



CIGIREACHT AN GHARDA SÍOCHÁNA
GARDA SÍOCHÁNA INSPECTORATE

**Report of the Garda
Síochána Inspectorate**

Delivering Custody Services

A Rights-Based Review of the Treatment,
Safety and Wellbeing of Persons in Custody
in Garda Síochána Stations

Progress on Implementation of Recommendations

A Review of the Implementation Status of Recommendations from the Sixteenth
Report of the Garda Síochána Inspectorate on Delivering Custody Service

Review of report September 2024

July 2021

*Implementation Update of the Recommendations Contained in the Sixteenth Report of the Garda Síochána Inspectorate
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Recommendation Number	Recommendation	Accepted (A); Accepted with Modification (AM); Rejected (R).	Inspectorate Assessment of the Progress of the Recommendation
1	<p>The Inspectorate recommends that the Garda Síochána consolidate its internal policies, procedures and practices relating to custody into a single document.</p> <p>A version of the single document, from which operationally sensitive material is excluded, should be:</p> <ul style="list-style-type: none"> • Published on its external website; and • Available in every custody facility for consultation upon request and its availability made known to persons in custody 	A	Not implemented - action ongoing.
2	The Inspectorate recommends that the Garda Síochána's strategic owner for custody develop and oversee the implementation of an organisational strategy for custody that is based on human rights and promotes a culture of dignity and respect	A	Not implemented - action ongoing.
3	<p>The Inspectorate recommends that the Garda Síochána develop a custody estate plan that supports the overarching vision and strategy for custody. The plan should:</p> <ul style="list-style-type: none"> • Include a defined specification and standard for all custody facilities that as a minimum is the specification for new custody suites; 	A	Not implemented - action ongoing.

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	<ul style="list-style-type: none"> • Comprise fewer custody facilities, all of which should meet the defined specification and standard; • Where feasible, include larger capacity standalone facilities; • Inform future Capital Works Plans and the Cell Refurbishment Programme; and • Be developed by the strategic owner for custody. 		
4	<p>The Inspectorate recommends that the Department of Justice establish a multi-agency working group on custody, comprising key partners in the wider criminal justice system.</p> <p>The remit of the group should include:</p> <ul style="list-style-type: none"> • Examining and driving improvements in operational custody-related issues; and • Overseeing the implementation of all recommendations in this and other custody-related reports. 	A	Not implemented - action ongoing.
5	<p>The Inspectorate recommends that the Department of Justice establish a cross-sectoral group on custody in garda stations with the Department of Health and other relevant government departments, agencies and organisations.</p> <p>The remit of this group should include:</p> <ul style="list-style-type: none"> • Development of a range of diversion and intervention services for persons in custody; • Enactment of legislation and development of arrangements whereby people to whom Section 12 	A	Not implemented - action ongoing.

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	<p>of the Mental Health Act, 2001 applies can be brought directly to a suitable medical facility rather than only to a garda station; and</p> <ul style="list-style-type: none"> • Enactment of legislation and development of arrangements whereby children believed to be suffering from a mental disorder can be brought to a place where an age-appropriate assessment can be performed. 		
6	<p>The Inspectorate recommends that the Garda Síochána implement a formal governance, accountability and performance management framework for custody at organisational, regional and local levels.</p> <p>The framework should:</p> <ul style="list-style-type: none"> • Be overseen by the strategic owner for custody; • Monitor compliance with the Custody Regulations, Section 42 of the Irish Human Rights and Equality Commission Act, 2014 and internal policy; • Examine local, regional and organisational performance against key objectives and performance indicators; • Be informed by regular management information reports on custody; • Examine outputs from Inspection and Review reports and any subsequent analysis of them; • Establish and oversee a process to quality assure custody records and provide feedback where appropriate; and Ensure that all custody-related 	AM	Not implemented - action ongoing.

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	recommendations, including from internal and external sources, are actioned expeditiously.		
7	The Inspectorate recommends that the Department of Justice establish an independent custody visiting scheme to monitor and report on the welfare and treatment of persons in custody and the conditions in which they are held.	A	Not implemented - action ongoing.
8	<p>The Inspectorate recommends that the Department of Justice consider enacting legislation that requires the member in charge to consider the necessity to detain every person who is arrested at a garda station or brought there following arrest elsewhere, with the exception of those arrested under the Offences against the State Act, 1939.</p> <p>The legislation should include:</p> <ul style="list-style-type: none"> • Provision that detention should be authorised only if there are reasonable grounds for believing that it is necessary for the proper investigation of the offence for which the person has been arrested, or to charge them and bring them to court; • A requirement to tell the arrested person the reason for their detention; and • A requirement to make a record of the decision, the notification to the arrested person and any response made. 	A	Not implemented - action ongoing.
9	The Inspectorate recommends that the Garda Síochána improve its arrangements for the provision of medical services to persons in custody.	A	Not implemented - action ongoing.

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	<p>To achieve this it should:</p> <ul style="list-style-type: none"> • Improve the standard of recording of medical information in custody records; • Proactively monitor the time between when a doctor is called and when a medical examination is carried out and address any shortcomings with the service provider; and • As part of its custody strategy, consider embedding healthcare professionals in custody facilities. 		
10	<p>The Inspectorate recommends that the Department of Justice consider incorporating in statute all aspects of a person in custody's right to legal advice.</p> <p>This should include:</p> <ul style="list-style-type: none"> • The circumstances in which a person's access to their chosen solicitor can be delayed; • The circumstances in which an interview may be conducted before legal advice has been obtained; and • The requirement for such decisions and the rationale for them to be recorded. 	A	Not implemented - action ongoing.
11	<p>The Inspectorate recommends that the Garda Síochána better safeguard the right to consult a solicitor in private.</p> <p>To achieve this the following actions are required:</p> <ul style="list-style-type: none"> • Direct members in charge to record the decision of the person in custody regarding legal advice, ask the person to provide written confirmation of their decision and record any refusal to do so; 	A	Not implemented - action ongoing.

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	<ul style="list-style-type: none"> • Ensure that the design specification for all custody facilities includes soundproofed consultation rooms; • Base the decision to observe a legal consultation on an individual risk assessment and record the decision and the rationale in the custody record; • Ensure that the Garda Station Revised Legal Advice Scheme is brought to the attention of arrested persons, where applicable; and • Use the lists of solicitors available on the Law Society website when persons in custody request a solicitor but are unable to name one. 		
12	The Inspectorate recommends that the Garda Síochána direct members in charge to record the decision of the person in custody regarding a third-party notification, ask the person to provide written confirmation of their decision and record any refusal to do so.	A	Not implemented - action ongoing.
13	<p>The Inspectorate recommends that the Department of Justice consider incorporating in statute all aspects of a person in custody's right to a third-party notification.</p> <p>This should include:</p> <ul style="list-style-type: none"> • The circumstances in which a notification may be delayed; • The applicable time limits; and • The requirement for such decision to be authorised by a member of the rank of inspector or above who is independent of the investigation. 	A	Not implemented - action ongoing.

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14	The Inspectorate recommends that the Department of Justice establish a broader and more contemporary statutory definition of vulnerability	A	Not implemented - action ongoing.
15	The Inspectorate recommends that the Garda Síochána continue to work in partnership with relevant experts to further develop guidance documents and provide training to help members to identify persons in custody who are vulnerable and to safeguard their rights.	A	Not implemented - action ongoing.
16	The Inspectorate recommends that the Department of Justice consider updating the legislation relating to the arrangements for providing support to children and vulnerable adults in custody. The updated legislation should: <ul style="list-style-type: none"> • Standardise the definition of the adult whose role is to assist or support children or vulnerable adults in custody; • Define the adult's role and describe who can perform it; and • Set out the circumstances in which this adult is required. 	A	Not implemented - action ongoing.
17	The Inspectorate recommends that the Department of Justice introduce a formal scheme consisting of suitably trained and vetted individuals who are available to support children and vulnerable adults in garda custody.	A	Not implemented - action ongoing.
18	The Inspectorate recommends that the Garda Síochána take action to improve the identification, assessment and management of risk in respect of every person in custody.	A	Not implemented - action ongoing.

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	<p>This should include:</p> <ul style="list-style-type: none">• Assigning overall responsibility for the risk management of each person in custody to the member in charge and ensuring they are suitably trained to do so;• Ensuring that all available sources of information, including PULSE, are checked as part of the initial risk assessment;• Developing a risk management plan for each person in custody;• Conducting periodic reviews of the risk assessment and management plan during the time in custody;• Conducting a risk assessment prior to release and putting in place any appropriate safeguards;• Ensuring that a copy of the risk assessment and management plan accompanies every person being transferred from a garda station into the custody of other• garda members or another agency;• Ensuring that all aspects of the identification, assessment and management of risk are recorded in the custody record; and• Ensuring that all identified risks and vulnerabilities associated with a person are flagged on PULSE.		
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<p>19</p>	<p>The Inspectorate recommends that the Garda Síochána improve the monitoring of the health, safety and wellbeing of persons in custody.</p> <p>To achieve this, the following actions should be taken:</p> <ul style="list-style-type: none"> • Ensure better recording and supervision of in-cell observations; • Include the installation of in-cell technology in the specification for custody suites in the custody estate plan; • Routinely review CCTV footage to check that persons in custody are treated with dignity and respect and in accordance with regulations and policy; and • Ensure that CCTV signage is prominently displayed in all areas where CCTV systems are installed. 		<p>Not implemented - action ongoing.</p>
<p>20</p>	<p>The Inspectorate recommends that the Department of Justice consider introducing legislation that provides every person who is in custody for a lengthy time with a reasonable period of rest that is free from questioning or other interruptions and that does not depend on the consent of the person.</p> <p>The legislation should include:</p> <ul style="list-style-type: none"> • A description of what is a reasonable period of rest; • That the period of rest should be excluded in reckoning the period of time in custody that is permitted in law; and • The circumstances in which the period of rest may be interrupted 	<p>A</p>	<p>Not implemented - action ongoing.</p>

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<p>21</p>	<p>The Inspectorate recommends that the Garda Síochána improve the standard of care and treatment provided to persons in custody in garda stations by taking the following actions:</p> <ul style="list-style-type: none"> • Replacement clothing, including anti-rip clothing, should be stocked in each custody facility and provided in all circumstances where it is required; • The removal of items of clothing for safety reasons should only be in response to an identified risk; • Washing kits and towels should be available in all custody areas and offered to persons in custody, along with access to washing and shower facilities; • Females should be asked, in private, about their need for sanitary products and offered items free of charge; • All persons in custody should have the opportunity to speak in private with a person of the same sex about health, hygiene or welfare matters; • Members should identify and record a person’s religious or cultural needs, including dietary requirements, and endeavour to facilitate reasonable requests; and • Each custody facility should stock a variety of suitable reading materials that can be offered to persons in custody. 	<p>A</p>	<p>Not implemented - action ongoing.</p>
<p>22</p>	<p>The Inspectorate recommends that the Department of Justice consider incorporating all the aspects of care and treatment listed in Recommendation 21 into the proposed statutory code of practice.</p>	<p>A</p>	<p>Not implemented - action ongoing.</p>

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<p>23</p>	<p>The Inspectorate recommends that the Garda Síochána immediately close cells that do not fully meet the standard of the safety specifications of the Cell Refurbishment Programme.</p>	<p>A</p>	<p>Not implemented - action ongoing.</p>
<p>24</p>	<p>The Inspectorate recommends that the Garda Síochána take the following urgent actions to improve the safety and security of custody areas:</p> <ul style="list-style-type: none"> • Ensure that cell inspections are completed daily and that any defect or damage is repaired without delay; • Ensure that there is an evacuation plan for each custody facility, that it is tested biannually and that a record is kept of all tests; and • Develop and implement a policy on the carriage of firearms in custody areas. 	<p>A</p>	<p>Not implemented - action ongoing.</p>
<p>25</p>	<p>The Inspectorate recommends that the Garda Síochána appoint sergeants as members in charge in all custody facilities and assign the roles of member in charge and gaoler on a permanent basis.</p> <p>To support this model the following actions need to be taken:</p> <ul style="list-style-type: none"> • The role and responsibilities of gaoler should be defined; • Only those trained and operationally competent should be authorised to undertake custody duties; and • Consideration should be given to recruiting detention officers to assist members in charge in locations where demand justifies it. 	<p>A</p>	<p>Not implemented - action ongoing.</p>

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26	The Inspectorate recommends that the Garda Síochána's strategic owner for custody ensure that lessons learned and good practice are captured, reviewed and disseminated	A	Not implemented - action ongoing.
27	<p>The Inspectorate recommends that the Garda Síochána develop a mandatory training and development programme for all those who undertake member in charge and gaoler roles.</p> <p>The training and development programme should:</p> <ul style="list-style-type: none"> • Incorporate all aspects of custody including law and policy, human rights, risk management, vulnerability, diversity and mental health awareness, first aid, use of force in custody and de-escalation techniques; • Be informed by lessons learned and good practice; • Involve key stakeholders in its design and delivery; and • Be accompanied by regular refresher training and information-sharing events. 	A	Not implemented - action ongoing.
28	The Inspectorate recommends that pending the implementation of Recommendation 25, the Garda Síochána improve the supervision of garda members who perform the role of member in charge by ensuring sergeants comply with their responsibilities under the Garda Code.	A	Not implemented - action ongoing.

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29	The Inspectorate recommends that the Garda Síochána require that when an authorisation is given by a member of a specified rank, the custody record contains either an entry signed by the person granting it or a copy of that person's written authorisation.	A	Not implemented - action ongoing.
30	The Inspectorate recommends that the Department of Justice consider amending legislation to ensure that where an authorisation is given by a member of the Garda Síochána of a specified rank, the custody record contains either an entry signed by the person granting it or a copy of that person's written authorisation.	A	Not implemented - action ongoing.
31	The Inspectorate recommends that the Garda Síochána assign to divisional inspectors, operating the shift pattern envisaged by the Garda Operating Model, a stated role in the delivery of efficient and effective custody services during their shift.	A	Not implemented - action ongoing.
32	The Inspectorate recommends that the Department of Justice consider amending the legislation that applies to garda authorised extensions of detention, in order to better safeguard the rights of persons in custody. The following matters should be included: <ul style="list-style-type: none"> • The periods of time for which detention can be extended by members of the Garda Síochána should be standardised; 	A	Not implemented - action ongoing.

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	<ul style="list-style-type: none">• Extensions of detention within the first 24 hours in custody should be a matter for members of the rank of inspector or above;• Where extensions of detention beyond 24 hours are permitted in law, these should be a matter for members of superintendent rank or above;• Each period of garda authorised extension should be for a maximum of six hours;• The ability to authorise more than one period of extension within a six-hour period;• The member considering an application for an extension must be independent of the investigation;• The arrested person and/or their legal representative should be given the opportunity to make representations to the decision-maker about the decision to extend the period of detention. Where the arrested person is a child or is vulnerable, an appropriate adult should have this opportunity;• A formal record should be made of the invitation to make representations, as well as the details of any representations provided;• The test to be satisfied before authorising an extension should consist of two parts. These are to assess whether the investigation so far has been conducted without undue delay and whether there are reasonable grounds to believe that further detention is necessary for the proper investigation of the offence; and		
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	<ul style="list-style-type: none"> The concerns and proposals regarding extensions of detention should be brought to the attention of the Independent Review Group recently established to examine all aspects of the Offences against the State Acts 1939 to 1998. 		
33	The Inspectorate recommends that the Garda Síochána immediately cease the practice of having a person remove all items of outer clothing simultaneously during a search and introduce a new policy that is aligned with the position of the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.	A	Not implemented - action ongoing.
34	<p>The Inspectorate recommends that the Garda Síochána review and update its policies, procedures and practices and develop a single source of information for searching persons in custody.</p> <p>The information should:</p> <ul style="list-style-type: none"> Emphasise the need for the human rights considerations of legality, necessity, proportionality and non-discrimination to be central to the decision to search; Include instructions for the searching of children, vulnerable adults and those identifying as transgender; Specify the details that must be recorded when a search is conducted including the name of the person conducting it, type of search, power under which it is 	A	Not implemented - action ongoing.

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	<ul style="list-style-type: none"> conducted, grounds for the search, authorisation if required, and outcome of the search; and Be incorporated in the single document referred to in Recommendation 1. 		
35	<p>The Inspectorate recommends that the Department of Justice consider enacting new legislation relating to the searching of persons in custody.</p> <p>The following matters should be addressed:</p> <ul style="list-style-type: none"> Separate powers to search upon arrest and on arrival at the station should be defined; A search that involves removal of underclothing should be defined in law and subject to a specific power which requires the authorisation of a member of the rank of inspector or above; A search that involves searching of body orifices (apart from the mouth) should be defined in law, subject to a specific power which requires the person's consent, authorised by a member of superintendent rank or above, carried out by a medical professional and, if the search is for drugs, it should be conducted at a medical facility; Additional legal safeguards to protect the rights of a child or vulnerable adult who is subject to a search that involves the removal of underclothing or examination of a body orifice should be defined; 	A	Not implemented - action ongoing.

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	<ul style="list-style-type: none"> Information about how to establish the gender of a person for the purpose of searching should be provided; and There should be a legal requirement to record in the custody record the type of search conducted, the power under which it is conducted, the grounds for it, the authorisation if required and the outcome of the search. 		
36	<p>The Inspectorate recommends that the Garda Síochána improve the processes for recording, managing and returning property in the possession of persons in custody.</p> <p>To achieve this, the following actions are required:</p> <ul style="list-style-type: none"> At the start of the custody process, all items in the possession of the person in custody should be listed on the custody record; For each item listed there should be an indication as to whether it is retained by the person while they are in custody or by the member in charge and the person should be asked to sign the custody record to confirm that the information is correct; Upon release or transfer, the custody record should be completed to show which items are returned to the person and which are retained by the Garda Síochána, and this should be signed by the person in custody; Any refusal to sign should be recorded; 	A	Not implemented - action ongoing.

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	<ul style="list-style-type: none"> • Adequate secure lockers should be available in every custody facility to ensure that all items are safely and respectfully stored; • Storage lockers must remain locked at all times with keys only available to the member in charge and gaoler, if appointed; • The design of the custody record should be amended to allow for the detailed recording of property at the start of the custody process and at release or transfer. It should include space for the person in custody to confirm that the list is correct or for a refusal to sign to be recorded; and • The Garda Síochána should consider adopting the New Zealand policy of photographing property belonging to persons in custody and uploading the images onto its property management system. 		
<p>37</p>	<p>The Inspectorate recommends that the Garda Síochána improve the monitoring of use of force in custody to ensure that it is fully compliant with legal, human rights and policy obligations.</p> <p>To achieve this, the following actions are required:</p> <ul style="list-style-type: none"> • Ensure that all use of force incidents in custody, including prior to arrival at a garda station, are reported and recorded; • Ensure that force used in custody is lawful, necessary, proportionate and non-discriminatory; • Thoroughly review all incidents of use of force in custody involving children; and 	<p>A</p>	<p>Not implemented - action ongoing.</p>

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	<ul style="list-style-type: none"> Collect and publish comprehensive data on the use of force associated with custody. 		
38	<p>The Inspectorate recommends that the Garda Síochána ensure that all persons in custody are informed that they have the right to make a complaint at any time and have written information about how to do so.</p> <p>To achieve this the Garda Síochána should:</p> <ul style="list-style-type: none"> Include information about making a complaint in the Notice of Rights form; Raise awareness of the complaints process by providing leaflets and displaying posters in the custody area; and Ensure that the process for dealing with complaints made by persons in custody is clearly defined and included in the single document referred to in Recommendation 1 of this report. 	A	Not implemented - action ongoing.
39	<p>The Inspectorate recommends that the Garda Síochána monitor complaints made by persons in custody and use the information to improve custody policy, procedures and practices.</p>	A	Not implemented - action ongoing.

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<p>40</p>	<p>The Inspectorate recommends that the Garda Síochána develop and implement a structured process for the release or transfer of persons in custody.</p> <p>The process should include:</p> <ul style="list-style-type: none"> • Reviewing and updating the risk assessment prior to release and where there is a risk of self-harm, ensuring that appropriate support is in place; • Where a person is transferred into the custody of others, sharing with them a reviewed risk assessment and management plan; • Updating PULSE with any identified risks or vulnerability factors; • Ensuring the person understands what will happen to them next; • Returning items of property taken from the person that are not retained for investigative purposes; and • Informing the person that they have the right to make a complaint and ensuring they have written information about how to do so. 	<p>A</p>	<p>Not implemented - action ongoing.</p>
<p>41</p>	<p>The Inspectorate recommends that the Garda Síochána review and redesign the paper custody record to include the proposed changes outlined in this report and listed at Figure 7.4.</p>	<p>A</p>	<p>Not implemented - action ongoing.</p>