

Temporary loss of a firearm –case study for the website

Summary of conclusions

The Garda Síochána Ombudsman Commission (GSOC) has recommended that no disciplinary proceedings be taken against two garda detectives over the temporary loss of an official firearm on a Dublin street last summer.

The GSOC investigation concluded that, on the balance of probabilities, the car boot into which the unloaded firearm had been placed was closed over when the driver started the car engine.

Evidence obtained during the course of the GSOC investigation suggested that the car boot opened after the car was driven over an exit ramp and onto a street. A bag containing the firearm fell from the boot as the car made a sharp turn onto another street.

However as part of the investigation GSOC was made aware that no standard operating procedure for the transport of firearms in vehicles exists within the Garda Síochána. In light of the numbers of gardaí being trained and permitted to carry firearms, the Commission has written to the Garda Commissioner recommending that consideration be given to instruction and or direction to all members as to how firearms are to be carried in garda vehicles in a safe manner for all--gardaí and members of the public.

Background

GSOC began a public interest inquiry on 11 July 2018 following media reports that a loaded sub-machine gun had been temporarily lost from a garda vehicle in Dublin city centre on the evening of 10 July 2018. According to some media reports, the firearm was returned by a member of the public travelling across the city on a Luas to Store Street Garda Station. (It was subsequently established that the weapon was not loaded and that it had not been transported on the Luas.)

No notification about the incident came to the Ombudsman Commission from the public or the Garda Síochána. However the Ombudsman Commission has the power to conduct investigations in the public interest without having received a complaint or a referral and the Commission decided to carry out such an investigation as the circumstances reported indicated a possible allegation of neglect of duty on the part of one or more Garda members.

The GSOC investigation involved, among other things, taking statements from a number of witnesses, including the two members of the public who handled the bag containing the firearm after it fell out of the boot of the unmarked garda car.

The two detectives stated that they were participating in an operation which had just become 'active' and were driving with lights and sirens at the time the bag fell from the vehicle. They took immediate steps to retrieve the firearm as soon as they became aware the boot had opened.

The detective who was a passenger in the car ran towards the bag which had fallen onto the road when he saw a woman place it beside railings. As he approached the bag, he saw the driver of a car open the door and take the bag.

The bag containing the firearm and ammunition was handed into Store Street Garda station a short time later. The ammunition was stored separately in the bag. All items were safely returned to the gardaí and had not been disturbed.

The investigation also involved the reconstruction of the events leading up to the bag falling from the boot of the vehicle. The garda who had been driving the vehicle showed GSOC investigators how items had been placed into the boot, how the boot had been closed, and how the vehicle had been driven over an exit ramp and onto a busy street. It was noted that as the vehicle accelerated up the exit ramp at speed, items in the boot could be heard suddenly jolting backwards and moving again as the car levelled off. It was also noted that with the siren on and window partially open, there was a high level of noise in the car.

In a second demonstration by the garda who had been driving, GSOC investigators saw the officer packing the boot with the items which had been in it on the day of the incident, pressing the button to close the boot—and observing the boot closing and remaining closed.

But as the car was being driven up the ramp, observers saw that the boot had become slightly open—but not to the extent that it would have been visible in the rear view mirror.

In their report on the demonstration and re-enactment, the GSOC investigators noted that what they had observed was highly corroborative of the accounts given by the gardaí of what happened on the day of the incident. GSOC noted that the boot closed and appeared to be closed, and there was no alarm or visual indication from the dashboard in the car that anything was amiss when the driver and passenger would have sat into the car.

It was only after the car was driven at speed over the pitch of the ramp that the boot then appeared to open slightly.

Accounts obtained from the garda members subject of the investigation confirmed that as they left the carpark of the Garda station and turned onto the busy street adjacent to the Garda station, the blue lights and siren of the car were activated in view of the urgent response required and as they did so, they did not notice anything unusual about the boot of the unmarked garda vehicle.

It was established that when the vehicle reached a junction on this busy street, it made a sharp left turn onto another street, at which point the boot opened and the bag containing the firearm fell out. The garda member driving the vehicle stopped the car on the street, while the second garda member in the passenger seat immediately exited the car and ran back to retrieve the bag. However he saw a member of the public had placed it into her vehicle and had then driven off. Due to the nature of its contents urgent searches were carried out by the Garda Síochána to locate the bag. Garda stations were alerted about the missing bag and firearm, and within 15 minutes Store Street Garda station informed one of the detectives that the bag had been handed in.

An inspection of the unmarked garda car was carried out by a mechanic with particular focus on the boot. His report stated the vehicle's boot showed it was operating to normal procedure. Further diagnostics of the electronic components confirmed there was no defects or fault codes. He explained this particular model of car has a "pinch protection" mechanism. What this means is, if when closing the boot something blocks the door, it will automatically reverse back to half open position. A warning light will then appear on the dash highlighting this. If operating buttons are pressed the boot door will open fully; however if not, they will remain partially open. If the car is being driven, it may not be clear to the driver from the rear view mirror that the boot is partially open.

CCTV observed by the Garda Ombudsman clearly shows the boot of the unmarked garda car with a semi-open position driving along the busy Dublin street and then make a left turn onto another street.

The recreation of the journey also demonstrated the care and attention required by members of the Garda Síochána driving up a busy street in Dublin taking in the safety of pedestrians and other vehicles. Therefore a warning sign on the dashboard to highlight an open boot may not be visible straight away.

As part of the investigation, GSOC requested copies of the Garda Síochána standard operating procedure, HQ Directive(s) and / or policy document(s) relating to the transport and storage of firearms in vehicles. No standard operating procedure or directive exists detailing to members how a firearm is to be stored in a garda vehicle or carried by a member while travelling in a vehicle.

During the GSOC investigation, designated officers first looked at the loading and storage of the firearm. The firearm was packed into the vehicle in a carry bag in the safest condition—the weapon was unloaded, the breach was cleared and the safety was forward. The ammunition was kept separate to the firearm. The bag with the firearm and ammunition was placed in the boot. The garda members submitted that this was the safest place to carry the weapon and the boot was subsequently closed. Having regard to all these matters, no breach of discipline could be considered in relation to the storage and transport of the firearm.

Taking into account the high degree of noise on the public street from the sirens, radio and traffic, GSOC is of the view it is unlikely the garda members would hear any warning noise advising the boot was open. Evidence shows as soon as the garda members became aware the boot had opened they made every effort to stop safely, locate and recover the fallen bag.

No breach of discipline for neglect of duty was therefore identified by the GSOC investigators.

As is required under section 95 and section 97 of the Garda Síochána Act 2005 a report on foot of the discipline investigation has been sent to the Garda Commissioner. The report contains a recommendation for no further discipline investigation. However, while the Garda Commissioner is entitled to have regard to the GSOC report and recommendation, any further disciplinary action—or none—is solely a matter for the Garda Commissioner.

GSOC notes that in *Changing Policing in Ireland (2015)* the Garda Inspectorate identified concerns with the deployment of armed personnel. The need to train, resource and support armed personnel to the highest level cannot be overstated.

GSOC recommendation

In light of the absence of any direction to garda members—more and more of whom are being trained to use and carry firearms—as to the transportation of firearms and ammunition in vehicles, the Commission has written to the Garda Commissioner recommending that consideration be given to instruction and or direction to all members as to how firearms are to be carried in garda vehicles in a safe manner for all, gardaí and members of the public. As this is a systemic recommendation the Ombudsman Commission will return to the Garda Commissioner to confirm what steps have been taken in relation to this recommendation.

