



An examination under section 106 of the
Garda Síochána Act 2005, as amended,
into the practice, policy and procedure
employed by the Garda Síochána
*in relation to dealing with persons who are committed to
custody on remand by a court.*

Garda Síochána Ombudsman Commission
27 April 2015



1. Introduction

- 1.1. This examination originates in events at Castlebar District Court on 16th February 2011. On that date, Mr. Celyn Eadon was released from custody and left Castlebar District Court with his mother, Ms Noreen Kelly-Eadon. At the conclusion of the court, a committal warrant remanding Mr. Eadon in custody was issued by the court and was handed to the Garda Síochána. This warrant was not executed. Some three weeks later, Mr. Eadon was charged with the unlawful killing of his mother and in February 2014, Mr. Eadon was convicted of murder.
- 1.2. On 29th April 2014, the then Minister for Justice, Equality and Defence, Mr. Alan Shatter, T.D. (the Minister) requested that the Garda Síochána Ombudsman Commission (Ombudsman Commission) undertake an examination under section 106 of the Garda Síochána Act 2005, as amended into the practice, policy and procedure employed by the Garda Síochána in relation to dealing with persons who are committed to custody on remand by a court.
- 1.3. On 2nd May 2014, Mr. Simon O'Brien, the then Chairman of the Ombudsman Commission, wrote to the Minister and stated that a section 106 examination into the matters described would be undertaken.
- 1.4. On 26th May 2014, the Ombudsman Commission agreed the following terms of reference:

“The purpose of the examination is to:-

Prevent future complaints arising in connection with (such) Garda conduct in relation to dealing with persons who are committed to custody on remand by a court;

Scope: -

The precise scope will be determined by the examination plan. The examination will, however, encompass the policies, procedures, practices and processes of, and the operational implementation of these by, An Garda Síochána

The examination may seek the assistance of relevant and concerned bodies that may: -

*Have concurrent and / or parallel responsibilities and / or obligations, and
Have responsibilities and / or obligation arising from actions directed to, or carried out by, An Garda Síochána*

where these affect the policy, practice and procedure employed by An Garda Síochána in relation to dealing with persons who are committed to custody on remand by a court.

These bodies may be, inter alia: -

The Courts Service

The Prison Service

The Office of the Director of Public Prosecutions

The Ombudsman Commission will provide the minister and the Garda Commissioner with the recommendations and report arising.”

- 1.5. This examination has no authority or jurisdiction over any of the other criminal justice agencies who are involved when a person is committed to custody on remand by a court. However as it is not possible to consider the role and responsibilities of the Garda Síochána in isolation, this report includes references to the other criminal justice agencies as appropriate.

2. Methodology

2.1. In conducting the examination the assistance of the following criminal justice agencies was sought and received:

- The Garda Síochána
- The Courts Service
- The Irish Prison Service
- The Inspector of Prisons
- The Office of the Director of Public Prosecutions

2.2. As a result of requests made to the above, extensive documentation was received and reviewed and members of the various agencies made themselves available to answer questions and provide clarity.

2.3. The roles and responsibilities of members of the Garda Síochána with regard to prisoners and escort duties are primarily found at Chapter 26 of the Garda Code. In addition there are also a number of HQ directives issued and instructions issued in respect of some courthouses and escort units.

2.4. The policy of the Irish Prison Service with regard to the arrangements for the escorting of prisoners is contained in the Prison Service Escort Corps Regulations Manual.

2.5. The procedures utilised by the Courts Service in relation to warrants are set out in a Protocol for Preparation, Checking and Issuing of Warrants. This was introduced into the Dublin District Courts on 4th October 2010. On 31st March 2011 a similar protocol was issued in respect of the Provincial District Courts.

2.6. As an examination under section 106 of the Garda Síochána Act 2005 this enquiry is not an investigation into alleged wrongdoing nor does it seek to apportion blame.

2.7. Insofar as this report refers to a sequence of events, reliance has been placed on:

- the disciplinary investigation conducted by Chief Superintendent D.J. Sheahan, Henry Street Garda station and the subsequent disciplinary process, and
- the report by the Inspector of Prisons, Judge Michael Reilly, of his Investigation into the Handling of Issues relating to Warrants in a Criminal Matter in the case of Celyn Eadon.

2.8. While the private and confidential nature of the disciplinary process is acknowledged, the contents of the discipline file were of assistance in considering possible weaknesses in the policies, procedures, practices and processes of the Garda Síochána in relation to dealing with persons who are committed to custody on remand by a court.

2.9. Regard was also given to the Garda Inspectorate's "Crime Investigation Report" released in November 2014, specifically Part 10, Offender Management and Part 11, Detecting and Prosecuting Crime.

3. Background

3.1. On 2nd February 2011, Mr. Eadon was arrested on foot of two bench warrants and brought before Castlebar District Court. An application was made that Mr. Eadon should be remanded in custody. No application for bail was made and the presiding judge, Judge Mary Devins, remanded Mr. Eadon in custody at Castlerea Prison to appear at Harristown District Court on 4th February 2011.

3.2. Section 5 of the Criminal Justice (Miscellaneous Provisions) Act 1997 allows for the transfer for cases between different District Courts so that a person in custody can be remanded to appear in the District Court District in which the prison where they are being held in custody is situated. To this end, Harristown District Court acts as a remand court for prisoners detained in Castlerea Prison.

- 3.3. The court files for Harristown District Court were prepared by Castlerea Garda station. As part of this process, a form called a “Harristown District Court Remand Profile Form” (HDC1) was used for the purposes of obtaining information and instruction from Gardaí in relation to remand hearings.
- 3.4. On 3rd February 2011, following a request from Castlerea Garda Station, a HDC1 form was filled in and faxed from Castlebar Garda Station by a member who had no direct involvement or knowledge of the matters against Mr. Eadon.
- 3.5. The information provided was that two bench warrants had been issued previously in respect of Mr. Eadon. It was also noted that there was consent to remand in custody and any subsequent sitting of Harristown District Court until Castlebar District Court on 16th February 2011.
- 3.6. On receipt of the form and following further enquiries with Castlebar Garda Station, a comment was written on the form that there was no objection to bail.
- 3.7. The following day, 4th February 2011, Mr. Eadon appeared before Judge Geoffrey Browne at Harristown District Court in relation to 17 separate summonses. Following an application for bail, Judge Browne consented to bail on the following terms:
- Own bond of €300 with $\frac{1}{3}$ cash lodgement
 - Independent surety of €600 with $\frac{1}{2}$ cash lodgement. Surety to be approved by the court
- and a number of other conditions.
- 3.8. At this point a discrepancy is noted that although the HDC1 form indicated that there was no objection to bail, a subsequent letter sent from Castlerea

Garda Station to Castlebar Garda Station advised that there had been an objection made to bail.

3.9. Regardless of the above, Mr. Eadon did not enter into the bail conditions and he was remanded in custody to appear at Castlebar District Court on 16th February 2011.

3.10. On 16th February 2011, Mr. Eadon was escorted from Castlerea Prison by members of the Garda Síochána attached to Castlerea Garda station. In accordance with practice, the members of the Garda Síochána were not provided with any paperwork in respect of Mr. Eadon.

3.11. There were 23 summonses listed against Mr. Eadon on 16th February 2011. These related primarily to road traffic offences and also to the handling of stolen property. In addition to the 17 summonses that had been the subject of proceedings on 4th February 2011 at Harristown District Court, there were a further six summonses. These had been adjourned from the sitting on 2nd February 2011 of Castlebar District Court.

3.12. Prior to the commencement of the court, Mr. Eadon was charged with a new charge of theft.

3.13. The preferred option of the presiding judge, Judge Devins, was that all matters be adjourned to be dealt with at Achill District Court on 10th March 2011. However the length of time which Mr. Eadon could be remanded in custody on the new charge was limited by Section 4 of the Criminal Justice (Miscellaneous Provisions) Act 1997 which states, "*The Court shall not remand a person, on the occasions of that person's first appearance before the Court charged with a particular offence, for a period exceeding eight days, except where this section otherwise provides.*"

3.14. In ease of this difficulty, Mr. Eadon's solicitor suggested that his client could be released on bail in relation to the new charge. All matters could then be adjourned until Achill District Court on 10th March 2011.

3.15. Records provided by the Court Service indicate that Judge Devins then made three orders as follows:

- In relation to the 17 summonses in respect of which Judge Browne had consented to bail at Harristown District Court, Mr. Eadon was remanded *in custody* to Achill District Court on 10th March 2011
- The remaining 6 summonses were adjourned to Achill Court on 10th March 2011, and,
- In relation to the new charge, Mr. Eadon was released on his own bail of €50 to appear at Achill District Court on 10th March 2011.

Mr. Eadon then signed the bail bond in respect of the new charge.

3.16. A number of members of the Garda Síochána who were present in the courtroom were of the view that Mr. Eadon had been released on bail on all matters. Mr. Eadon was then accompanied outside the courthouse by one of the members who had escorted him from Castlerea Prison. Mr. Eadon collected his property from a waiting taxi and then left with his mother.

3.17. During the sitting of Castlebar District Court on 16th February 2011, five persons, including Mr. Eadon, were remanded in custody.

3.18. Following the conclusion of the court, a member of the Garda Síochána attended the courthouse for the purposes of collecting committal warrants for those persons detained in Castlebar Garda Station pending the issuing of committal warrants.

3.19. Although the warrants were not yet ready, the member realised that while there would be a warrant for Mr. Eadon, Mr. Eadon was not one of those persons who was in custody at Castlebar Garda Station. There was some discussion between the Court Clerk and the Garda member on this point.

- 3.20. The warrants were later collected by another member of the Garda Síochána who brought them back to the station for endorsement. It was not noticed that one of the warrants was in respect of Mr. Eadon.
- 3.21. The names of the Garda members who had been tasked to perform escort duties and who were to execute the warrants was then written on the back of the endorsed warrants. The warrants were then given to the members as appropriate.
- 3.22. It is acknowledged that there is a dispute as to whether the committal warrant in respect of Mr. Eadon was completed so as to include the names of the members.
- 3.23. Of the three members tasked to bring prisoners to Castlerea Prison, two members had been in Castlebar District Court earlier that day. These members were of the belief that Mr. Eadon had been granted bail and were surprised that there was a committal warrant for him.
- 3.24. The view was put forward that Mr. Eadon may already have been returned to Castlerea Prison, albeit without the warrant. It was agreed that the warrant would be brought to the prison. However on arrival at the prison, Gardaí were informed that Mr. Eadon was not there.
- 3.25. Having made enquiries, the member in charge of the escort party formed the opinion that there was a doubt about the validity of the warrant. The member, who was not attached to Castlebar Garda station, then took the decision to return the warrant to Castlebar Garda Station for the attention of the member who had allocated the warrants to the escort parties.
- 3.26. It is not known what exactly happened to the warrant thereafter. For the purposes of this examination, it is sufficient to state that the original has not been located, a copy was not retained, the warrant was not executed and the status of the warrant was not tracked by the Garda Síochána.

3.27. The failure to execute the warrant was discovered by the Courts Service after the sitting of Achill District Court on 10th March 2011. On this occasion, the summonses and charge sheet in respect of Mr. Eadon had been further adjourned as Mr. Eadon was at time in Garda custody in relation to the death of his mother.

4. Considerations

4.1. When serious crimes are committed by a person who is at liberty due to an unexecuted committal or bench warrant or who has been released on bail, there is a significant negative impact upon the public's confidence in the criminal justice system.

4.2. Situations whereby an accused is remanded in custody and on bail on separate offences at the same Court sitting are high risk in nature and require special care and attention from all persons involved.

4.3. It is of concern that the committal warrant issued by the Court could not be located and it is acknowledged that this was one of the matters which was the subject of the discipline investigation.

4.4. As committal warrants would ordinarily be served on the day on which they issue, it is understandable that the warrant in this case was not tracked. However the events which have given rise to this examination demonstrate the need to put in place practice, policy and procedure to minimise and counteract, where possible, the likelihood of such events happening again.

4.5. The issues identified by this examination arise out of deficiencies in communication, procedure and supervision. However, as an examination into practice, policy and procedure employed by the Garda Síochána in relation to dealing with persons who are committed to custody on remand by a court, the Garda Síochána Ombudsman Commission recognises and acknowledges that the role and responsibilities of the Garda Síochána in the matters of

prisoner escorts, remand hearings and committal warrants cannot be viewed in isolation.

5. Recommendations

Whilst the recommendations hereunder are specific to the focus of this examination, it is the view of the Garda Síochána Ombudsman Commission that the recommendations can only be effectively progressed by a multi-agency group, preferably one tasked with examining, updating and codifying the criminal justice system as a whole.

In addressing the events and circumstances pertaining to this examination, the stated aim of any review should be a system whereby there is:

- communication and exchange of information between all relevant agencies,
- knowledge and clear understanding,
- consistency of approach, and
- safeguards to ensure that errors and failings will be identified and addressed at an early stage.

Recommendation 1

That the Garda Síochána and the Irish Prison Service formalise arrangements relating to the escort of remand prisoners by members of the Garda Síochána.

This is an area where there should be clarity as to roles and responsibilities, where procedures should be effective and consistent and where there should be accountability. A nationally agreed Protocol and / or Standard Operating Procedure which eliminated the elements of informality and provided regulation and guidance, could only benefit both organisations.

Recommendation 2

That the Garda Síochána should:

- a) Review its policies and procedures to ensure that members who perform escort duties do so in a consistent and secure manner. Specific instruction and training should be given in relation to legislation and court procedures.
- b) Review the training and instruction provided to its members who undertake prosecutorial duties and examine the possibility of providing these members with trained (clerical) support. Specific instruction and training should be given in relation to legislation and court procedures.
- c) Consider how best to ensure that the members and support staff are fully aware of the remand / bail status of any accused in advance of any court hearing, the importance of this knowledge and the associated responsibility.

Although instances such as those which gave rise to this examination occur rarely, when such events do occur, they are potentially dangerous and injurious to public confidence. By providing adequate and relevant training and also ensuring knowledge, the risk of a situation such as this arising again will be minimised.

Recommendation 3

The Garda Síochána Ombudsman Commission endorses the recommendation of the Garda Inspectorate of the establishment of Criminal Justice Units (CJU) as post charge units responsible for the management of files and the movement of files to and from prosecutors.

A CJU in this regard would result in shared accurate knowledge of court files and also contribute towards consistency both in the preparation of files for court, (including knowledge of key facts such as bail status) and the approach to be taken in relation to bail applications / remand hearings.

Recommendation 4

That the Garda Síochána reviews its own practices and liaises with the Court Service to review the procedures surrounding warrants and in particular with reference to this examination, committal remand warrants. The Garda Síochána should seek to develop a mechanism whereby its members receive prompt and indisputable instruction from the Court Service as to when a committal warrant is to issue. Consideration should be given to allowing time for the immediate drawing up and transmission of such warrants.

By seeking to ensure accurate and timely direction from the Court Service and having in place systems intended to confirm understanding and highlight anomalies, the risk of a prisoner being released by a member of the Garda Síochána on the basis of erroneous or incomplete information will be minimised.

This recommendation should be viewed within the context of the ongoing need for matters heard in court to be audible and comprehensible.

Recommendation 5

That the Garda Síochána should liaise with the Court Service to ensure that:

- *all* warrants, including committal remand warrants, are entered onto PULSE without delay,
- details of bail decisions and conditions should be entered onto PULSE

By ensuring that accurate and timely information relating to warrants and bail decisions are so entered onto PULSE, this will provide up-to-date data that can be accessed by members of the Garda Síochána. In the circumstances which have given rise to this examination, such data may have resulted in better informed decision making and scrutiny of the warrant.

This does not detract however from the principle that members of the Garda Síochána are legally bound to execute all warrants properly addressed to them and to obey the directions contained thereon.

Recommendation 6

That the Garda Síochána liaise with the Court Service and the Irish Prison Service with a view to establishing a system whereby committal remand warrants are forwarded electronically on the day of issue to the nominated prison or place of detention. Further, in instances where a prisoner has transferred into the custody of the Garda Síochána for the purposes of attending court and the prisoner is released at court, the nominated prison or place of detention from where the prisoner was collected should be so informed.

By implementing the above, a mechanism would be created whereby a failure to execute a committal remand warrant or return a prisoner would be highlighted, relevant parties informed and follow-up enquiries initiated as necessary.

Recommendation 7

That the Garda Síochána reviews the management of warrants, with a view to drawing up a Standard Operating Procedure supported by dedicated, adequately resourced warrant units. Amongst the responsibilities of such units would be the tracking of warrants and the provision of guidance and supervision.

That the warrant in this matter remained unexecuted and its status was not tracked by the Garda Síochána, illustrates a vulnerability that exists in the management of warrants. Implementation of this recommendation, which should be considered in conjunction with recommendation 3, would provide accountability and assist the Garda Síochána in delivering effective management in an area of policing regarded as high risk.

6. Conclusion

- 6.1. The recommendations above are intended to have the result of achieving clarity as to process and structure and ensuring communication.
- 6.2. It is of critical importance to the Garda Síochána that it maintains the confidence of the public and its stakeholders. With regard to the focus of this examination, it is essential that there are clear areas of responsibility and processes that deliver accountability.
- 6.3. Instances wherein serious crimes are committed by persons unlawfully at liberty or regarded as being unjustifiably at liberty, damages confidence in the Garda Síochána and in such instances, questions are also asked of the other criminal justice agencies.
- 6.4. A multi-agency approach is required to address the vulnerabilities in existing practices, policies and procedures, particularly in areas of high risk identified in this examination. All relevant interested parties must seek to ensure a level of communication and sharing of information that will ensure that the misapprehensions and insufficiencies of process that led to this examination and the undetected errors and instances of laxity do not arise again.