



GARDA
INSPECTORATE
PROMOTING EXCELLENCE & ACCOUNTABILITY

Submission to the Commission on the Future of Policing in Ireland

Garda Síochána Inspectorate

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1. Introduction

The Commission on the Future of Policing has been asked as part of its terms of reference to carry out a fundamental review of the role, structures, leadership and management, ethos and culture of policing and existing oversight. In this submission, the Inspectorate will address these issues; firstly by setting out its contribution to improving policing in Ireland through its previous and current work, much of which directly correlates with specific components of the terms of reference. Next, the submission will set out how the work of the Inspectorate could be enhanced. It will then set out why the Inspectorate should remain a separate body independent in its operation; discuss the future role of the Inspectorate in the oversight architecture and suggest how its role, strategy and focus could be changed to add further value to policing. The final section contains a summary of the key points articulated in the document and proposals for the future.

2. The Garda Inspectorate's Contribution to the Reform of Policing in Ireland

The Garda Inspectorate has been in operation since 2006 inspecting the effectiveness and efficiency of the operation and administration of the Garda Síochána. During that time, it has produced eleven reports containing 574 recommendations for change that cover many aspects of the organisation. While all of these reports and recommendations are important to the provision of professional and effective policing services, it is the 2015 Changing Policing in Ireland report, the 2014 Crime Investigation report and the 2010 Resource Allocation report, which seem to best encapsulate the Commission's wide terms of reference. Most of the matters specified in the terms of reference including the role, structures, leadership and management, ethos and culture of policing, governance and accountability have been dealt with in these reports and comprehensive recommendations have already been made to address them.

Although the Garda Síochána has broadly accepted the vast majority of the Inspectorate's recommendations and has demonstrated a commitment to reform by actions such as commencing the implementation of the recommendation to move to a divisional model of policing and the introduction of specialist units to investigate sexual and domestic abuse crimes, the pace of reform has been slow. The Inspectorate strongly believes that its reports provide the road map for change and that full implementation of all its recommendations will transform the Garda Síochána into a more efficient and effective police service. Therefore, the Inspectorate encourages the Commission to formally endorse the reports and recommendations of the Garda Síochána Inspectorate.

2.1. Reports of the Garda Síochána Inspectorate

Set out below is a summary of the three Inspectorate reports mentioned above, including some of the key findings, key recommendations made and some of the outcomes that were expected to follow from implementation of the recommendations.

2.1.1. Changing Policing in Ireland

This review examined 15 key areas of the administration and operation of the Garda Síochána including the structure, governance, operational deployment practices, human resources and culture as well as finance, estates and information technology. It is primarily about putting gardaí on the front line and providing sufficient numbers of people, strong leadership and supervision, appropriate equipment, good training and the modern technology needed to deliver a better

service to all communities in Ireland. During the period of the review, the Inspectorate met with over 2,500 employees of the Garda Síochána in focus groups and individually.

Key Findings

Structure

- An ineffective structure, struggling to cope with the modern demands on garda services.
- Many headquarters units have duplicate functions in areas such as change management, policy development and oversight.
- To protect front-line services, all other police services engaged in this review have restructured, reduced the number of administrative areas and now operate from far leaner structures with fewer senior managers.
- National and specialist garda units are very much Dublin-based and Dublin-focused.
- The current structure, which comprises six regions, 28 divisions and 96 districts, is highly inefficient and negatively impacts on the deployment of resources.
- Centralised decision-making takes place for low-level issues.

Deployment of Resources

- People are not always on duty at the right times, in the right places and doing the right things.
- The garda roster introduced in 2012 has reduced the number of working days per member each year, the number of working hours per member and the number of members available for duty each day.
- In total, 83% of garda resources are deployed to front-line services, compared to 93% in some other police services.
- Gardaí are not allocated according to policing needs.
- Garda Reserves are not consistently or strategically used for operational purposes, despite receiving considerable training and being authorised under law.
- An analysis of deployment data on a Tuesday morning and on a Saturday night identified that there were 48 fewer people on duty on the Saturday night than on the Tuesday morning. With an overlap shift on the Saturday night, the Inspectorate expected to see far greater numbers of members on duty.
- A two-tier community policing system exists, with high numbers of gardaí in Dublin, but significantly less in other areas, particularly rural Ireland.
- At public meetings attended by the Inspectorate, community members reported a noticeable reduction in garda visibility.

Workforce Modernisation and Human Resources

- The organisation performs some functions that may be more appropriate to other agencies, such as prosecuting district court cases and the transportation of prisoners on remand.
- At least 1,500 gardaí are in non-operational roles that could be released for patrol, investigation and community policing duties.
- At 14% of the total workforce, there is a very low level of civilian staff, compared to other police services.
- There is no individual performance management system.

- At 32 weeks, the duration period for Phase 1 of the garda recruit training programme is much longer than in other similar jurisdictions.
- Inadequate workforce planning, gaps in training provision and skills deficits were noted.

Governance and Culture

- We found deficiencies in governance, accountability, leadership and supervision.
- The current garda culture is inhibiting change.
- There are high-risk policing areas, such as untrained garda drivers, that need to be addressed.
- Many previous recommendations from Inspectorate reports and other inquiries have not been fully implemented and benefits have not been realised.

Key Recommendations

There are 81 recommendations in Changing Policing in Ireland. Some of the key recommendations are:

- A new leaner structure that has fewer senior managers and more gardaí on patrol, investigation and community policing duties.
- A reduction in the number of garda regions from six to three.
- Introduction of a new divisional policing model, with functional responsibilities for portfolios of key functions being exercised by Chief Superintendents and Superintendents (Divisional Functionality Model).
- A reduction in the number of divisions to release more gardaí for patrol. This includes the amalgamation of the two Dublin city centre divisions.
- Development of a strategic plan to maximise the operational effectiveness and contribution of the Garda Reserves
- Development of multiple rosters tailored for specific garda units to match the deployment of those resources to the days and times when they are most needed, rather than a “one-size fits all” approach.
- Development of systems to assist with understanding policing demand and a workforce model that matches resources to demand.
- Use of gardaí to do garda roles and civilian staff to do support roles.
- Release of fully trained and experienced gardaí from non-operational roles.
- Some national unit resources, such as Major Investigation Teams, should be assigned to regions to provide a full national service.
- Divestiture or outsourcing of functions that could be performed by other agencies.
- Development of clear governance structures to ensure accountability and drive performance.
- Reviewing the Phase 1 training for new gardaí with a view to reducing the duration of the foundation programme.
- Creation of an environment where senior managers and other staff are encouraged to speak up and make suggestions to improve performance.
- Development of a strategy to improve the decision-making skills of leaders and supervisors and to ensure that they are well-trained and have the confidence to inspire staff, tackle underperformance and reward good work.

- Introduction of a performance management system to encourage personal responsibility and good performance and for continued underperformance to provide an ultimate sanction of dismissal.

Expected Outcomes

- A policing culture that embraces change and where staff feel valued; selection processes viewed as open, fair and transparent; strong visible leadership at all levels; aligned with organisational values and the code of ethics and a more customer-centred policing service.
- An increased physical garda presence to prevent crime and to reassure and protect communities in rural areas, in towns and in cities.
- Creation of a new organisational structure that supports local policing.
- Development of a modern workforce with the right balance of members and support staff.
- An improved Garda Síochána, better for the public, for victims of crime and for members of the service themselves.

2.1.2. Crime Investigation

The 2014 Crime Investigation report examined 11 important areas, including the policies, practices and procedures used in the prevention, investigation and detection of crime. It examined how incidents were recorded, classified, reclassified and supervised on the PULSE system and how detections were claimed. It also included a review of the allocation of resources, the use of technology, the management of demand and examined the progress of individual investigations.

While the report highlighted the good work carried out by many committed members and provided a number of best practice examples, it also identified a lack of national standards for investigation, inconsistencies in services to victims, an absence of intrusive supervision, as well as deficiencies in modern technology to accurately analyse demand, record and manage crime and to deploy resources.

The report identified an absence of effective systems in garda stations for recording calls from the public, serious failures in the classification of crime incidents, as well as inconsistencies in the claiming of detections. A key finding was that inexperienced gardaí were investigating serious crimes such as rape.

The report made detailed recommendations to improve recording and classification of incidents at divisional and national levels, as well as recommending the introduction of national incident and crime recording standards. Recommendations were also made for the implementation of systems to improve the quality of supervision and management of crime investigation. The report repeated the recommendation made in the 2010 Resource Allocation report for the procurement of a Computer Aided Dispatch (CAD) system.

The findings in this report were echoed in the examination of recording practices, published by the Central Statistics Office in 2015. This included the non-recording of crime and the misclassification of crime to a less serious offence.

The report included a number of multi-agency recommendations that require action by other criminal justice partners.

It also identified many areas of good practice in different garda divisions and in different parts of the country. These included a range of crime prevention initiatives, cross-district crime operations and a number of technological initiatives. However, such examples of good practice, while used in some divisions and in some units, were not consistently applied across the organisation.

2.1.3. Resource Allocation

Changing Policing in Ireland picked up on many of the recommendations made in the 2010 Resource Allocation report.

Resource Allocation highlighted the need to have the right number of gardaí, in the right places, at the right time. It revealed that there is often a disconnect between the demands for Garda services and the number of gardaí on duty. It identified deficiencies in IT systems to measure and manage workloads. It emphasised the need for better data and technology to provide an objective measurement of how many gardaí are required to meet policing needs.

Recommendations included the implementation of a national CAD system to accurately record emergency and non-emergency calls for service and enable the effective deployment of resources and the implementation of a resource management system to manage rostering and leave.

The report also recommended an increase in the numbers of gardaí available for front-line policing through a structured programme of civilianisation, a reduction in non-core police duties and the redeployment of officers from administrative duties.

2.2. Current work of the Garda Inspectorate

The Inspectorate's current programme of work consists of:

- (i) A follow-up review of the Inspectorate's 2012 report, Responding to Child Sexual Abuse. This review assesses the extent to which the recommendations contained in the 2012 report have been implemented and examines how the Garda Síochána, working with its strategic partners, is tackling child sexual abuse and child sexual exploitation.
- (ii) An advice to the Minister for Justice and Equality on entry routes into the Garda Síochána. This examines entry routes for police officers from other police services to join the Garda Síochána and the opening up of promotion opportunities to persons outside the Garda Síochána. It will also consider the issue of diversity, which is one of the matters that the Commission has been asked to have regard to in its work.
- (iii) An inspection, commissioned by the Policing Authority at the request of the Minister for Justice and Equality, to examine the disbursement and use of resources available to the Garda Síochána in the delivery of policing services to local communities and to make recommendations to provide a more effective, visible and responsive policing service. The review will take account of the changing environments in rural, developing urban and suburban areas, the views of local communities, the allocation of Garda resources and their deployment at the local policing level, including the use of the Garda Reserve, Garda facilities and Garda equipment; and relevant recommendations made in previous Inspectorate reports.

This examination will also take account of the ongoing work by the Garda Commissioner to implement a divisional model of policing in Ireland.

The Inspectorate expects to submit the first two pieces of work by the end of 2017 and the third piece next year.

2.3. Implementation of the Inspectorate's Recommendations

The Inspectorate believes that unless all the basic operational, structural, technological and governance changes recommended in our reports are implemented, the Garda Síochána will struggle to modernise and therefore will be unable to deliver an effective and efficient policing service.

Some of the Inspectorate's recommendations, particularly from the earlier published reports, have been implemented and have both enhanced officer safety and resulted in the provision of a more effective service for the public. These include the introduction of protective stab vests for gardaí and the introduction of armed response units.

While the Garda Síochána has broadly accepted the vast majority of the Inspectorate's recommendations, a concerning feature of the findings in Changing Policing in Ireland and other reports was the number of previous recommendations that have yet to be fully implemented. Some of these recommendations, such as the procurement of a national CAD system, the introduction of a performance management system (PALF) and an extensive programme of civilianisation have been made on a number of occasions.

The Garda Síochána has demonstrated a commitment to reform by actions such as commencing the implementation of a recommendation to move to a divisional model of policing and the introduction of specialist units to investigate sexual and domestic abuse crimes; however, the pace of reform has been slow. For example, the introduction, in March 2017, of the Performance and Learning Framework (PALF) is welcomed, but it should be noted that the Inspectorate first recommended this in 2007.

The Garda Síochána's Modernisation and Renewal Programme is an ambitious reform plan and while we recognise its complexity, it does not fully address all of the outstanding recommendations made by the Inspectorate. Nor is it clear about the prioritisation and sequencing of the actions needed to deliver the programme.

In order for the Garda Síochána to achieve its full potential and deliver a modern police service for victims and communities, the Inspectorate believes that the reform programme needs to move from strategy to implementation at an energetic pace. Thereafter, the benefits to the organisation will accrue quickly. The Inspectorate believes that the implementation of its recommendations will bring about transformational change and welcomes the enactment of legislation that enables its recommendations to be formally monitored and assessed. Currently, the Minister for Justice and Equality has asked the Policing Authority to monitor and assess the implementation of the agreed recommendations in Changing Policing in Ireland. The assessment process is discussed further in Section 3.3 of this submission.

The Commission could add value by endorsing the work of the Inspectorate and by setting out a vision and high-level pathway for the future of policing which will support the Garda Commissioner, the Executive team and the organisation as a whole to focus on implementing the changes needed for a more agile service. In addition, the Commission could ensure that any barriers to effective implementation are identified and removed.

2.4. Obtaining information from the Garda Síochána

During many inspections, the Inspectorate's work has been hindered by the inability of the Garda Síochána to provide accurate information in a timely fashion. The Inspectorate is entitled to request and receive information from the Garda Síochána under Section 118 of the Garda Síochána Act 2005. There is no restriction on the type of data that can be requested once it is in the possession of the Garda Síochána. While the Inspectorate has generally received the requested information, there can often be delays in its provision and in one recent inspection, information was not supplied in time for inclusion in the final report.

The Inspectorate is aware of a number of reasons for these delays, including the use of paper records, the absence of easily retrievable data and important data that should be held centrally but is not available at Garda Headquarters. In cases where data is not held centrally, information requests are sent to garda regions, divisions, districts and national units requiring multiple responses. The Inspectorate is also aware of occasions where poor response rates from divisions and other departments to the Assistant Commissioner, Executive Support and Corporate Services, (the single point of contact for the Inspectorate) contribute to this problem. These issues have already been raised in a number of the Inspectorate's reports.

This problem does not appear to be unique to the Inspectorate as other organisations, including oversight bodies, face similar difficulties in obtaining information from the Garda Síochána.

Full implementation of the Inspectorate's recommendations relating to governance, technology and data management would assist the Garda Síochána to have ready access to important information and be in a position to share it in a timely fashion.

3. Enhancing the Role of the Inspectorate

The Inspectorate has considered how its role could be enhanced in the future in order to continue to add value to the oversight process and to the continued improvement of policing in Ireland. Set out below are areas which the Inspectorate considers could assist in this regard.

3.1. Response of the Garda Commissioner to Recommendations

Once the Inspectorate completes a report on an inspection or inquiry, it must submit the report to the Minister for Justice and Equality or to the Policing Authority. This includes reports of inspections that are self-initiated. Once a report is submitted, the Inspectorate has no further formal role. The decision to accept, modify or reject recommendations is taken by the Garda Commissioner. However, the Inspectorate is interested in any recommendations that are rejected or modified, in particular the rationale for the decision. It would find this information useful for the purpose of reviewing and evaluating its own performance. The Inspectorate could also add value by advising on whether a modified recommendation meets the intended objective of the original recommendation.

The Inspectorate recommends that in cases where the Commissioner of the Garda Síochána has not accepted or has modified a recommendation, there should be a requirement on the Commissioner to provide a rationale for the rejection or modification.

3.2. Assessing the Implementation of the Inspectorate's Recommendations

The Inspectorate has no statutory power to monitor the implementation of its own recommendations. However, for several years it operated an informal system, in co-operation with the Garda Síochána, to provide updates to the public on the progress of the recommendations in its reports. As policing experts and as authors of the recommendations, the Inspectorate is experienced in assessing whether a recommendation has been accepted or rejected and if the actions taken address the essence of the recommendation made. While this process stalled in 2013, the Inspectorate has re-engaged with it over the last 12 months in relation to recommendations made in our previous reports, but to date the information supplied has been insufficient to enable the Inspectorate to publish meaningful updates.

Since 2016, the Policing Authority, under S117 of the Act, has had the power to monitor and assess the measures taken by the Garda Síochána in relation to the recommendations contained in a report of the Garda Inspectorate and report to the Minister on their findings. The Minister also has the power to ask the Policing Authority to monitor certain agreed Inspectorate recommendations. This has already occurred in relation to the agreed recommendations in Report 11, Changing Policing in Ireland. For the reasons mentioned above, the Inspectorate would welcome the opportunity to be formally involved in the assessment of the implementation of its recommendations.

We would suggest that there is an opportunity to derive greater benefits from the Inspectorate's advisory role, in particular by being involved in the assessment of the implementation of its recommendations. The Inspectorate strongly believes that it would add coherence to the oversight arrangements overall and also add value to the delivery of the transformation process if the Inspectorate's perspective is brought to the assessment of whether the intent of any particular recommendation is being met. The policing experience, knowledge and expertise of the Inspectorate is available to all policing and police oversight organisations. The Inspectorate considers that it is currently under-utilised in this regard and provides the following examples of occasions when it could have played a role in relation to the implementation of specific recommendations.

In 2014, the Inspectorate produced a report into the Fixed Charge Processing System and recommended that a Criminal Justice Implementation Group be established to implement the recommendations contained in the report. While a group was subsequently established, the Inspectorate was not invited to contribute to the assessment of the actions taken to implement the recommendations. It is also the case that an Expert Group on Crime Statistics was set up to examine six of the Inspectorate's recommendations, but did not engage the Inspectorate in its work.

As part of its future work programme, the Inspectorate plans to conduct post implementation reviews to assess the extent, effectiveness and efficiency of implemented recommendations.

There is a risk that without Inspectorate involvement in an assessment process, any future inspection or review could reach a different conclusion on the implementation of a recommendation.

The Inspectorate believes that the Commission could add value by involving the Inspectorate in the evaluation of the implementation of its recommendations.

3.3. The Inspectorate's Role in Research and Policy Matters

The Inspectorate's current responsibilities include providing advice to the Minister for Justice and Equality. However, should a piece of academic or research work be required that does not involve specific policing knowledge or expertise, the Inspectorate is of the view that this work could be more appropriately undertaken by the Department of Justice and Equality or by the Policing Authority. The policing expertise and experience of the Inspectorate would of course be available to the person or group carrying out this type of work. By not undertaking such work, this would enable the Inspectorate to focus on its core inspection role.

The Inspectorate requests that the Commission support this position.

3.4. Additional Inspection Powers

The Inspectorate has considered what additional powers, if any, might enhance the inspection process.

During evidence given to the Justice Committee, the Inspectorate stated that a power to carry out unannounced visits to Garda stations would be helpful in carrying out its functions. Unannounced visits would enable the Inspectorate to examine high-risk areas in real time, obtain a more accurate reflection of current practices and undertake time-critical inspection work. Such a power would also be necessary should the Inspectorate become a designated body for the purpose of inspecting garda places of detention or garda custody areas. (See section 6.2.)

In Scotland, Her Majesty's Inspector of Constabulary (HMICS) has this power and in England and Wales, Her Majesty's Inspector of Constabulary and Fire and Rescue Services (HMICFRS) has the power to conduct unannounced inspections of police custody areas. In its report on Garda Oversight, the Justice Committee recommended that the Garda Inspectorate should be given the statutory power to make unannounced visits to Garda premises.

The Inspectorate submits that the Commission should support the enhancement of its powers to include making unannounced visits to Garda premises.

4. Independence of the Inspectorate

This section discusses the rationale for the continuation of the Inspectorate as a separate body, which is independent in its operation.

The main component parts of any policing oversight process include inspection of the efficiency and effectiveness of its operation, dealing with public complaints and aspects of police conduct, as well as overseeing performance.

The Inspectorate is of the view that any future oversight structure in Ireland must continue to provide each of these functions, in conjunction with the governance role of the Department of Justice and Equality. The Inspectorate considers that the three statutory bodies provide the appropriate architecture to meet the needs of this jurisdiction. This is comparable to police oversight in other similar jurisdictions.

The Inspectorate recognises that the Commission may be considering alternative oversight structures. Consequently, it has considered the implications of combining the functions of some or all of the bodies as they currently exist and firmly believes that the Inspectorate should continue to exist as a separate entity, independent in its operation.

The independence of the Inspectorate is enshrined in legislation under Section 117(7) of the Garda Síochána Act 2005. This has brought many benefits, not least the level of trust placed in it by garda staff and members. Since its inception, the Inspectorate has worked hard at establishing and maintaining a relationship of trust with the Garda Síochána and this has contributed in no small way to the integrity and quality of the Inspectorate's reports.

The Garda Síochána, criminal justice stakeholders and the public recognise this independence, which taken together with its high quality, evidence-based reports has resulted in the Inspectorate acquiring a reputation as Ireland's leading independent expert on policing.

If the Inspectorate were to become a component part of an organisation that is also responsible for the investigation of public complaints against members of the Garda Síochána, this would undoubtedly compromise the trust and confidence that members have in the Inspectorate. This would restrict the openness of garda members and garda staff and have an adverse impact on the flow of information. As a result, the quality of its reports would be diminished.

Likewise, being part of an organisation that is also responsible for monitoring the organisational performance of the Garda Síochána and for selecting and appointing senior officers and staff, has the potential to create conflicts of interest, which could undermine the work of such an organisation.

Included in any inspection programme is engagement with stakeholders, including the Policing Authority and the Garda Síochána Ombudsman's Commission (GSOC). Being independent and being seen to be independent from stakeholders is an important aspect of the Inspectorate's work. For example, as part of the Inspectorate's examination of the delivery of local policing services, it will consider the function of Joint Policing Committees (JPCs), as set out in Section 36 of the Garda Síochána Act 2005. Under Section 35 of the Act, the Policing Authority issues the guidelines for the establishment and maintenance of JPCs. Being independent of the Authority enables the Inspectorate to look at the role performed by JPCs without its objectivity being called into question. In a similar vein, a future inspection of the treatment of detained persons could include persons arrested by GSOC as part of its investigative role. Therefore, the Inspectorate's independence from GSOC would ensure that such an examination is both objective and seen to be objective. The independence of the Inspectorate, and the objectivity that stems from it, are vital to all aspects of the Inspectorate's work.

Remaining independent and separate from the other oversight bodies also provides an option to expand the Inspectorate's role to include conducting inspections of other parts of the oversight architecture. In other jurisdictions, similar Inspectorates perform additional oversight functions. In Scotland, Her Majesty's Inspector of Constabulary (HMICS) has a statutory role to inspect the Scottish Police Authority, while Criminal Justice Inspection Northern Ireland (CJINI) can inspect the Office of the Police Ombudsman for Northern Ireland.

For these reasons, the Inspectorate believes that its operational independence should be maintained and it should continue to exist as a separate body and we would ask the Commission to support the Inspectorate's position going forward.

5. Future Oversight of Policing in Ireland

In considering the future oversight architecture, it is important to consider how the current arrangements came about.

Historically, the Department of Justice and Equality had responsibility for oversight of the Garda Síochána. The decision to establish the Garda Inspectorate and GSOC had its origins in the first report of the Morris Tribunal in 2004, which recommended that the Department must, in consultation with the Garda Commissioner, address the structural defects and deficiencies that had been identified in the report. Consequently, the Garda Síochána Act 2005 created the Garda Síochána Inspectorate and GSOC.

Following a number of public controversies relating to the Garda Síochána, the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015 created the Policing Authority.

Each of these three bodies has its own statutory remit and in general, each organisation performs separate and different functions, albeit with some overlaps. They undertake the main component parts of any policing oversight process; inspecting the efficiency and effectiveness of its operation, dealing with public complaints and certain aspects of police conduct as well as overseeing performance.

As outlined above, the Inspectorate considers that the three statutory bodies, in conjunction with the governance role of the Department of Justice and Equality, provide the appropriate architecture to meet the needs of this jurisdiction and is comparable to police oversight in other similar jurisdictions.

The establishment of the Commission provides opportunities to enhance the oversight arrangements by setting out an overarching strategy for police oversight, removing ambiguity and duplication from the roles of the bodies and addressing inconsistencies in their responsibilities and powers. Some of the ways in which the Commission could add value to future oversight arrangements are set out below:

5.1. Overlapping Oversight Functions

The Acts of 2005 and 2015 set out the responsibilities of each of the oversight bodies. Examination of the roles reveals some overlapping functions relating to the examination of policies, practices and procedures.

For example, GSOC have the power is to examine practices, policies and procedures of the Garda Síochána. In doing so, they are obliged to inform the Policing Authority and the Minister; however, there is no requirement to inform the Inspectorate, which may already be conducting an inspection into a similar matter. Likewise, the Policing Authority can undertake or commission research projects and other activities in respect of matters relating to policing services, which may promote an improvement in standards or contribute to a reduction in complaints against members of the Garda Síochána. Again, there is no requirement to notify or consult with the Inspectorate and there is a possibility of duplicating work.

The Inspectorate recommends that the Commission considers these overlaps when it sets out its model for future oversight arrangements.

5.2. Clarity of Roles

The Inspectorate believes that the Commission could add value by setting out a clear vision for police oversight, which would include defining the specific roles and responsibilities of each body. In doing so, duplication of responsibilities and functions as well as ambiguity could be eliminated. The Inspectorate believes that the Commission could enhance the oversight arrangements by setting out a clear process to be implemented following the publication of an Inspectorate report and defining the roles of the oversight bodies within such a process. This should include all aspects of the decision making around acceptance, modification or rejection of recommendations, monitoring of the implementation of recommendations, assessment of whether actions taken to implement a recommendation are complete and the impact of the implemented recommendations on service delivery.

5.3. An Oversight Forum

The Inspectorate identified the overlapping functions relating to the examination of policies, practices and procedures as a concern in its Changing Policing in Ireland report. It identified the possibility for a duplication of oversight activity as well as opportunities for joint auditing or inspections. The Inspectorate saw a role for the Department of Justice and Equality in avoiding this possibility and made the following recommendation:

Recommendation 3.2

The Inspectorate recommends that the Department of Justice and Equality establishes formal, structured processes that co-ordinate all justice sector governance of the Garda Síochána and related oversight body activities to reduce any duplication in work, to clarify areas of responsibility, to share good practice and to seek opportunities for joint working.

Full implementation of this recommendation would strengthen the governance and oversight of the Garda Síochána and we would ask the Commission to consider this in the course of their work.

The Commission could help to enhance a more integrated oversight arrangement by endorsing an oversight forum. Following the establishment of the Policing Authority in 2016, the heads of the three bodies came together to share information in relation to the effective functioning of the Garda Síochána and to update each other on the individual work programmes of the bodies. The Inspectorate sees this as an excellent way to continue to enhance relationships between the bodies and to maximise the impact and effectiveness of oversight in our shared objective of improving policing in Ireland and advocates the further development of this group.

5.4. Inspection of a Changed Policing Structure

The terms of reference require the Commission to address the structures and management arrangements for the most effective delivery of policing, including all functions currently carried out by the Garda Síochána, including community safety, state security and immigration. In this context, the Chairperson of the Commission in her letter to the Minister said, *“The Commissions eventual recommendations will, without doubt, effect the future role and responsibilities of the Commissioner of the Garda Síochána, and the management structure of the organisation.”*

Under the current legislation, there is no restriction on the Inspectorate’s mandate to inspect any aspect of the operation and administration of the Garda Síochána. Furthermore, the Act makes provision for the Inspectorate to receive any information which is in the possession of the Garda Síochána and which, in the opinion of the Inspectorate is necessary for the performance of its function. This places the Inspectorate in the unique position of being able to examine and make recommendations about all aspects of policing that are the responsibility of the Garda Síochána. Furthermore, the Act enables the Minister to exclude certain matters from copies of reports that are to be laid before the Houses of the Oireachtas.

To assist the Commission in its consideration of the appropriate structure to deliver all aspects of policing and specifically the oversight arrangements for any new structures, the Inspectorate would draw the Commission’s attention to a potential oversight gap that could arise.

Although the Inspectorate has the ability to inspect the operation and administration of the Garda Síochána, this power does not extend to the inspection of multi-agency bodies, to which Garda members or Garda staff are assigned. The main example of this is the Criminal Assets Bureau, which is a body corporate, created by statute (Criminal Assets Bureau Act 1996). The Bureau is staffed by members of the Garda Síochána and officers from the Revenue Commission and Department of Social Welfare. It is led by the Chief Officer of the Bureau who is appointed by the Commissioner of the Garda Síochána. The Inspectorate has been advised that it does not have the power to inspect the Bureau and it believes that it may not be able to inspect other similarly constituted organisations. The Inspectorate identifies this as a gap in oversight, which could increase as a consequence of greater multi-agency working or the separation of policing functions.

The Inspectorate believes that there is a cogent argument for extending its existing remit of inspecting the Garda Síochána to include inspection of all agencies that provide a core policing function.

Irrespective of any changes to the policing structures that are recommended by the Commission and subsequently established, the Inspectorate believes that it should retain its current inspection functions over all aspects of policing and that these functions should not be diluted in any way. The Inspectorate asks the Commission to support this position.

6. A Changing Role, Strategy and Focus for the Inspectorate

Inspectorates have a critical role in objectively assessing the effectiveness and efficiency of police services, in order to raise standards and drive improvements in the services provided for victims, citizens and the community in general.

The Inspectorate has reflected on the contribution it has made to policing in Ireland since its formation in 2006. It has evaluated its performance, examined the roles and responsibilities of oversight bodies in other jurisdictions and benchmarked itself against similar organisations. As a result, it has identified a number of opportunities to add significant value through an enhanced strategic focus.

6.1. A Human Rights Approach to Inspections

Other similar inspectorates adopt a human rights based approach to inspection. While human rights has not been explicitly referenced in the Inspectorate's work to date, it is implicit in the examination of aspects of policing such as treatment of victims of crime, detention of arrested persons and preparation of prosecution files.

The State has a positive obligation to ensure that the rights and freedoms guaranteed by the European Convention on Human Rights (ECHR) are protected. Ireland enshrined the convention into domestic law by implementing the European Convention on Human Rights Act 2003. The application to policing and other activities by public authorities is made clear by Section 3 of Act, which states:

“Subject to any statutory provision (other than this Act) or rule of law, every organ of the State shall perform its functions in a manner compatible with the State's obligations under the Convention provisions.”

Policing by its very nature has the potential to impact on human rights. Any evidence or perception that the Garda Síochána has failed to act in a manner compatible with the Convention could impact on its effectiveness and efficiency, as well as on public confidence.

The Inspectorate believes that future inspections could place an emphasis on benchmarking Garda Síochána activity against relevant international best practice that focuses on the protection of human rights.

6.2. UN Optional Protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (OPCAT)

The Inspectorate is aware of discussions around the ratification of OPCAT in Ireland and the designation or establishment of bodies referred to as National Preventive Mechanisms (NPMs). The NPMs are required to inspect places where people are detained to ensure that any form of torture or inhuman treatment is prevented. The structure of NPMs is not set down by OPCAT; however, NPMs need to be independent, free from government influence and given sufficient resources to carry out their work effectively. The favoured option in the Department of Justice and Equality revised consultation paper (2016) is for an Office of Inspector of Places of Detention to perform an OPCAT-compliant human rights focussed national inspection role across all places of detention in the Justice sector.

The Garda Inspectorate, as an independent expert in policing, is well placed to undertake an NPM role in Ireland. It has the necessary knowledge and experience, and has already examined arrangements for police detention as part of the Crime Investigation inspection. Becoming a designated body for OPCAT is a natural extension of the Inspectorate's responsibility to examine the operation and administration of the Garda Síochána and would be consistent with

arrangements in other jurisdictions. For example, HMICS, HMICFRS and CJINI are designated as NPMs in the UK. Maintaining the independence of the Inspectorate would be essential if it was to become a designated body under OPCAT.

The Inspectorate would ask the Commission to take account of this in its consideration of the future oversight arrangements.

6.3. An Irish Criminal Justice Inspectorate

The establishment of a new criminal justice inspectorate has previously been under consideration within the Department of Justice and Equality and is mentioned in this submission for the information of the Commission.

The overarching objective of such a body would be to promote efficiency and effectiveness across the criminal justice sector. It would have oversight of criminal justice agencies, many of which have no specific oversight arrangements in place, and would promote more joined-up practices and procedures among the agencies. It was recommended by the Joint Oireachtas Committee on Justice, Equality and Defence, which envisaged that this new organisation overseeing a number of bodies, such as the Garda Síochána, the Courts Service, the Director of Public Prosecutions, the Legal Aid Board, the Probation Service, GSOC, the State Pathologist and the Forensic Science Laboratory.

Discussions and debates identified CJINI, which has operated in Northern Ireland since 2002, as a model that might be considered in Ireland.

The Inspectorate sees merit in a wider criminal justice inspectorate in Ireland, but would have reservations that the creation of such a body may dilute the focus on inspecting police effectiveness and efficiency at a time of significant reform.

6.4. Key Inspection Principles

Having already examined most aspects of policing, the Inspectorate is in the process of developing a medium to long term strategy and action plan. It envisages that this will form the basis of the Inspectorate's work from 2018 to 2022. This period coincides with the implementation of the Garda Síochána's Modernisation and Renewal Programme as well as the lifespan of the current membership of the Inspectorate. This work is at a preliminary stage, given the fact that the vacant Chief Inspector and Deputy Chief Inspector posts have just been filled during November 2017. The details of the strategy and work plan will be finalised early in 2018, however a number of principles have been established to inform this work. These include:

- The aspects of policing selected and prioritised for inspection should be informed by an assessment of the level of threat, risk and harm to citizens, public safety and/or security, as well as the impact on public confidence.
- Consideration will be given to inspecting areas of policing which have undergone significant change to ensure the identified benefits are realised.
- In determining the areas for inspection, the Inspectorate will engage with the key stakeholders, including the Department of Justice and Equality, the Garda Síochána, the

Policing Authority and GSOC. This will inform the selection and prioritisation process and avoid duplication of work.

- The Inspectorate will consider the types of inspections that it could carry out in the future. Its work to date has mainly been large scale thematic inspections; future work could also include post implementation reviews, compliance audits and cyclical inspections.
- The Inspectorate will explore opportunities to conduct joint inspections with other oversight bodies.
- The plan should be sufficiently flexible to allow emerging issues to receive attention.
- Opportunities to further improve the efficiency and effectiveness of the inspectorate will be examined.

7. Summary of Submission

7.1 The Future of Policing

The Inspectorate strongly believes that its reports provide the road map for change and that full implementation of all its recommendations will transform the Garda Síochána into a more effective police service, which makes more efficient use of its available resources.

The Inspectorate encourages the Commission to formally endorse the reports and recommendations of the Garda Síochána Inspectorate. The Inspectorate suggests that the Commission could add value by setting out a vision and high-level pathway for the future of policing which will support the Garda Commissioner, the Executive team and the organisation as a whole to focus on implementing the changes needed for a more agile service. In addition, the Commission could ensure that any barriers to effective implementation are identified and removed.

7.2 The Future of Oversight

The Inspectorate is firmly of the view that any future oversight structure in Ireland must continue to provide inspection of all aspects of police efficiency and effectiveness, as well as mechanisms for dealing with public complaints and overseeing performance. The Inspectorate considers that the Inspectorate, GSOC and the Policing Authority, in conjunction with the governance role of the Department of Justice and Equality, fulfil these roles and provide the appropriate architecture to meet the needs of this jurisdiction. Within this arena, the Inspectorate believes that it should continue as a separate body, independent in its operation. This will enable the Inspectorate to maintain the trust and confidence that is critical to the effective performance of its role. It will also enable it to undertake an expanded role in the future, for example, as a National Preventive Mechanism under OPCAT.

The work of the Commission provides the opportunity to enhance the oversight arrangements by setting out a clear vision for police oversight. The Inspectorate believes that the Commission could add value by creating an overarching strategy, which would include defining the specific roles and responsibilities of each body. In doing so, the Commission is encouraged to consider the current gaps and overlaps, in order to eliminate any ambiguity and duplication of responsibilities and functions.

The Commission could help to develop a more integrated oversight arrangement by endorsing an oversight forum as described in Recommendation 3.2 of Changing Policing in Ireland.

The work of the oversight bodies would be assisted by the provision of timely information by the Garda Síochána. Full implementation of the Inspectorate's recommendations relating to governance, technology and data management would enable the Garda Síochána to have ready access to important information and be in a position to share it in a timely fashion.

The Inspectorate believes that the Commission could strengthen the oversight arrangements by setting out a clear process to be implemented following the publication of an Inspectorate report and defining the roles of the oversight bodies within such a process. This should include all aspects of the decision making around acceptance, modification or rejection of recommendations, monitoring of the implementation of recommendations, assessment of whether actions taken to implement a recommendation are complete and the impact of the implemented recommendations on service delivery. Specifically, the Inspectorate recommends that in cases where the Commissioner of the Garda Síochána has not accepted or has modified a recommendation, there should be a requirement on the Commissioner to provide a rationale for the rejection or modification. The Inspectorate believes that the Commission could add value by involving the Inspectorate in the evaluation of the implementation of its recommendations.

To enable the Inspectorate to focus on its core inspection role, academic or research work that does not require specific policing knowledge or expertise could be more appropriately undertaken by the Department of Justice and Equality or by the Policing Authority. The Inspectorate requests that the Commission support this position.

Irrespective of the policing structures that are recommended by the Commission and subsequently established, the Inspectorate believes that it should retain its current inspection functions over all aspects of policing and that these functions should not be diluted in any way. The Inspectorate asks the Commission to support this position.

The Inspectorate has considered what additional powers, if any, it requires to carry out its functions effectively and efficiently and requests that the Commission supports the enhancement of its powers to include making unannounced visits to Garda premises.

The Inspectorate requests that the Commission endorses the proposal that future Inspectorate work examines and provides an assessment of the extent to which policing activity is human rights compliant.

8. Conclusion

The Inspectorate welcomes the opportunity to contribute to the work of the Commission and trusts that this submission is of assistance as it considers the future of policing in Ireland. The Inspectorate is available to discuss any aspect of its submission or its work in general.