

#### Equipment

There are some delays in issuing PPE that is individually issued to NPOU members. The Inspectorate was informed that NPOU members sometimes share equipment or obtain it from members who no longer perform public order duty in order to be able to deploy operationally. The Garda Procurement Section estimates that there are 73 NPOU-trained members in need of PPE at the time of this report. There is the potential that ‘pooling’ of equipment could create health and safety risks for members. The Inspectorate was also informed that borrowed equipment may not fit properly and that public order suits may have exceeded the manufacturer’s recommended limit for washing. National Public Order Unit members should be deployed only when they have been officially issued with all relevant equipment. The average cost of equipping an NPOU member with specialist PPE equipment is €1,021. There needs to be more structured strategic integrated planning to ensure that the training of new NPOU members matches public procurement’s funds and priorities.

The current public order helmets do not have integrated communication systems, which public order inspectors have stated

hinders their ability to effectively command incidents.

Some public order PPE is reported as being beyond the manufacturer's recommended lifespan and there have been equipment failures during training.

The Inspectorate ascertained that equipment requirements are not integrated with public procurement at the strategic level and that links between the NPOSG and the offices responsible for public procurement were informal.

### Evidence-Gathering

The Inspectorate was informed that current legal advice states that the tactic of using portable video technology at public events for evidential purposes is not supported by legislation, unless a specific crime is under investigation. There is a statutory provision covering pre-installed and approved CCTV systems. This covers the use of permanently installed equipment and not temporary equipment for individual events. CCTV operators can use a pre-installed and approved system proactively if an event is covered by a CCTV system. The Department of Justice and Equality advised the Inspectorate that arising from a recommendation of the Commission on the Future of Policing in Ireland (September 2018), it is intended to develop legislation to underpin the recording of images in public including the use of body worn cameras.

### International Practice

In the PSNI, the Public Order and Public Safety Strategic Board provides a forum for raising issues in connection with equipment, and an ergonomics and safety group has been established to consider body armour issues. When new equipment is introduced national guidance is issued at the same time.

Evidence-gathering teams are used extensively in Northern Ireland. They have access to video and still technology capability. Mast-mounted cameras are deployed on vehicles and helicopters. In the PSNI's experience, hand-held photographic or video evidence has proved more useful than body cameras, which may not capture the full incident or the identity of the individuals concerned due to the positioning of the camera on the body of the officer.

The OSCE has stated 'The deployment of still or video cameras at an assembly can be a means not only to gather evidence of offences, but also to provide a psychological inhibitor that can discourage potential criminals and troublemakers from breaking the law. Criminals may seek out assemblies to commit offences such as theft or sexual assaults. The purpose of such evidence-gathering should be clearly communicated to organizers and participants' (OSCE, 2016).

### Recommendation

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendation.

#### Recommendation 11 Equipment and Technology

The Inspectorate recommends that the Department of Justice and Equality planned legislation for the recording of images in public, fully supports the use of photographic and video equipment by the Garda Síochána at public events for evidence-gathering purposes.



# Chapter 3 Operational Delivery

## Overview

Several factors are critical to the effective delivery of public order policing by the Garda Síochána. The first step in any process is planning, and bearing in mind that the overriding duty of a police service is to facilitate peaceful assemblies, community engagement at the planning stage is as crucial as at any other stage of the operation. In a human rights-centric approach to policing there is an obligation on the Garda Síochána to properly authorise the use of force, especially in a public order situation, in terms of a graduated response, clear command structure and consistent decision-making. The tone of the policing operation will be set at the start by the strategic commander in the strategic intentions, which could include: limiting disruption, securing evidence of offences, ensuring the safety of the public and officers, and balancing the rights of all stakeholders.

## Planning and Community Engagement

The OSCE Human Rights Handbook on Policing Assemblies lays out a detailed framework for organising and planning the policing response to a public order event. This is discussed in detail in Appendix 1. To summarise briefly, the strategic commander should set out the overarching strategic intentions, which usually incorporate public safety, facilitating peaceful events, protecting the rights of everyone affected, and the criminal justice intentions, in a written plan. This strategic plan will in turn guide the actions of the operational and tactical commanders. The strategic plan also sets the

policing tone for the event in terms of the centrality of human rights and community engagement.

Throughout the entire planning process the police should aim to adopt a “no surprises” approach, identify all relevant stakeholders and appoint suitable liaison officers. In addition, they should prepare a communications and media plan and agree on the most suitable tactics for the operation. All of these issues will be reflected in the operational and tactical commanders’ plans. The strategic commander will have set the scene as regards consultation and engagement from the very inception of the strategic planning phase. The strategic commander should always consult with key stakeholders when deciding on the strategic priorities for the event.

## Key Findings and Assessment

### Capacity of the Legal and Compliance Section

The Legal and Compliance Section of the Garda Síochána does not currently have the capacity to regularly support strategic and operational commanders during the planning process. The Inspectorate understands that expansion plans are already at an advanced stage for the section, which would greatly enhance the capacity to provide planning and operational legal advice. The Inspectorate views this as a very positive step toward ensuring that human rights are at the centre of all policing operations.

## Engagement with Event Organisers and Participants

During the inspection, event organisers, garda planners and commanders all provided good examples of engagement with event participants before, during and after public order events. There were also instances of events where the organisers or participants did not wish to engage with garda planners. In those situations there was no evidence of a specific engagement strategy. Some plans mentioned the use of community gardaí at cordon points. However, there was no consideration of specialist resources such as crisis negotiators to develop engagement and thereby reduce the likelihood of conflict. The use of crisis negotiators at protests had previously been recommended in the An Cosán review. Furthermore, while the public order training materials examined by the Inspectorate did highlight the importance of dialogue as one of the first tactics to be considered, the materials did not develop this approach in any detail. The Inspectorate considers this lack of focus on engagement to be a gap in the planning process.

## Planning Sergeants

A number of garda sergeants with responsibility for event planning indicated that they had not received specific training on protecting human rights considerations in a public order context. The sergeants were satisfied that they received regular intelligence to assist with planning for events in the DMR, which is important for planning purposes. The Inspectorate believes that given the crucial role planning sergeants play, they should receive specific training in protecting human rights in a public order context.

## Community Impact Assessment

The Inspectorate found good practice in the DMR Southern Division in relation to community engagement. The Garda Síochána engaged with the community through the local Joint Policing Committee both before and after a major public order event and also engaged with local media in the run-up to the same event. The production of the Guidelines for Event Organisers by Dublin City Council in consultation with the Garda Síochána and the Health Service Executive is another example of good community engagement practices.

In general, however, assessment of the impact on the community of planned events is an informal and ad hoc process. Some event organisers suggested to the Inspectorate that garda guidelines on organising events would be helpful, particularly around issues like route planning.

## Media Engagement

The Garda Síochána has improved its approach to communications in recent years. The Office of Corporate Communications is made up of the Press Office (responsible for day-to-day media engagement), the Corporate Communications Office (responsible for the website, social media and regional liaison) and the Internal Communications Office (responsible for improving internal communications in the gardaí).

The advent of 24-hour news cycles and the prevalence of social media means that policing often takes place accompanied by live-streaming of running commentaries. Social media presents additional problems for the effective policing of operations as rumours may spread, potentially exacerbating the situation. In this kind of environment, it is critical to have a clear media and communications strategy. The greatest

danger of commanders holding back from engaging with the media is that situations may continue to escalate, potentially resulting in greater harm to the public and garda members than would otherwise have been the case. Dealing with evolving events is a critical role of the Garda Press Office and the Garda Síochána continues to promote earlier engagement with the Press Office by incident commanders (this is promoted in particular as part of promotion and commander training in Templemore).

### International Practice

In Police Scotland all divisions have their own planning units. These deal with divisional and low risk events. If an event requires public order resources or has national implications the Emergency Event and Resilience Planning (EERP) Department becomes involved.

The EERP liaises with the division concerned and any specialist services required, such as intelligence and command and control centres. The strategic commander appoints a lead officer to engage with all communities affected by an event. For each big event, a community impact assessment (CIA) is completed recording all engagement. ‘Lay advisors’ for particular segments of a community can be accessed through the National Safer Communities Department. The community engagement aspect to the operational plan usually involves the community sergeant, who undertakes high-visibility patrols, sets up drop-in centres, and arranges meetings with interested groups (which would be attended by the silver (operational) commander), with the aim of generally facilitating community needs and addressing concerns. This helps to mitigate the impact of the event and provide public reassurance. Police Scotland uses trained negotiators as police liaison officers

to engage with event organisers before, during and after an event. Their aim is to de-escalate tensions by negotiation. They adopt a “no surprises” approach. In the event of contentious legal issues arising around an event, the strategic commander would include the Legal Services Department in the planning process and the department would participate fully in the event room on the day.

The PSNI carries out a formal community impact assessment in the strategic planning phase for all pre-planned events. The local neighbourhood inspector usually completes the CIA. The assessments are particularly useful in more sensitive locations, and will help determine the most suitable tactics (e.g. decisions as to whether to use officers in public order or patrol-style uniforms, the locations of entry and exit routes, and whether to use marked or unmarked vehicles). The assessments were acknowledged as particularly important in terms of maintaining good relationships with local communities and a “no surprises” approach. PSNI commanders frequently contact the Human Rights Legal Advisor about public order events and operations.

### Recommendations

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendations.

#### Recommendation 12

##### Planning and Community Engagement

The Inspectorate recommends that event planners and public order commanders have ready access to human rights advice.

### Recommendation 13

#### Planning and Community Engagement

The Inspectorate recommends that as part of the planning process the Garda Síochána adopt a more structured approach to engagement, including the use of community impact assessments and crisis negotiators.

The factors that a chief superintendent should take into consideration when activating the POICM include the basis on which the incident came to garda attention, the potential wider impact of the incident, the current resources available and any additional resources (including specialist) required, and the likely effectiveness of the POICM in resolving the incident. However, garda policy also provides for district, divisional and regional officers to deploy varying levels of the NPOU without activating the POICM.

## Authorisation

While at times there are concerns that public protests may lead to disruption and violence, the great majority pass off peacefully with little if any disruption. Furthermore, it is an absolutely fundamental principle of human rights law that the use of force by the police should always be a last resort and that when it is exercised it should be proportionate and necessary in the circumstances.

As a rule, the policing response to any public order situation should be graduated before specialist public order tactics are deployed. In keeping with the obligation to facilitate peaceful protest, normal policing approaches such as engagement, peaceful crowd management or barriers should be considered before more coercive tactics such as public order are used.

As previously stated the Public Order Incident Command Model (POICM) can be activated only by a member not below the rank of chief superintendent. If an incident is likely to have a regional or wider impact the divisional officer is obliged to inform the relevant assistant commissioner, who must confirm the decision to activate the POICM and appoint a suitable strategic commander.

## Key Findings and Assessment

### Major Event Planning

Interviews with sergeants and inspectors responsible for planning major events in DMR showed a good understanding of the graduated approach to policing protests. The Inspectorate was briefed on how barricades, normal policing and peaceful crowd management are all built into plans and used before there is any consideration of deploying specialist public order tactics.

### Public Order Tactical Advice

A graduated response to the use of force and public order policing also underpins public order tactical advisor (POTAC) training. The Inspectorate examined tactical advice logs for a number of pre-planned public order events. There was clear evidence of public order tactical advisors providing advice to commanders that reflected the graduated response principle and peaceful crowd management principles. As a result, commanders' decisions were more focused on reducing the likelihood that garda members would resort to use of force in managing the event.



However, the inspection did find that NPOU serials or units have been formed by district and divisional officers without the appropriate advice of a POTAC or operationally competent public order commander. This invariably leads to a situation where specialist public order resources are deployed without the necessary strategic, operational and tactical planning and creates a significant risk that a disproportionate policing response or inappropriate tactics will be utilised.

### International Practice

Police Scotland sets the authorisation level for deployment of public order units within the remit of the Assistant Chief Constable (ACC) Operational Support or, if they are not available, the Duty ACC. This authority includes the mode of dress for the units.

In the PSNI a Standing Authority from the ACC Operational Support is in place for the deployment of public order units for planned events. In such circumstances, the silver (operational) commander can decide to use level-one (dedicated, full-time) or level-two (non-dedicated, part-time) public order units without prior approval under this Standing Authority. However, in circumstances where the silver commander is considering the use of water cannon or AEP (attenuating energy projectiles), the ACC's authority is required. During spontaneous events, a duty officer can decide to call for the assistance of full-time public order units.

### Recommendation

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendation.

#### Recommendation 14

##### Authorisation

The Inspectorate recommends that all planned deployment of the National Public Order Unit have the prior approval of the assistant commissioner with lead responsibility for public order policing. However, planning and operational delivery should remain the responsibility of local commanders. For spontaneous public order incidents the Garda Síochána should develop an effective authorisation process for deploying National Public Order Units.

### Decision-Making and Record-Keeping

Policing is a complex and dynamic activity. Decisions made by those involved in delivering policing services may have to be made very quickly and without all available information. All such decisions can be subject to scrutiny, either at the time they are made or at some later stage.

Police officers are expected to make many significant decisions every day. Members of the Garda Síochána have wide autonomy in their daily duties and considerable discretion regarding ethical fulfilment of their duties. These decisions can shape people's lives and even determine their futures in significant ways. Some of the factors that support effective decisions include an appropriate decision-making framework, adherence to a clear set of values, good information, identification of alternative options and a commitment to carry the decision through or to review it.

Garda members are individually accountable for their own decisions and actions. The Code of Ethics provides a comprehensive statement of values to support decision-making in the organisation. The Code commits members and staff to a number of common ethical standards that are critical to their decision-making, such as their duty to uphold the law, to act responsibly and to exercise their authority in a proportionate way, and to justify decisions around the use of police powers.

There are a number of police decision-making models or frameworks relevant to policing public order, including the OSCE Decision-Making Model (DMM) and the UK National Decision Model (NDM). An effective decision-making model should

provide a structured framework, with each stage of the model driven by information and providing areas of focus for the decision-maker. The model should be cyclical and allow for review when new information is introduced.

The Garda Decision-Making Model (GDMM) reflects accepted international practice in this regard and provides a good framework for effective decision-making by members. The GDMM is extensively referenced in a number of Garda Síochána use of force policies, the POICM and the critical firearms incident (CFI) policies, as well as being covered in public order training materials examined by the Inspectorate. Figure 5 illustrates the five stages of the Garda Decision-Making Model.

**Figure 5 Garda Decision-Making Model**



Source: Model supplied by the Garda Síochána

Other jurisdictions have adapted their decision-making model to place human rights and the code of ethics at the centre of decision-making. The Garda Síochána is planning to develop its model in a similar way. Indeed some training material for decision-making which was examined by the Inspectorate already includes ethics and human rights as essential elements. However, the revised Garda Síochána model is still at a draft stage.

Any decision-making model must exist beyond a concept. It should become almost instinctual through a process of constant repetition, refinement and embedding as it is applied by members to the myriad situations encountered by them.

An intrinsic element of decision-making is the ability to identify through assessment of risk those situations that will have a significant impact. These can be described as critical incidents. The College of Policing describes a critical incident as any incident where the effectiveness of the police response is likely to have a significant impact on the confidence of the victim, their family or the wider community. The principle recognises the fundamental importance of community confidence and trust in policing.

The Garda response to public disorder has a real potential to impact on community confidence. This risk was clearly demonstrated following the An Cosán and North Frederick Street incidents.

Whenever a critical incident is identified, it must be addressed promptly and effectively. Providing reassurance and rebuilding and maintaining the confidence of the victim, their family and the community should be fundamental to critical incident management (College of Policing, 2013).

## Key Findings and Assessment

### Garda Decision-Making Model

The Inspectorate found that knowledge and use of the GDMM was limited. At the initial student training stage in the Garda College, the GDMM is integrated into practical scenarios such as use of force to reinforce learning of the model. However, the Inspectorate understands that divisional-level refresher training in use of force does not integrate the GDMM into scenario-type exercises to develop and cement the process in policing practice for members or supervisors.

### Critical Incidents

There is no common understanding of what constitutes a critical incident in terms of the wider context and consequences across the organisation. The Inspectorate examined training materials which define a critical incident as 'any incident that has a significant impact on public confidence and/or the ability of An Garda Síochána to perform its statutory function'. While a number of different definitions were suggested to the Inspectorate during interviews with members and management, the definition set out above was not commonly shared. It would appear that a critical incident is usually conflated in the Garda Síochána with a serious crime or critical firearms incident. The Inspectorate understands that a new, more sophisticated Critical Incident Command Model is in development, which remains at draft stage at the end of this inspection. The Inspectorate believes that the ability of garda members and staff at all levels to identify the wider definition of a critical incident is key if such incidents are to receive the early intervention and management focus they require.

## Recording Decisions

The Inspectorate was informed that following activation of the POICM at major events, the decisions of strategic and operational commanders are manually recorded in public order tactical advisor logs. This was confirmed through physical examination of documentation. However, in the absence of a POTAC, the Garda Síochána do not use the electronic command and control systems for the contemporaneous recording of public order command decisions in real time. The Inspectorate believes that the Garda Síochána should develop the practice of using Computer-Aided Dispatch (CAD)<sup>7</sup> for the contemporaneous recording of decisions (including alternatives that were considered and rejected with an accompanying rationale) and actions during spontaneous incidents. This would ensure that decisions are recorded within the context of the event, that they reflect the commanders' understanding at the time and that they are readily available for subsequent debriefing.

## International Practice

The National Decision Model (NDM) is used extensively by Police Scotland. All police recruits are trained in use of the NDM and sergeants and inspectors receive Police Incident Management training which includes the NDM. In Police Scotland officers of inspector rank and above can take part in a three-day training programme called CIMplexity, the aim of which is to ensure that critical incidents are identified and managed correctly.

In the PSNI, all public order commanders must be trained, accredited and operationally competent. Their role is to make decisions, give clear directions and ensure that those

directions are carried out. The National Decision Model is used as the basis of all public order policing decisions. The decisions and rationales for decisions of gold and silver commanders are recorded in an electronic system which can also be used to send actions or messages to other commanders and for the storage of documents, including the minutes of planning meetings. The Human Rights Legal Advisor can also record their advice and decisions on the system. The decisions of bronze commanders and other operational decisions by officers involved in an incident can be recorded on radio transmission or on the command and control system. In addition, the decisions of duty officers at spontaneous incidents are recorded through the central control room.

The PSNI has a clear definition of a critical incident that reflects UK practice. Declaring a critical incident allows access to additional resources and escalates the management of the incident.

## Recommendations

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendations.

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<sup>7</sup> CAD is an electronic system that records the details of all emergency and non-emergency calls received from the public that require a police response.

**Recommendation 15****Decision-making**

The Inspectorate recommends that the Garda Síochána embed the Garda Decision-Making Model into operational practice through the provision of scenario-based exercises in all use of force and public order training.

**Recommendation 16****Decision-making**

The Inspectorate recommends that the Garda Síochána adopt a wider definition of 'critical incident' that recognises the risk to confidence in policing and take steps to ensure that this wider definition is embedded in operational practice.



# Chapter 4 Post-Incident Management

## Overview

One of the central aims of public order policing, which is clearly articulated in the garda POICM, is the restoration of normality. The European Convention on Human Rights (ECHR) imposes a positive duty on police services to implement post-incident procedures in certain circumstances. This obligation is contained in Article 2 of the ECHR, and usually follows the death of a person as a result of police contact. It may also become necessary in cases of serious injury and would be considered good practice in circumstances requiring specialist tactics relating to the use of force, including public order. In particular, a post-incident procedure should follow incidents which may have revealed potential failings in command or caused danger to officers or the public. Such procedures will have several elements incorporating investigation, organisational learning, and the wellbeing and welfare of officers and staff.

## Organisational Learning

There is growing awareness of the importance of learning and development to the garda organisation over recent years. The 2018 cultural audit identified dissatisfaction with learning, particularly as regards past mistakes, across the organisation. The Modernisation and Renewal Programme proposed a renewing of garda culture with an emphasis on listening and learning from experience as well as drawing on the expertise of partners (Garda Síochána, 2016). Policing should be a reflective practice which balances command with a culture of asking questions and enabling change.

There has been some criticism of the Garda Síochána for its failings in this respect. Most notably Mr Justice Charleton in his Third Interim Report on the Disclosures Tribunal said 'it should be for our police force internally to reflect on itself with a view to learning lessons for the future. Calling the organisation to account, as opposed to issuing comfortingly saccharine pseudo-analyses of public crises, is the job most called for from senior garda officers. The efforts to date are insufficient' (Charleton, 2018).

However, there are some good examples of drawing on learning to respond to the needs of communities, the Garda Public Attitudes Survey being one such.

In its report *Changing Policing in Ireland (2015)*, the Inspectorate has previously pointed to the important link between improved organisational learning and decision-making at all levels of the organisation.

Under the OSCE model of public order policing, debriefing and organisational learning are closely linked. The debriefing process is intended to draw out the lessons learned from all aspects of the operation and highlight key successes and learning. The aim is to obtain the fullest account possible and improve policing performance. The model distinguishes between three different types of debrief: hot debrief (immediately after the incident), internal debrief (involving only the police service) and multi-agency debrief (with all agencies involved with the event). It is the responsibility of the strategic commander to arrange, participate in and report on the debrief and this should involve all stakeholders, including

organisers, participants and the Corporate Communications Department, as well as the police service. It is the responsibility of the operational commander to ensure that all officers fulfil their duties as regards record-keeping. Such records are vital for the transparency and accountability of all policing actions.

## Key Findings and Assessment

### Organisational Learning Within the Garda Síochána

Organisational learning within the Garda Síochána could best be described as an ad hoc process. The Inspectorate was told that many events are not properly debriefed in line with the POICM. Organisational learning is dependent on the local instructors or trainers present identifying the relevant issues and communicating them to the Garda College or to the trainers group. District event planners do not share learning at the wider organisational level. Depending on personnel and arrangements, learning may be disseminated within the division or the region in the case of the DMR.

The Garda Síochána has led multi-agency debriefs involving the National Ambulance Service and Dublin Fire Brigade after major events to draw on shared experiences of inter-agency co-operation and identify strengths and weaknesses. This is a good example of effective organisational learning and could be replicated more widely.

Staff from the Corporate Communications Department and the Human Rights Section do not attend or contribute to debriefing following a public order event. Nevertheless, the Inspectorate is aware that the Human Rights Section routinely attends other debriefings such as those related to Child Rescue Ireland Alerts.

### International Practice

The Inspectorate was informed that every event is debriefed by Police Scotland. For major operations or incidents, a structured debrief facilitated by a trained expert from within the Specialist Operations Department is held. In the case of a multi-agency operation, a multi-agency debrief is held as well as an internal debrief. The debrief document is circulated to all key stakeholders and lessons taken from the event are shared with those concerned.

For the PSNI, debriefing is as important as briefing. In particular, debriefing is a separate exercise which highlights what has worked and any lessons to be taken away for the wider organisation. The PSNI conducts an annual debriefing exercise whereby it surveys all public order commanders who were active during the year, and these are also expected to email feedback from an event to a central coordinator. In addition, the PSNI Human Rights Legal Advisor can be asked to provide feedback after an event on any decisions made as part of the operation.

In Northern Ireland, public order commanders are expected to engage with the organisers of events in advance. Engagement generally also takes place on an informal basis after an event to obtain feedback about the policing of the event. Experience has shown that some groups refuse to engage, but the PSNI continues to make the attempt.



## Recommendation

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendation.

### Recommendation 17 Organisational Learning

The Inspectorate recommends that the Garda Síochána formalise its debriefing process by involving external stakeholders including organisers, protesters and wider representation from internal organisational units. Lessons learned should be reviewed by the Public Order Steering Group and should influence subsequent selection, training and development of tactics and strategy.

## Criminal Justice Strategies

One of the core policing principles laid down in the Garda Síochána Act 2005 (as amended) states that police services ‘must be provided in a manner that supports the proper administration of justice’. This policing principle along with others are strongly embedded in the ethical standards and commitments laid out in the Garda Code of Ethics.

The duty to uphold the law is the starting point for all the duties outlined in the Code of Ethics. This duty commits all staff to obey and uphold the law and fulfil their responsibilities in a fair and impartial way. Such an approach is necessary to maintain public confidence in policing.

## Key Findings and Assessment

### Collection of Intelligence

The process for tasking (i.e. requesting, gathering and co-ordinating) the collection of intelligence for planned events requires greater structure. While the Inspectorate found a high level of confidence within districts that the Security and Intelligence Section would provide all known intelligence for an event, there is no current structure for formally notifying Security and Intelligence about a forthcoming event and requesting intelligence.

### Investigations and Prosecutions

Some public order policing plans examined did contain guidance from the Director of Public Prosecutions on the evidence required for prosecutions. In addition, most of the plans examined contained a description of the possible offences which might be encountered. However, neither a criminal justice strategy nor an investigation strategy was established as part of the planning process and no tactical commander for criminal justice was directly involved in the planning process.

Under the current devolved decision-making arrangements for prosecutions, the district officer may direct and prosecute offences arising from an event for which they have also been the operational commander. The Inspectorate has previously recommended that the Department of Justice and Equality examine divestiture options for prosecuting district court cases<sup>8</sup>.

### Enforcement of Court Orders

The Inspectorate reviewed the records of garda planning for an enforcement operation carried out by a private company in late September 2018 at which the Garda Síochána was present. The superintendent (operational

<sup>8</sup> *Crime Investigation (2014)* Recommendation 1.21; *Changing Policing in Ireland (2015)*, Recommendation 4.

commander) went to considerable lengths to ensure that the operation was legal, minimised the engagement of individuals' human rights, and was in compliance with the Code of Ethics. The operation was subsequently managed in a way that reduced the likelihood that gardaí would resort to force. It was clear that this created some tension with the private company. A new HQ Directive on the duty of the Garda Síochána in relation to the enforcement of court orders for repossession or eviction is in preparation. The North Fredrick Street review stated that this should be publicly available, which the Inspectorate strongly supports.

Future Garda Síochána policy should place strong emphasis on setting clear parameters for agents enforcing such orders that would minimise the risk of public disorder or breach of the peace. Extensive guidelines and legislation are already available regarding other activities that could have a consequential impact on public safety.

Health and safety provisions impose a duty on event organisers to satisfy themselves that anyone under their direction at an event has access to the safety statements and any risk assessments. This duty is set out in Dublin City Council guidance for the organisation of events but is equally applicable to any local authority area. Other legislation requires the Garda Síochána to be notified 16 weeks in advance of large events.

### International Practice

Police Scotland appoints bronze commanders for intelligence and criminal justice at public order events. This third-tier commander is involved in all aspects of planning for the event and is available on the day to oversee and support the criminal justice strategy. They will generally be experienced officers, drawn from the Specialist Crime Division.

A criminal justice strategy is put in place by the PSNI for all major events and forms part of event planning. The strategy aims to capture all of the applicable legislation and offences, depending on the nature of the event. The strategy could include obtaining legal advice on breaches of legislation or offences in connection with parades and the use of images which may be offensive or discriminatory. It is particularly important to identify potential offences in advance so that those policing the event can be prepared. It is at the discretion of the silver commander for the event whether a bronze commander is appointed for this role.

### Recommendation

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendation.

#### Recommendation 18

##### Criminal Justice

The Inspectorate recommends that the Garda Síochána formalise the process for establishing the criminal justice and intelligence aspects of the planning and policing of events.

## Wellbeing and Welfare

Under the Safety, Health and Welfare at Work Act 2005 employers have a duty of care to employees to prevent workplace injuries or ill health. In particular, employers must take reasonable steps to ensure that the workplace is safe and free from physical risks and hazards; prevent any improper conduct or behaviour that could endanger employees; provide suitable instruction, training, protective clothing and equipment; and appoint a safety officer.

Policing is a service which, above all else, depends on the people who work within the service. If they are not properly supported the service will inevitably suffer. Policing is also widely recognised as a stressful occupation. Internationally, one of the factors which significantly impacts police officers is rotating shift work. This can greatly impact officer wellbeing in terms of fatigue and interference with family and personal life. Other factors identified in a wellbeing survey of members commissioned by the Garda Representative Association (Fallon, 2018) include long-standing equipment and uniform issues, excessive paperwork and too many work demands, poor support from management, and a significant training deficit (particularly as regards continuous professional development).

Tackling workplace stress can be of significant benefit to any organisation. The Garda Síochána has been actively developing welfare and employee services within the organisation. These services have a number of distinct elements such as a peer-to-peer support network, the Employee Assistance Service (EAS), a wellbeing phone line (provided externally by Inspire Wellbeing, which provides access to an out-of-hours helpline and counselling service) and the Chief Medical Officer.

## Key Findings and Assessment

### Supports Available

The peer to peer support network is made up of garda volunteers trained as peer supporters and available in all districts to assist colleagues in the aftermath of a traumatic incident. The network has a record of each garda member in order to make contact as necessary. The peer to peer service for garda staff is not, however, as advanced. Referrals may be made to the EAS.

The peer to peer support network is predominantly based at the divisional or district level. However, a specific capacity for peer-to-peer support has been built up in Special Tactics and Operations Command, which has trained peer-to-peer support members available within units to respond to requests from armed members. Similar arrangements have not been put in place for the NPOU, whose members would be required to draw on services available within their division or district rather than from peer-to-peer support specifically attached to the NPOU.

The EAS for garda members and staff has recently been integrated into a single office. There are 18 employee assistance officers in total of which 17 are garda members and one is garda staff. All employee assistance officers and some 250 peer supporters are trained in critical incident stress management (Minister for Justice and Equality, Dáil Debates, 6 February 2018).

### Strategy

There is a clear strategy to further expand welfare and employee services in the organisation and in particular to align the supports available for garda staff with the more substantial supports available for garda members. The EAS has been restructured since October 2018 with one employee assistance officer (EAO) now assigned to

every two divisions, while prior to this re-organisation there was only one EAO per region. The Inspectorate was made aware by the garda representative bodies that this change has been positive in terms of improving welfare services. Access to the services is voluntary and the services are confidential. Given the evolving role of garda staff members and the role they will play in all aspects of policing, the Inspectorate believes it is very important that the Garda Síochána improve the provision of peer-to-peer and employee assistance support to them. The EAS should be supported in this endeavour.

### Awareness Raising

The EAS delivers presentations on the range of welfare and employee services to students at the Garda College and on all promotion training courses. However, such presentations are not given to public order commanders or NPOU members during their training and the EAS is not involved in the briefing or planning for major public order events. Similarly, the service does not take part in debriefing of public order events and is not invited to contribute to the learning from such events. These are gaps in promoting EAS services.

### Supports for Senior Ranks

Superintendents have expressed concerns regarding the limitation of the peer-to-peer support network in terms of the specific expertise necessary for members of their rank.

### Identified Good Practice

On visits to divisions, the Inspectorate was briefed on examples of supervisors and leaders within the Garda Síochána working closely with the EAS after an event to address welfare concerns. This included some very traumatic incidents where EAS support was vital. Notably, in Limerick the Inspectorate was briefed on how EAS and local management brought staff together for a welfare briefing in advance of a potentially disturbing operation to prepare them for what they might encounter. This demonstrated a clear focus on staff wellbeing and is an obvious model for future pre-planned public order operations.

### International Practice

Welfare and wellbeing are standing agenda items at event-planning meetings in Police Scotland and Police Federation representatives will also be invited to planning meetings. A welfare vehicle with toilet and refreshment facilities on board can be deployed to events and a chaplain is available if necessary. The Trauma and Risk Management (TRiM) process may be activated after an event if considered necessary by event commanders. TRiM assessors and coordinators arrange group or one-to-one support sessions with officers. This allows them to talk through the incident with suitably trained support staff. Alternatively, TRiM assessors may direct officers to other support services such as health providers or employee assistance officers.

The PSNI provides Wellbeing Hubs at major or prolonged events. Hubs provide practical support, such as first aid for minor injuries and rest facilities. Counselling services are available and officers can access these services directly. It is also possible for supervisors to refer officers to the occupational health service should they have specific concerns. In addition, Post-Incident Procedures are implemented in appropriate circumstances, such as following the use of firearms.

## Recommendation

In light of these findings, assessments and international practice, the Inspectorate makes the following recommendation.

### Recommendation 19

#### Welfare

The Inspectorate recommends that the Garda Síochána enhance welfare arrangements by considering the Employee Assistance Services as part of public order event planning and debriefing; promoting the availability of Employee Assistance Services on all command and operational public order courses; and reviewing the current welfare support provided to members at superintendent rank and above.

# Glossary

<b>ACC</b>	Assistant Chief Constable
<b>CAD</b>	Computer Aided Dispatch
<b>CFI</b>	Critical Firearms Incident
<b>CIA</b>	Community Impact Assessment
<b>DMM</b>	Decision Making Model
<b>DMR</b>	Dublin Metropolitan Region
<b>EAS</b>	Employee Assistance Service
<b>ECHR</b>	European Convention on Human Rights
<b>EERP</b>	Emergency Event and Resilience Planning
<b>EGT</b>	Evidence Gathering Teams
<b>HRPD</b>	Human Resource and People Development
<b>GDMM</b>	Garda Decision Making Model
<b>GSOC</b>	Garda Síochána Ombudsman Commission
<b>MEM</b>	Major Emergency Management
<b>NDM</b>	National Decision Model
<b>NMS</b>	National Minimum Standards (document)
<b>NPOU</b>	National Public Order Unit
<b>NPOSG</b>	National Public Order Steering Group
<b>OSCE</b>	Organisation for Security and Cooperation in Europe
<b>PPE</b>	Personal Protection Equipment
<b>PIRC</b>	Police Investigations and Review Commissioner
<b>POICM</b>	Public Order Incident Command Model
<b>POMG</b>	Public Order Monitoring Group
<b>POPSSB</b>	Public Order and Public Safety Strategic Board
<b>POTAC</b>	Public Order Tactical Advisor
<b>PSNI</b>	Police Service of Northern Ireland
<b>TRiM</b>	Trauma and Risk Management
<b>STRA</b>	Strategic Threat and Risk Assessment

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The Inspectorate would also like to thank the Garda Representative Association, the Association of Garda Sergeants and Inspectors and Association of Garda Superintendents for their engagement with the Inspectorate at national level through meetings and submissions and through meetings at the locations visited.

In addition, the Inspectorate is grateful for the input of the following key official stakeholders who contributed to this Inspection.

- > The Department of Justice and Equality
- > The Policing Authority
- > The Courts Service
- > Garda Síochána Ombudsman Commission
- > Dublin Fire Brigade
- > Dublin City Council
- > National Ambulance Service
- > Local Government Management Agency

The Inspectorate also received submissions or met with a number of voluntary groups and non-governmental organisations and experts who are stakeholders in policing. The Inspectorate is grateful to the following for their input.

- > Dublin Bus
- > Irish Rail
- > Irish Congress of Trade Unions
- > Irish Council for Civil Liberties
- > Irish Human Rights and Equality Commission
- > Migrant Rights Centre Ireland
- > Traveller Mediation Services
- > Pavee Point Traveller & Roma Centre
- > Alyson Kilpatrick BL

To understand comparative public order practice in other jurisdictions, the Inspectorate met the organisations listed below. The Inspectorate would like to thank them for their input.

- > Police Service of Northern Ireland
- > Police Scotland

# Appendix 1 Roles and Responsibilities of Public Order Commanders in the Garda Síochána

## Strategic Commander

The strategic commander should be a senior police officer and is responsible for drawing up the strategic plan, setting out the strategic objectives for the police and determining the policing style of the event. The strategic commander should maintain an overview of the whole operation, authorise the allocation of necessary resources and decide on their most effective deployment where there are conflicting demands for resources. In addition, the strategic commander is responsible for signing off on the operational commander's plan. As far as possible, both the strategic and operational commander should be located in a command room away from the event with clear lines of communication and access to specialist tactical advice, up-to-date intelligence, log keepers and media personnel.

The Garda Public Order Incident Command Model describes the strategic commander, who is usually at chief superintendent rank, as the *'member of An Garda Síochána who performs a Strategic Command Role, [and who] is ultimately responsible for determining the strategy that will be utilised by An Garda Síochána in any operation to resolve a public order incident. Members of the Garda Síochána performing a Strategic Command Role retain strategic oversight and overall control of the public order incident or operation.'*

## Operational Commander

The operational commander is responsible for implementing the strategic plan, devising an operational plan, setting up the command

structure on the ground and briefing the tactical commanders. Depending on the scale of the event, more than one operational commander may need to be appointed with clear geographical or functional responsibility.

The Garda Public Order Incident Command Model describes the operational commander, who is usually at superintendent rank, as the *'member of An Garda Síochána who performs an Operational Command Role, [and] makes operational decisions in accordance with the strategy for the incident or operation. He or she commands and controls the garda response to a public order incident within his or her designated area of responsibility and reports directly to the member of An Garda Síochána performing the Strategic Command Role.'*

## Tactical Commander

The tactical commander under OSCE principles is responsible for a specific geographical or functional area (e.g. mounted or dog unit) and reports to the operational commander. They should have a clear understanding of the strategic goals to allow them to implement the operational plan with specific tactical plans. In addition, they are responsible for briefing and directing police officers on the ground, maintaining discipline among officers on the front line, passing operational information to the operational commander and for the hot debrief after the incident.



The Garda Public Order Incident Command Model describes the tactical commander, who is usually at inspector rank, as follows: *'[Tactical commanders are] member(s) of An Garda Síochána who perform a Tactical Command Role; [they] have responsibility for implementing the directions of the member of An Garda Síochána performing the Operational Command Role. Due to the nature and/or scale of a public order incident, there may be more than one member of An Garda Síochána managing Tactical Command Roles. Where there is more than one Tactical Commander, each will have a clearly defined role and area of responsibility. All Tactical Commanders will report to the Operational Commanders in charge of their area of responsibility.'*

## Appendix 2 Inspection Methodology

The inspection involved an in-depth examination of every aspect of public order policing. The inspection had a number of key phases, including: planning, desk-top literature review, field work, information request, international visits, material review and report writing. Some of the key steps in the methodology included the following:

### Planning and Literature Review Phase

- > The inspection team identified key garda functional areas and personnel to assist the inspection and scheduled interviews. The team also identified other relevant stakeholders and invited them to meet or make written submissions. The inspection team made a number of requests to the Garda liaison officer for documents and information relevant to the inspection.
- > A thorough review of public order-related literature which incorporated research papers, similar reports by other inspectorate bodies, policing standards and professional practices set by international security and human rights or other organisations and other relevant publicly available information.

### Field Work Phase

- > Extensive interviews with key garda personnel were conducted at the strategic level as well as reviews of related information and policies. Those interviewed included staff from: senior management, human resources and people development, legal services, training, public procurement, operational support services, community engagement, corporate communications, crime and

security, the National Public Order Unit and welfare.

- > Field interviews were conducted in garda divisions and with garda member focus groups to confirm the information and explanations received during the strategic phase of the inspection. Field visits took place in the following locations; Limerick Division, Louth Division, DMR South Central Division, DMR Southern Division, Garda College Templemore and DMR Command and Control Centre.
- > Interviews were conducted and submissions were reviewed from key stakeholders, including human rights experts and organisations, state agencies, emergency services, event and demonstration organisers, representatives from harder-to-reach communities and garda representative organisations.

### International Visit Phase

- > On 15 and 16 January 2019 the inspection team visited Police Scotland to explore international practice in relation to public order and the police use of force in Scotland.
- > On 29 January 2019 the inspection team also visited the Police Service of Northern Ireland (PSNI) to similarly explore international practice in relation to public order and the police use of force in Northern Ireland.

### Review and Reporting Phase

Following the active phases of the inspection outlined above, the inspection team reviewed all materials and evidence obtained in order to draw out the key findings for the report.

# Appendix 3 - Report Recommendations

## Chapter 1

### Recommendation 1

#### Strategic Threat and Risk Assessment

The Inspectorate recommends that the Garda Síochána develop a wider strategic assessment of threat and risk which should be formalised in a Strategic Threat and Risk Assessment document.

- The Group should have broader membership including senior representation from the training, public procurement and human rights departments and from the Garda Síochána Analysis Service and staff associations.

### Recommendation 2

#### Governance

The Inspectorate recommends that the Assistant Commissioner Roads Policing and Major Event Management should have lead responsibility for public order governance, policy and compliance and chair the National Public Order Steering Group.

- The Group should meet regularly to commission and review the Strategic Threat and Risk Assessment, and to oversee all aspects of public order policy, practice, training and standards, including human rights and the Garda Síochána Code of Ethics. It should also produce an implementation plan for all recommendations relating to public order policing and garda use of force.

### Recommendation 3

#### Public Order Incident Command Model

The Inspectorate recommends that the Garda Síochána Public Order Incident Command Model must be activated whenever specialist resources or tactics are being considered.

### Recommendation 4A

#### Use of Force

The Inspectorate recommends that the remit of the Garda Síochána Public Order Steering Group be expanded to include the internal monitoring of use of force. In addition to use of force reports the group should consider wider information including Garda Síochána Ombudsman Commission findings, civil claims and injury on duty reports. The Garda Síochána should publish use of force data on its external website as well as all procedures and guidelines relating to public order and use of force, with only operationally sensitive material being excluded.

**Recommendation 4B****Use of Force**

The Inspectorate recommends that the external oversight of garda use of force trends should be incorporated into the performance monitoring activities of the Policing Authority and any subsequent oversight body.

and equality of opportunity. Selection should be contingent on the member having up-to-date refresher training in use of force and having signed the Code of Ethics. Unsuccessful candidates should receive appropriate feedback.

**Recommendation 7****Selection and Training**

The Inspectorate recommends the adoption of a specific strategy to develop greater female representation in public order policing.

**Recommendation 8****Leadership and Command**

The Inspectorate recommends that the National Public Order Steering Group should determine the number and distribution of Garda Síochána public order strategic/operational commanders on the basis of the Strategic Threat and Risk Assessment. The need to enhance the diversity of public order policing through more visible female role models should also be a strategic objective of the group.

**Chapter 2****Recommendation 5****Capacity and Capability**

The Inspectorate recommends that the Garda Síochána use the evidence base of a current Strategic Threat and Risk Assessment to determine its public order operating model, capacity, capability and contingency.

**Recommendation 6****Selection and Training**

The Inspectorate recommends that the Garda Síochána develop a standardised, transparent selection process for the National Public Order Unit. This process should be overseen by the Human Resource and People Development Department to ensure consistency, fairness

**Recommendation 9****Leadership and Command**

The Inspectorate recommends a mandatory recertification process for all public order commanders that ensures that they maintain operational competence, professional knowledge and a current understanding of relevant human rights issues.

**Recommendation 10****Leadership and Command**

The Inspectorate recommends that staff in the new regional control rooms and the DMR Command and Control Centre have the capacity and capability to manage all spontaneous incidents, such as critical firearms and public order incidents.

**Recommendation 11****Equipment and Technology**

The Inspectorate recommends that the Department of Justice and Equality planned legislation for the recording of images in public, fully supports the use of photographic and video equipment by the Garda Síochána at public events for evidence-gathering purposes.

**Chapter 3****Recommendation 12****Planning and Community Engagement**

The Inspectorate recommends that event planners and public order commanders have ready access to human rights advice.

**Recommendation 13****Planning and Community Engagement**

The Inspectorate recommends that as part of the planning process the Garda Síochána adopt a more structured approach to engagement, including the use of community impact assessments and crisis negotiators.

**Recommendation 14****Authorisation**

The Inspectorate recommends that all planned deployment of the National Public Order Unit have the prior approval of the assistant commissioner with lead responsibility for public order policing. However, planning and operational delivery should remain the responsibility of local commanders. For spontaneous public order incidents the Garda Síochána should develop an effective authorisation process for deploying National Public Order Units.

**Recommendation 15****Decision Making**

The Inspectorate recommends that the Garda Síochána embed the Garda Decision-Making Model into operational practice through the provision of scenario-based exercises in all use of force and public order training.

**Recommendation 18****Criminal Justice**

The Inspectorate recommends that the Garda Síochána formalise the process for establishing the criminal justice and intelligence aspects of the planning and policing of events.

**Recommendation 16****Decision Making**

The Inspectorate recommends that the Garda Síochána adopt a wider definition of 'critical incident' that recognises the risk to confidence in policing and take steps to ensure that this wider definition is embedded in operational practice.

**Recommendation 19****Welfare**

The Inspectorate recommends that the Garda Síochána enhance welfare arrangements by considering the Employee Assistance Services as part of public order event planning and debriefing; promoting the availability of Employee Assistance Services on all command and operational public order courses; and reviewing the current welfare support provided to members at superintendent rank and above.

**Chapter 4****Recommendation 17****Organisational Learning**

The Inspectorate recommends that the Garda Síochána formalise its debriefing process by involving external stakeholders including organisers, protesters and wider representation from internal organisational units. Lessons learned should be reviewed by the Public Order Steering Group and should influence subsequent selection, training and development of tactics and strategy.

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