



An Chomhairle Náisiúnta Eacnamaíoch agus Shóisialta  
National Economic & Social Council

# Quality and Standards in Human Services in Ireland: Policing and the Search for Continuous Improvement

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Continuous Improvement

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## **Abbreviations**

**CPF**

Community Policing and Estate Management Forum

**CPT**

Committee for the Prevention of Torture

**DPP**

Director of Public Prosecutions

**GPSU**

Garda Professional Standards Unit

**GSOC**

Garda Síochána Ombudsman Commission

**IADP**

Inter-Agency Drugs Project

**ICON**

Inner City Organisation Network

**JPC**

Joint Policing Committee

**NESC**

National Economic and Social Council

**NGO**

Non Governmental Organisation

**QSR**

Quality Service Review

## Glossary of Terms

**Accountability** is being answerable to another person or organisation for decisions, behaviours and their consequences.<sup>1</sup>

A **Checklist** is a list of things to be done, used as a reminder. American surgeon, professor and writer Atul Gawande has written about 'The Checklist' as a tool to ensure consistency and completeness, while preventing mistakes and failure in accomplishing complex tasks involving a number of people.<sup>2</sup>

**Continuous improvement** is an ongoing process of review against accepted standards undertaken to (a) eliminate waste and inefficiencies and (b) raise performance to produce quality outcomes.<sup>3</sup>

**Co-ordination** is the synchronisation of people, activities and services to ensure that resources are used most efficiently and effectively in the pursuit of quality outcomes. In the human services arena the focus of co-ordination is on meeting the needs of service users in the most efficient and effective way possible.<sup>4</sup>

**Human services** are services that are publicly provided, funded or regulated with the purpose of promoting the well-being of citizens. In this report the human services considered in detail are eldercare, end-of-life care, disability, schools and policing.

**Performance** is the accomplishments of an organisation, service provider, programme or individual relative to stated goals and objectives, and/or pre-set standards.<sup>5</sup>

**Quality** is the extent to which service delivery and/or service outcomes are free from deficiencies or significant variations, adhere to agreed standards, and meet with the defined needs and informed expectations of the service user.<sup>6</sup>

**Quality Service Review** is a broad term for a set of processes and tools designed to review human services systems. It is based on an in-depth case review method involving multiple stakeholders, and uses a performance-appraisal process to assess how service recipients benefit from services and how well service systems address their needs.<sup>7</sup>

**Regulation** is a principle, rule or law designed to control or govern conduct.<sup>8</sup> It is often defined as rule-making and rule enforcement. It occurs when an external

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1 This definition is derived from definitions of standards used by Health Information and Quality Authority (HIQA).

2 Based on dictionary definition and Gawande (2010).

3 Based on dictionary definitions.

4 Based on dictionary definitions.

5 Based on dictionary definitions

6 This definition is derived from definitions used by the NESF (2007) and standard dictionary definitions.

7 Based on work by Kershaw *et. al.*, (2002)

8 Based on dictionary definitions.

agency imposes standards or rules on the behaviour and actions of others, which are accompanied by enforcement provisions.<sup>9</sup>

**Responsive Regulation** is a theoretical model which asserts that regulatory interventions are more likely to succeed if they are responsive to the context, culture and conduct of the regulated organisations. The model is encapsulated by a regulatory pyramid which demonstrates an attempt to solve the puzzle of when to punish and when to persuade.<sup>10</sup>

**Root-Cause Analysis** is a type of problem-solving aimed at identifying the root causes of problems or incidents. The practice of root-cause analysis is predicated on the belief that problems are best solved by attempting to address, correct or eliminate root causes, as opposed to merely addressing the immediately obvious symptoms. Root-cause analysis is often viewed as an iterative process, and as a tool of continuous improvement.<sup>11</sup>

**Social regulation** is a principle, rule or law designed to protect public interests and encourage behaviour deemed socially desirable in areas such as health, safety, welfare, working conditions, social cohesion, fairness and the environment.<sup>12</sup>

A **Standard** is an explicit agreed measure by which quality is judged. It sets out an expected or desired level of performance.<sup>13</sup>

**Standardisation** is the process of establishing or complying with a standard. It implies a degree of order, consistency and uniformity.<sup>14</sup> In the context of this report it is associated with standardising upwards in a process of continuous improvement, rather than confining innovation.

**Total Quality Management (TQM)** is a comprehensive and structured approach to organisational management that seeks to improve the quality of products and services through ongoing refinements in response to continuous feedback.<sup>15</sup>

**Triple-Loop Learning** is an advanced system of structured reporting and shared learning. The first loop of learning occurs when practitioners monitor their achievement and make adjustments to gain improved outcomes. The second loop occurs when this kind of practical learning is noted by managers who subsequently adjust their systems and routines to take note of this. And the third loop occurs when regulators and oversight authorities learn from monitoring the organisation's improved goals and revise their strategy for the entire field.<sup>16</sup>

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9 Based on a definition by the Health and Social Care Regulatory Forum (2009:4).

10 The model has been developed by Ayers and Braithwaite (1992). The definition also draws on an interpretation by Koornneef (2010:6).

11 Based on dictionary definitions.

12 This definition is derived from a number of sources, including the OECD (1997:11), Sparrow (2000:7), and dictionary definitions.

13 This definition is derived from definitions of standards used by the National Standards Authority and the Health Information and Quality Authority (HIQA).

14 Based on dictionary definitions.

15 Based on dictionary definitions.

16 This definition is derived from Parker (2002).



The issue of progressing quality and standards in policing is often thought to involve a ‘strong’ regulator rooting out ‘bad apples’. This report questions that assumption using the framework of responsive regulation developed in NESC Report No. 124. That overview report argued that quality is often achieved by regulators stimulating those whom they supervise to self-regulate and evaluate, and enlisting third-parties to add moral pressure and insight to this process. This hypothesis is explored by examining how policing has been affected by the establishment of a range of oversight and consultative bodies in Ireland since 2005.

A human service like policing is worth examining since its functioning is largely dictated by the discretion of individual officers which raises the question about how standards are maintained and improved. In addition, quality in terms of policing has often been understood in terms of quantity—more personnel and more patrols—but now it is timely to ask if a service like policing can be delivered in a more nuanced way.

This report first gives an overview of the structure of the garda organisation and then provides some context to the recent emergence of various oversight and consultative bodies within the field of policing. It then details the functions of each of these organisations and examines the contribution that each of them has made to raising standards and contributing to improvements within Ireland’s policing service. It asks whether the kind of oversight operated by these bodies is sufficiently ‘diagnostic’ to uncover the causes of the various complaints and problems uncovered and take adequate preventative action to prevent their reoccurrence. The report also suggests that these bodies have yet to institutionalise procedures that would embed and sustain reform over time.

The report then enquires whether a more promising route towards the advancement of standards is through a structured liaison process between gardaí and local communities and details how this has been accomplished in one area of Dublin city. The report commends the work documented in this case study as enabling a more responsive and tailored police service; however it is difficult to render a final judgement about its efficacy since there is no benchmarking of its work against that of other similar operations conducted elsewhere.

We do not know if there is a better way of policing with a community than that pursued by actors as detailed in the case study and this is because these kinds of review and subsequent revision of practice are not being undertaken either by management or oversight bodies. Each level – local, corporate and regulatory – should influence and learn from the others by clarifying what constitutes quality policing and how it can be achieved. Without this kind of system of learning, it is difficult to know if progress is being made in terms of a higher-quality service. Thanks to the policing reforms documented in this report, Ireland has all the ‘parts’ necessary for a well-functioning system of quality policing as suggested by the ideas

of responsive regulation. But these parts have yet to be co-opted into a common regime of learning that is conducive to greater quality in policing. Constructing such a system would help to prevent abuses of authority as well as meeting the policing needs of communities.



# Chapter 1

## Scope of the Report

## 1.1 Introduction

Policing is worth looking at, in the context of a project on the factors shaping quality and ongoing improvement in human-service provision, for a number of reasons. First, because it is an activity that is largely dictated by the professional discretion of the relevant actors, namely police officers. Even though, like all police organisations, An Garda Síochána is composed of a hierarchical structure, individual personnel still have a large degree of discretion in deciding what tasks to pursue and how this should be done. This degree of discretion raises questions about how standards within the garda organisation are maintained, evaluated and improved.

The second reason why policing is worth examining in the context of a project on standards is that it is an area in which a number of organisations and units have been established, in recent times, to raise standards of policing or at the very least to ensure that they are not unduly lowered. Most of these have been introduced as a response to revelations about abuse of powers by individual officers in a specific locale. The net result of these changes has been to introduce a much greater degree of oversight of police activity. Questions remain about the overall impact of these new ‘oversight organisations’: are they having an effect on the overall level and quality of policing or do they only have an impact on the potentially egregious abuses of power?

A third reason for looking at policing in the context of a project on securing quality in human services is that a quality police service has often been understood as being about maximising the number of personnel available. Both the public and the body politic have contributed to this tendency. The Head of the Garda Inspectorate noted this tendency as she reported that

On the day I was appointed Chief Inspector of the Garda Síochána Inspectorate in May, 2006, a representative of the media asked me, ‘Do we need more police in Ireland?’ I responded, ‘First, we need to consider what the police we have now are doing, particularly those on the front lines.’ (2009: 4).

In a time of reduced resources, the issue of how police personnel and resources should best be used has become timely. A project on quality in human services can contribute to this debate by enquiring into the optimal way in which resources can be deployed to answer the concerns of the public.

This report on how to sustain improvements in policing is part of a series of NESC reports which is concerned with examining how the quality of human services can be maintained and advanced. In December 2011, NESC published the first report in the series entitled *Quality and Standards in Human Services in Ireland: Overview of Concepts and Practice* [hereafter referred to as the Overview report]. It provides a review of approaches to regulation, standards-setting, and continuous improvement: from a conceptual viewpoint, from international experience and from recent experience in Ireland. Other reports which comprise this project review the role of standards and quality improvement initiatives in eldercare, end-of-life care, disability and policing. The project will culminate in the publication of a synthesis report drawing together the insights from all of the individual reports.

The primary focus of the project is on what influences quality and ongoing improvement in human services provision, with an emphasis on the role of standards and systems of accountability. Quality services have been defined as the extent to which service delivery and/or service outcomes meet the informed expectation and defined needs of the user (NESF, 2007: 3). Human services provided in this way are often referred to as ‘person-centred’ services and services ‘tailored’ to meet service users’ needs. Associated issues that occur in a review of quality service provision and standards relate to regulation, especially responsive regulation; the role of the service user; how services are organised; costs; and systematic learning from experiment and experience (NESC, 2011).

Since the *Overview of Concepts and Practice* report provides the context in which this report has been developed it is useful to provide a brief summary of the key issues and ideas which have emerged. These will be used at a later stage to assess what arrangements are in place for the achievement of quality outcomes in policing and how well they are working.

## 1.2 Responsive Regulation

Regulation is one of a number of quality enhancing mechanisms which can improve the quality of services. The concept of responsive regulation arises from studies indicating that regulation is not always effective when there are only two extreme options, which are ‘command and control’ (with rules and regulations implemented through a top-down approach directed by a central regulator), and ‘self-regulation’ (a bottom-up approach where service providers and professionals self-regulate). Responsive regulation instead aims to combine both approaches, and is often depicted as a regulatory pyramid of approaches, with self-regulation and voluntary approaches at the base and sanctions at the top (Braithwaite *et al.*, 2007). To ensure standards are met, the regulator or oversight organisation begins at the bottom of the pyramid with information provision and persuasion, but with the capacity to escalate towards punishment. Regulators will seek to persuade, but will act further if matters do not improve. Braithwaite has since developed a ‘strengths-based’ pyramid, which promotes ‘virtue’, to complement the ‘regulatory’ pyramid, which restrains ‘vice’ (Braithwaite, 2008). This is similar to the distinction made by

Seddon who focuses on increasing purpose and *performance* in services rather than relying on compliance with regulations, and who sees front line staff heavily involved in driving improvements (Seddon, 2008).

The Overview report uses the term ‘responsive regulation’ as a useful conceptual shorthand to encompass Braithwaite’s ideas and those inspired by him. It does so on the basis that responsive regulation refers not to one tightly coherent body of work but a loose collection animated by the idea that quality arises from a productive relationship between regulator and regulatee and the wider institutional environment in which this relationship is embedded.

A range of approaches can be taken within responsive regulation, two of which are particularly relevant to this study of standards within policing. One is meta-regulation, where organisations establish systems of self-regulation themselves, and regulators then seek to assure themselves that these systems are adequate and being followed, i.e., it is the regulation of self-regulation (NESC, 2011). This can be carried out within an overall guiding framework to promote quality. The second is ‘smart regulation’ (Gunningham & Grabosky, 1998), where a range of non-State bodies are involved in supporting regulation, for example, professional organisations, trade unions and NGOs. These groups may be able to act as ‘quasi-regulators’, for example, NGOs which provide supports to implement standards; although it may be necessary for the State to enforce such standards with organisations who do not respond to the persuasive work of the NGO or other third parties.

### 1.3 Involvement of Service Users

An increasing trend in the provision of human services is a focus on how the *service user* receives the service. This means growing references to ‘person-centred’ services<sup>17</sup>, and ‘tailored services’<sup>18</sup>. There is greater emphasis on taking into account the views of service users not just for the sake of engagement but for understanding their issues and thus developing ideas about how solutions might be crafted. Involvement can take different forms such as consultation, ongoing engagement and, in some cases, the co-production of services and associated standards. Associated with a greater emphasis on service users is an increasing focus on outcomes - for the service user, but also for the service providers, and the service system more widely (NESC, 2011).

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<sup>17</sup> Person-centred services focus on the wishes of the service-user in relation to the kind of services received and how they are delivered. This is the opposite of more ‘task-focused’ services that are often provided.

<sup>18</sup> This refers to mainstream services which have supports specifically tailored to the needs of the person accessing them, so that the person can overcome obstacles arising from disadvantaged social circumstances. See also NESC’s report on the Developmental Welfare State (NESC, 2005).

## 1.4 Monitoring and Learning

Seeking feedback on the delivery and quality of services is a vital element of all quality assurance systems and is key to continuous improvement. What is needed is a mechanism for practitioners that enables them to learn from and revise their practice at a local service delivery level (NESC, 2011, Sabel, C.F., 1994). According to Kendrick, monitoring and evaluation can point to the need for changes in service models: ‘They [quality and monitoring] are not in themselves capable of assuring quality, unless they are subsequently combined with feasible measures to improve service practice and models’ (Kendrick, 2006:3). A key message from all the evidence reviewed in the Overview report is the need for learning to take place at a number of levels that reinforce each other: the level at which the service is delivered; at corporate level; and at the level of regulator or at national level. This approach is sometimes referred to as ‘triple-loop learning’. Each of the loops is linked so that they system is not effective if one of the loops is absent or deficient.

## 1.5 Devolution with Accountability

Devolving responsibility to service providers to maintain quality, but with clear accountability mechanisms to ‘the centre’, can be an effective part of a regulatory system. The evidence suggests that a fruitful approach is to set a broad regulatory framework or a small number of guiding principles ‘at the centre’<sup>19</sup> and then devolve their application to the local context. The centre continues to have an oversight role to ensure a quality service but local providers have the opportunity to improve services and performance. The over-riding priority is on achieving and improving outcomes for service users (NESC, 2011).

## 1.6 Cost Effectiveness

In the current economic climate cost is to the forefront of any debate in providing public services. The limited evidence which exists suggests that some quality approaches can reduce the cost of provision, for example, cutting out waste, changing the way we do things to make services more efficient and effective, and taking a person-centred approach. A corresponding perspective is that, in a context of budget reductions, similar strategies would need to be employed if quality is not to be jeopardised, i.e. if services are not to deteriorate when there are budget reductions (NESC, 2011).

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<sup>19</sup> Depending on the context, ‘the centre’ can be government, a government department, a regulator etc. The important point is that power (to varying degrees) is devolved from a central to the local or ‘frontline’ context.

## 1.7 Report Structure

This report focuses on the arrangements which are intended to drive standards, ensure accountability, and support the achievement of quality in provision of policing services.

Chapter 2 provides an outline of the Garda organisation and the context for many of the recent reforms introduced to bolster accountability and drive improvement, primarily through the Garda Síochána Act 2005.

Chapter 3 outlines a number of significant institutions that have been established under the Garda Síochána Act 2005 and assesses their efficacy both in terms of maintaining accountability and fostering improvement. These include the Garda Síochána Ombudsman Commission, Garda Síochána Inspectorate, Garda Professional Standards Unit, Joint Policing Committees and Local Policing Fora. The chapter concludes by arguing that cultivating improvements requires service providers and users working together to craft solutions tailored to particular problems.

Chapter 4 offers a case-study of this kind of approach in an area in the city-centre of Dublin. It outlines how a regularly convened forum was established between an urban community, and relevant personnel from the gardaí and Dublin City Council in order to develop a co-ordinated strategy in response to drug-dealing and drug-related anti-social behaviour in the North Inner City. The chapter concludes that while the Forum improved relations between community and gardaí it is not clear if it facilitated the kind of learning envisaged in the schema of triple-loop learning discussed in the Overview report.

Chapter 5 concludes the report by assessing developments in the Irish system of policing through the lens of the regulatory and quality-inspired models examined in the overview report.

# Chapter 2

## The Genesis of the Reforms to Policing

## 2.1 Introduction

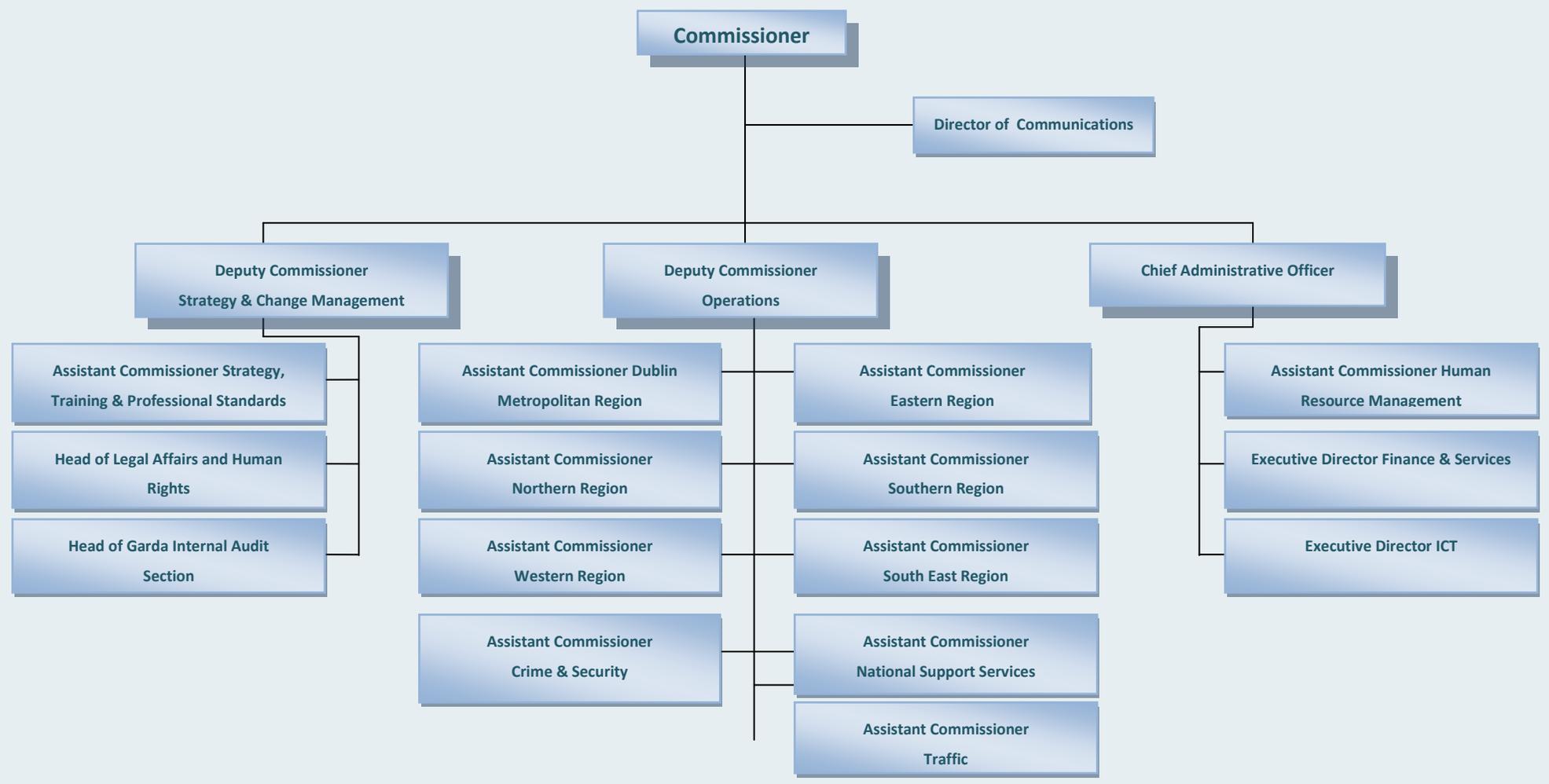
An Garda Síochána is a national police organisation, headed by a Commissioner who is answerable to the Minister for Justice and Equality (hereafter referred to as the Minister for Justice). The Commissioner is supported by two Deputy Commissioners, in charge of strategy and operations respectively, and a Chief Administrative Officer. A number of Assistant Commissioners in charge of various operational and organisational functions report to the Deputy Commissioners (see Chart).

The work of the garda organisation is divided into a number of regions, divisions and districts. Assistant Commissioners have a responsibility for the operational management of policing in a number of different regions. There are the Dublin Metropolitan Region; Northern Region; Western Region; Eastern Region and Southern Region, South East Region.. Each region is divided into divisions commanded by a Chief Superintendent and each division is then divided into districts commanded by a Superintendent who is assisted by a number of Inspectors. The districts are divided into sub-districts, each normally the responsibility of a Sergeant. Each sub-district usually has only one station, the strength of which may vary from three to one hundred gardaí. In some areas there are stations known as sub-stations, which for administrative purposes are attached to a parent station. These sub-stations are usually occupied by one garda member. In 2011, there are 703 garda stations throughout the country ([www.garda.ie](http://www.garda.ie)), with some of the smaller stations now being closed, in 2012, due to financial pressures. At present there are approximately 13,600 serving police officers. The National Recovery Plan 2011–14 envisages a reduction in the number of police officers to 13,000 by 2014.

New Garda rosters are to be implemented from April 30, 2012, in a nationwide pilot scheme covering all Gardaí, which will run for about 12 months. Under the new system, Garda management will have access to more Gardaí at times when they are most likely to be needed, such as weekend evenings and nights, rather than spreading the force equally over the 24 hours, as at present.

In accordance with the Garda Síochána Act 2005, the Minister for Justice can decide that certain matters be a priority for the gardaí in any given year. Priorities for 2012, amongst others, stipulate that there should be a policing service which meets the needs of local communities (An Garda Síochána 2012: 4). These priorities set the framework under which the gardaí devise actions and indicators at national, regional and divisional levels through a national policing plan.

# An Garda Síochána Organisation Structure



## 2.2 Reasons for Reform

Like many professions in Ireland, An Garda Síochána was left to regulate itself for much of its history. It has been likened to a 'blessed trinity' of communal control in 20<sup>th</sup> century Ireland, with the other members being the priest and school teacher. The fact that it was viewed by many as an important cultural resource and a vital bulwark against crime and terrorist activity meant that the Irish state was relatively unwilling to give credence to claims about abuses of power and calls for greater oversight. These claims surfaced in relation to the elicitation of confessions relating to paramilitary violence in the late 1970s but were not acted upon.

Relying on self-regulation proved more difficult after the revelations of what became known as the Kerry Babies affair in 1984 in which a woman confessed to killing her new-born infant. She later claimed that her confessions had been forced from her and a tribunal was established to investigate these allegations. The fallout of this affair was that the Irish state established a new complaints mechanism to deal with allegations of improper behaviour by members of An Garda Síochána, known as the Garda Complaints Board.

The Board's independence from An Garda Síochána was limited as its investigations were conducted by garda members, overseen by a board comprised of civilians and representatives of the Garda Commissioner. According to the Minister for Justice at the time, the prospect of independent investigators was not warranted by either the scale or seriousness of the problem. When the operation of the complaints board was reviewed in 1991, it was contended that new safeguards had resulted in the virtual disappearance of complaints of ill-treatment.

This perspective was not shared by the Committee for the Prevention of Torture (CPT), a body of the Council of Europe that visited Ireland for the first time in 1993. One of its main findings was a consistent allegation from people detained in custody that they had been 'physically ill-treated' (Council of Europe 1995: para. 13). As a result of their investigations, the CPT considered that 'persons held in certain police establishments in Ireland run a not inconsiderable risk of being physically ill-treated' (*ibid.*: para. 20). The composition of the Garda Complaints Board also drew adverse comment since its composition meant that it was unlikely to be considered as impartial, and its capacity to deal objectively with complaints was put in doubt (*ibid.*: para. 55). A system of independent inspection of police stations was also recommended. Following a second visit in 1998, the CPT reiterated its concern about the persistent allegations 'regarding the use of excessive force by police officers' (Council of Europe 1999: para. 14). It reminded the Irish government of its previous recommendation, that one of the main bulwarks against such allegations was the existence of an impartial and independent complaints mechanism.

Satisfaction with the level of standards in Irish policing received a blow after the establishment, in 2002, of a Tribunal of Inquiry (known as the Morris Tribunal after its chairperson) into various allegations of police malpractice in the Donegal region

in the late 1990s. The Tribunal concluded that many of these allegations concerning negligent and corrupt behaviour were true. These included charges such as the framing of individuals for a crime they did not commit, the planting of weapons and explosives so that gardaí could claim the credit for discovering them, the mistreatment of suspects, and the improper use of an individual who was acting as a garda 'agent'. The Tribunal also considered that the oversight capacity of the Garda Complaints Board was hindered as it was faced with a 'set of circumstances that was far beyond its capability given the limited nature of its resources and in particular the limited nature of its investigatory powers under the Garda Síochána (Complaints) Act, 1986' (Morris 2008: 321). The crux of the problem, according to the Morris Tribunal, was

that without some level of independent oversight, it becomes likely that greater weight will be placed on the 'needs of the Garda operation or investigation' and lesser consideration will be accorded to the rights of the citizen, as stipulated by both the Irish Constitution and the ECHR [European Convention on Human Rights] (Morris 2006: 26).

As part of this process of building up an independent level of oversight, the Morris Tribunal cautioned that those in charge of policy, particularly the Department of Justice and Garda Headquarters, should treat information relayed to them with a degree of scepticism. Previously these bodies had a disposition to take matters on trust from serving gardaí. The Tribunal advised that Garda Headquarters should take a 'more active role' in the management of garda divisions rather than conceiving of themselves as 'merely the receivers of information' (Morris 2004: 455).

The combination of these revelations and the process of policing reform in Northern Ireland made it more difficult to resist the proposal that systems of oversight had to become more detached from police control. Calls to emulate the examples of a Police Ombudsman and Police Board in Northern Ireland were made more and more frequently by political representatives and campaigning groups in the Republic of Ireland. These demands were initially resisted on the basis that the situation in Northern Ireland in relation to policing differed substantially from the position within the Republic of Ireland. But advocates for change argued that the structures of An Garda Síochána were 'not appropriate to the rights and freedoms individual [Irish] citizens now demand' (Dáil Debates, 28 March 2002, vol. 551, col. 937). Coupled with the facts emerging from the Morris Tribunal, the government felt compelled to concede the inadequacy of the Garda Complaints Board and announced, in 2001, that a Garda Inspectorate would be established to deal with complaints against gardaí. The Minister for Justice outlined his rationale for such an organisation as arising:

Where specific Garda systems or operations do not measure up to the appropriate standards, for example, the difficulties which arose in Co. Donegal. I am looking closely at the question of an Inspectorate. A new independent Inspectorate with appropriate powers might be very well placed to conduct the necessary investigations in such cases (Dáil Reports, 7 February 2001).

The Irish Human Rights Commission insisted that there was a basic incompatibility between an Inspectorate and an Ombudsman, with the former being more concerned with efficiency and the latter orientated around human-rights values. The Minister for Justice conceded that the Commission had a 'legitimate point' (Dáil Debates, 6 February 2003, vol. 560, cols 1406–7), and this distinction was realised through the separate institutions of a Garda Inspectorate and a three-person Ombudsman Commission being introduced in the final version of the Bill that was passed into law, the Garda Síochána Act 2005.

Before discussing the contents and consequences of this Act for standards and accountability pertaining to policing, it is worth noting that An Garda Síochána instituted a thorough review of its own organisation as the Morris Tribunal unveiled its findings through various reports. Nine internal working groups from An Garda Síochána were established to deal with such subjects as management development, internal audit, and issues involving personnel. From the perspective of this report, the most important was a review group concerned with identifying barriers to furthering the principles of performance and accountability. Putting these issues into practice was defined as the collection, collation and reporting of information about how an organisation is performing on specified criteria. The gardaí considered that establishing a framework to operationalise these aspirations would allow the following benefits to be derived:

- It could identify whether An Garda Síochána is providing an efficient and effective service to the Public;
- It could ask An Garda Síochána to identify and understand problems by confirming what is known or revealing what can be known;
- It could show where improvements need to be made;
- It could ensure decisions are based on fact, not on emotion, by revealing problems that customary routines might pass over.

It was recommended that a Performance and Accountability Framework be established. This framework involves a series of conferences that are designed to formalise and embed the aforementioned benefits for all sections within An Garda Síochána. The process occurs daily at district level, fortnightly at divisional level, monthly at regional level and once every quarter at the overall corporate level. At district level the review group proposed that a daily briefing meeting would be held, which would be chaired by a Superintendent or Inspector. Occurrences of the previous twenty-four hours would be reviewed, noting the kinds of incident, time, location and possible causes. The importance of internal regulation and controls should not be discounted and will be returned to later in this report.

## 2.3 Conclusion

Because control of An Garda Síochána relied so much on self-regulation, the Garda Síochána Act 2005 marked a dramatic shift in how the garda organisation was regulated. It has been described as the ‘the most profound piece of legislation relating to the Garda Síochána in the history of the State’ and the ‘catalyst for the most fundamental reform and transformation of the force into a modern police service’ (Minister for Justice, Equality and Law Reform, Dáil Eireann, 29<sup>th</sup> November 2006). The implications of the Act for policing is examined in the next chapter.



# Chapter 3

## The New Regulatory Institutions of Policing

### 3.1 Introduction

The regulation of policing in Ireland has been profoundly affected by the introduction of the Garda Síochána Act 2005. This legislation set down the functions of the gardaí for the first time, which involves providing policing and security services for the state with various objectives enunciated such as preserving peace and public order; protecting life and property; and vindicating the human rights of each individual, amongst others. The legislation also allows for the Minister for Justice to determine priorities and establish performance targets for An Garda Síochána as it seeks to meet these objectives. As of yet, no performance targets have been set, although the Action plan under the Croke Park Agreement 2010–14 for the gardaí acknowledges that the garda organisation should be subject to performance management that ‘takes account of the unique nature of a policing service’. This objective is due to be implemented in the first quarter of 2013.

The Garda Síochána Act 2005 is notable for the way in which it introduces several new and distinct avenues of accountability for policing, apart from granting the Minister more overt powers of direction. These include the requirement that the Garda Commissioner shall give evidence to the Public Accounts Committee and that a five-person Audit Committee be established. On an individual level, the Act introduced a new requirement that a member of An Garda Síochána shall, when directed to do so by a member of a higher rank, account for any act done or omission made by the member while on duty. But the Act is perhaps most notable for the range of new bodies that has been established to enhance standards and accountability within An Garda Síochána. These include the following:

### 3.2 Garda Síochána Ombudsman Commission

The Garda Síochána Ombudsman Commission (hereafter referred to as GSOC) is responsible for receiving and dealing with complaints made by the public concerning the conduct of members of An Garda Síochána, although people may still make a complaint directly to the gardaí. GSOC’s mission is to provide the public with independent and effective oversight of policing, and to deal with the public’s complaints concerning gardaí fairly and efficiently so that everyone can have confidence in the complaints system. The most notable difference of GSOC from the previous complaints body, the Garda Complaints Board, is that it employs a number

of independent investigating officers to examine the more serious cases rather than relying on serving officers within the gardaí (some complaints relating to issues like discourtesy are deemed suitable for informal resolution).

In 2010, GSOC received 2,258 complaints from members of the public, of which 722 were inadmissible. Reasons for inadmissibility were varied, ranging from complaints lying beyond the six-month time limit for submission; relating to the general control and direction of An Garda Síochána rather than the conduct of an individual office; or deemed by GSOC to be 'vexatious'. This last category encompasses those allegations that are deemed too minor to warrant an investigation. Among the allegations the following types of complaint were most prominent: abuse of authority, neglect of duty, discourtesy and non-fatal offences. The most prominent factors relating to situations that gave rise to complaints were searches/investigations, and arrests and road traffic incidents. The most prominent locations of interactions that gave rise to complaints were public places, domestic residences and garda custody (GSOC 2011).

GSOC has noted that a significant number of the incidents brought to its attention 'fall into what could be described as service complaints and GSOC has engaged with An Garda Síochána to seek mechanisms to better identify and resolve such issues without, necessarily, the need to apportion blame' (2011: 27). In 2010, twenty-eight out of one hundred and thirty seven cases were informally resolved and in regard to another ninety nine cases, further action was either not necessary or practicable. In total over 2010, twenty-seven files were referred to the Director of Public Prosecutions (DPP) by GSOC, relating to thirty-one members of An Garda Síochána and seven persons who were not gardaí. An adult caution was administered in one case. The DPP directed prosecution in eleven cases relating to fourteen members of An Garda Síochána and three people who were not gardaí. Eleven of these cases were before the courts as of 31 December 2010. Whether the denominator for this figure of fourteen members liable for prosecution is considered as the total number of serving gardaí (see *The Irish Times*, 10 August 2011) or instead all those officers against whom a complaint has been lodged, the resulting figure is still a very small percentage. What this figure underlines is that recourse to court prosecutions is used sparingly and is probably neither relevant nor effective for the vast number of incidents that provoke a complaint.

GSOC is not restricted to investigating matters that have been the subject of a complaint. It is empowered to examine cases where it appears that the conduct of a garda officer has resulted in the death of or serious harm to an individual. In relation to such incidents, GSOC, in its report for 2008, analysed the context in which the conduct of gardaí resulted in death or serious harm and noted that the most prevalent factor was road traffic. GSOC noted that 'it is apparent that road policing emerges as a significant issue' for the gardaí and they reiterated the Inspectorate's call for a review of all internal garda policy relating to roads policing, including the need for greater training to prepare gardaí for policing of the roads (Garda Síochána Ombudsman Commission 2008a: 27).

The issue of general policy implications arising from individual conduct has been aired by GSOC in a report to the Minister for Justice and Oireachtas (Garda Síochána Ombudsman Commission 2008b). In this report, GSOC has noted that no further action regarding a complaint relating to the death or serious harm of a person can be taken if GSOC finds no misbehaviour by the garda member concerned. GSOC has commented that this ‘strikes us as a dangerously limiting provision’ as investigation may reveal ‘systemic issues within the force or unacceptable practices’ (*ibid.*: 34). GSOC has suggested that, if it appeared desirable in the public interest, a report should be presented before the Houses of the Oireachtas highlighting systemic matters that require attention or airing.

GSOC can examine systemic issues that extend beyond a single complaint to wider matters pertaining to a practice, policy or procedure that would either prevent or reduce the incidence of such complaints. The Minister for Justice may make a request for GSOC to do so, on his or her own initiative, or do so following a recommendation of GSOC that a policy or procedure be examined. GSOC has made a number of such requests, concerning, for example, the management of protests and the examination of aspects of the processing of fines. The Minister at the time did not agree to the former request but assented to the latter. Other similar bodies possess a greater power of initiative. In Ontario, Canada, the Independent Police Review Director may examine and review issues of a systemic nature that are the subject of, or that give rise to, complaints made by members of the public and may make recommendations respecting such issues to the Solicitor General, the Attorney General, Chiefs of police or any other person or body (Independent Police Review Act 2007, sec. 57).

GSOC has noted (Garda Síochána Ombudsman Commission 2008b) that there are certain aspects of garda activity that it is precluded from investigating or where there is ambiguity about the appropriateness of its jurisdiction. These include:

- A complaint is not admissible insofar as it relates to the general direction and control of an Garda Síochána by the Garda Commissioner;
- It is often difficult to determine the point at which inefficiency or under-performance can become a ‘neglect of duty’—and therefore constitute a breach of the Disciplinary Code.

If we compare the work of GSOC to what is considered best practice by other independent oversight bodies of police, then some differences emerge. Walker (2005) has argued that within the United States a ‘new world of police accountability’ is emerging in which a greater focus on organisational causes rather than the individual behavioural symptoms is evident. Earlier reform efforts had focused on misbehaving individuals and notorious incidents. Walker (2005: 38) argues that they failed to reach ‘deep into police organisations’ and affect day-to-day police work. Failures like this occur for a variety of reasons but from our perspective, perhaps the most interesting is that ‘past reform efforts never involved institutionalised procedures for sustaining reform over time’ (*ibid.*: 39)

These new procedures emphasise systematic data collection and analysis. Examples include ‘critical incident reporting’ in which police officers are obliged to document how they have responded in situations where a risk was posed to the life, liberty or dignity of a citizen. These reports are then reviewed by a supervisor to see if they were in compliance with the organisation’s policy. Supervisors are also expected to utilise ‘early intervention’ systems, which flag up potentially problematic behaviour. In keeping with the tenets of responsive regulation, enhanced frontline supervision is one of the crucial features through which this new accountability is delivered. Early intervention systems, for example, are an instrument for highlighting potential problems that need to be addressed early and are themselves a means of assessing the performance of supervisors. They also encourage a corrective rather than a punitive or formal legalistic solution to problems.

A great deal of the debate on the achievement of high standards in a human service like policing has focused on the institution of the Garda Ombudsman Commission. In particular, it has focused on both the extent of the powers granted to GSOC and the extent of its autonomy from the organisation it is overseeing, An Garda Síochána. As we have seen in the first report of this project, this is an issue that features prominently in debates over the appropriate aspects of regulatory policy generally. Some believe that regulators should maintain their distance from those whom they are regulating to avoid capture and rely heavily on formal powers of enforcement. Others consider that regulators need to engage with the entities they regulate and try to cultivate the relevant organisation capacities that are necessary for lasting improvement. Hence, there is as much emphasis on learning as on enforcement.

In the sphere of policing, the emphasis on greater formal enforcement powers draws sustenance from the issue of police malpractice that gave birth to the Garda Síochána Ombudsman Commission, but it may not always be helpful to view the issue of police performance and policing standards through this prism. Its prominence may obscure some of the necessary conditions for both upholding and improving standards in general. Greater legal powers vis-à-vis both individual officers and the garda organisation itself may be of less importance than a greater understanding of the reasons why events occurred as they did, and a willingness to learn from any review and establish appropriate remedial action, as evidenced in current best practice in the United States (referenced above). GSOC itself broached this issue when it noted the importance of systemic issues that pass beyond the control of any one officer and when it began its analysis of contextual factors that contributed to serious death or harm. Yet this analysis has not been progressed to the extent that would allow it to make more detailed recommendations that would impact on practice. In some respects, this is seen as the role of the Garda Inspectorate, the role of which is discussed below.

### 3.3 Garda Síochána Inspectorate

The role of the Garda Síochána Inspectorate is to ensure that the resources available to the Garda Síochána are used so as to achieve and maintain the highest levels of efficiency and effectiveness in its operation and administration, as measured by reference to the best standards of comparable policy services. Accomplishing this means ensuring that the resources available to An Garda Síochána are used to achieve the highest level of efficiency and effectiveness in its operation and administration, as measured by reference to best international policing practices. The Garda Inspectorate carries out its inquiries either at the request of or with the consent of the Minister for Justice. The Inspectorate is required to submit reports of these inquiries to the Minister with recommendations for any action that the Inspectorate considers necessary.

To date, it has published seven reports on a variety of topics including the following: senior management structures; roads policing review; missing persons review; and a report on resource allocation. In April 2008, the Inspectorate published its review of how the recommendations contained within its reports had been progressed and implemented by An Garda Síochána and it has continued this practice. The Inspectorate updates the implementation tables on its website every six months.

Some of its most important reports relate to its recommendations concerning future policing in Ireland and the issue of resources allocation. Regarding the former, it noted that in a jurisdiction the size of Ireland, a unitary police service made sense. After commending such a structure, the Inspectorate noted that it possessed some inherent weaknesses, namely the ‘the tendency to centralise decision-making, resulting in a potential misalignment of responsibility and accountability at operational level’ (Garda Síochána Inspectorate 2007: 8). To inhibit such tendencies, the Inspectorate believed that there is

considerable scope for Garda management to devolve greater decision-making and accountability to the six Garda regions and national units, while maintaining strategic direction at the headquarters level. The need for this devolution is becoming more significant as the organisation increases in size and the policing environment becomes more complex and diverse. The Inspectorate is convinced that the strengthening the Garda regional structures is crucial to future change and the enhancement of Irish policing (*ibid.*).

An Garda Síochána has responded that each regional Assistant Commissioner is responsible for the strategic planning process for their region, which is intended to address local policing imperatives and priorities. These officers are responsible for the deployment of resources to meet these demands and their progress is monitored at a monthly management meeting. An Garda Síochána accepts that ‘further devolution is required’ (Garda Síochána Inspectorate 2011a: 3), including significant new approaches relevant to the recommendations in the Inspectorate’s report on Resource Allocation.

In this report on resource allocation, the Inspectorate commented that An Garda Síochána does not have ‘systems in place to measure workload’ (Garda Síochána Inspectorate 2009: 5). These kinds of systems are necessary to have the ‘right numbers of police officers in the right places at the right times to meet community needs’ (*ibid.*). The Inspectorate considered that this was exceptional when police organisations in general are examined and was unusual even for emergency services in Ireland, with both the Irish fire and ambulance services already operating such systems. Various measures have been considered to rectify these issues (see Garda Síochána Inspectorate 2011b) with many of them dependent on funding.

### 3.4 Garda Professional Standards Unit (GPSU)

This unit is internal to An Garda Síochána. Its role is to examine and review the operational, administrative and management performance of An Garda Síochána with reference to the best standards of comparable police services. Its role is considered to be preventative in the sense that it concentrates on those processes that are considered to bear significant risk—be they corporate, organisational or otherwise—such as looking after prisoners in custody where harms occur very infrequently. Gardaí escort and oversee the detention of thousands of people every year and this almost always happens without incident. Yet there is still a low risk of harm occurring, which is why it is important that gardaí adhere to appropriate procedures to forestall this possibility. Therefore, the function of the GPSU is to remind frontline staff of the importance of procedures and ensure that they are being followed so that low probability harms do not occur.

The GPSU gathers information from relevant documentary sources as well as through interviews with relevant personnel. After all information is gathered, it is used to prepare a checklist of questions, which are then deployed in an interview with key personnel to test local compliance with the current stated policy in each area. According to the GPSU, the information gained is then assessed to

- Identify if an integrated set of sound approaches exists in the organisational processes being examined;
- Examine whether these approaches are deployed in a systematic way that ensures full implementation;
- Establish if the approaches are regularly assessed and reviewed using structured monitoring and analysis of results achieved;
- Establish whether these results are leading to ongoing learning activities, development of improvement plans and implementation of these improvements.

The GPSU examines three or four full divisions every year to ensure that they are following appropriate procedures, with the investigation often lasting up to a period of three weeks. Examinations have been conducted in fourteen operational divisions and two divisions of Garda Headquarters with over eighty policing and national security processes probed. Following this examination, the findings are then sent on to the relevant officer in charge of the division, highlighting strengths and pointing to areas that could be improved. A supportive rather than an inquisitorial approach is adopted and agreement is usually obtained on where improvements can be made. The GPSU assesses implementation on a continuous basis and carries out a review within six months to evaluate progress against the improvement plan and to provide advice and assistance if required. Thematic reviews have also been conducted, such as examining guidelines on missing persons or emergency planning. In addition, nine operational initiatives have been accredited by Excellence Ireland. These have included improvements to the implementation of bail conditions in Cork and the investigation of burglary in Meath. Staff of the GPSU recognise that translating their findings and the achievements of the nine operational initiatives into further progress on the ground remains an outstanding issue. They have been exploring how these messages can be disseminated and reinforced through a variety of methods including daily briefings and reminders to supervisors, amongst others (Interview with personnel from GPSU).

The work of the GPSU represents an interesting and innovative attempt by an organisation to continuously review and improve its operations, thus raising standards. Its detailed work reflects the multi-faceted nature of the garda organisation as it deals with incidents relating to public disorder, traffic, immigration and human trafficking, to name but a few. Therefore, it is a protracted task to ensure that matters like these are underpinned by sound processes that contribute to high standards. Notwithstanding this broad portfolio of tasks, a crucial component in achieving high standards of policing will be the quality of relationship with a community and how the gardaí are perceived to be contributing to people's needs. The institutions and procedures through which the gardaí liaise with a community are examined in the next two sections.

### 3.5 Joint Policing Committees

Section 36 of the Garda Síochána Act 2005 provides for the establishment of a Joint Policing Committee (JPC) in each local authority administrative area and as part of the local government structures. The purpose of these committees is to provide a forum where a local authority and the senior garda officers responsible for the policing of that area, with the participation of political representatives and those identified with community interests, can consult, discuss and make recommendations on matters affecting the policing of the area. More specifically, their task is to keep under review:

- The levels and patterns of crime, disorder and anti-social behaviour in that area (including the patterns and levels of misuse of alcohol and drugs); and
- The factors underlying and contributing to the levels of crime, disorder and anti-social behaviour in the area.

They also have a function in advising the local authority concerned and An Garda Síochána on how they might best perform their functions having regard to the need to do everything feasible to improve the safety and quality of life and to prevent crime, disorder and anti-social behaviour within the area.

Starting in 2006, the Committees were established on a pilot basis in twenty-nine local authority areas. Following evaluation of the pilot phase, the roll out of committees to all of the 114 city, county and town council areas was put in train on 24 September 2008. Guidelines on the operation of the Committees were made by the Minister for Justice and Law Reform, after consultation with the Minister for the Environment, Heritage and Local Government and the Minister for Community, Rural and Gaeltacht Affairs. Public opinion about the JPCs seems to be supportive although there has been some dissatisfaction aired about the level of community representation on these committees. Also some have queried whether the JPCs were sufficiently attuned to concrete problems in the way that more localised fora are (IPA 2011: 4).

### 3.6 Local Policing Fora

There is provision under Section 36 (2) (d) of the Garda Síochána Act 2005 for the establishment, where appropriate, of Local Policing Fora at neighbourhood level. These are intended to operate in a more informal way than the Joint Policing Committees and are intended to deepen the engagement between gardaí, the local authority and neighbourhood communities. Beginning in 2009, a process was set in train where Local Policing Fora would be established in the fourteen Local Drug Task Force Areas.

### 3.7 How Well is the Regulation Working?

Despite the emergence of several distinct bodies concerned with the regulation of the gardaí and standards therein, their overall effect is not clear. Each of these institutions focuses on one particular aspect of policing: the Ombudsman Commission on abuses of authority, broadly considered; the Inspectorate on poor management processes; the GPSU on operational and administrative issues; the Joint Policing Committees and Local Policing Fora on standards of policing within localities and neighbourhoods. It is difficult to gauge whether the establishment of these bodies has led to an overall level of improvement in the quality of policing

although there is some evidence that improvements have been obtained in particular areas. For example, the Council of Europe's most recent report on places of detention in Ireland in 2010 noted with regard to garda stations that 'many persons with past experience of detention stated that the treatment by the gardaí had improved in recent years and that they had been treated correctly during their most recent period of custody' (Committee for Prevention of Torture Report 2011).

Some might consider that these oversight bodies are superfluous since public confidence in the gardaí is apparently very high. The garda survey of public attitudes in 2008 found that satisfaction with the overall garda level of service to the community stood at 81 per cent (Garda Research Unit 2008). It has occasionally been higher (87 per cent in 2002) and lower (79 per cent in 2006). Likewise, over 80 per cent of respondents identified the gardaí as doing a very good or fairly good job in their locality. It is not quite clear what produces such a level of satisfaction with the gardaí. It cannot be through personal contact as only 40 per cent of respondents had an encounter with the gardaí in the previous year. In fact, the Garda Ombudsman Commission's survey in its 2011 report (p. 49) shows that 'those who had a recent interaction with the Garda Síochána are less satisfied than the average [of 80 per cent]', a finding that is consistent with international research on this subject (Bradford *et al.* 2008: 11)—the reverse is generally true for health services where interaction increases satisfaction and confounds expectations. Other research has shown that people's beliefs about the police are heavily determined by perceptions about the overall quality of life within their community, which is not something which the gardaí can easily influence.

While the vast majority of people stated that they were satisfied with gardaí's level of service, 72 per cent stated that the service needed to be improved. Unprompted suggestions for improvement included requests for more gardaí, more gardaí on foot patrols, more contact with the community and longer station opening hours (*ibid.*: 25). This reflects that the issue of policing quality is being defined in quantitative terms as was highlighted at the outset of this report. Given the reductions in personnel and the closure of some stations, identified in section 2.1, this expectation will become increasingly difficult to meet.

It should be noted that national surveys are not necessarily best suited to answering questions about how well a particular service is operating. First of all, they present a picture at an aggregate level so they may not be able to capture where a service is doing well or badly at a more local level and, more importantly, why this is the case. For example, the survey conducted by the Garda Research Unit in 2008 states that satisfaction is lowest in local authority housing compared to other housing tenure categories but is unable to offer an explanation as to why this is so. This raises the question of whether the gardaí have sufficiently diagnostic tools to enable them to analyse their service in a sufficiently disaggregated manner, which facilitates its improvement.

### 3.8 What Arrangements Are There to Continuously Improve the Service?

Lack of clarity over whether these new oversight organisations have instilled positive changes may be related to a deficiency in how regulation is being conducted. In the first chapter, drawing from the Overview report, the idea of meta-regulation was introduced. This concept refers to the idea that good standards are achieved by government encouraging organisations to put in place their own systems of internal control and management. These systems enable monitoring of critical performance functions and also diagnose if performance is falling short of the requisite standards. The regulator then analyses these internal systems in an effort to gauge how well the regulated organisation is maintaining standards. There is a requirement on the regulated entity to demonstrate how these systems and procedures have led to demonstrable improvements. In section 3.2, we saw that this is increasingly becoming a norm of best practice with regard to forestalling complaints against the police, as supervisors regularly monitor and evaluate the performance of their personnel to gauge if there are any incipient problems.

Several of the oversight institutions that have been established under the Garda Síochána Act 2005 do not seem to undertake the detailed or diagnostic monitoring necessary to realise sustainable improvements. The Ombudsman Commission examines what might be called the single symptoms of problems – complaints – as well as examining the conduct of members of An Garda Síochána, which may have resulted in the death of, or serious harm to, a person. GSOC does not really address what might be the underlying causes of these complaints and incidents although powers granted under Section 106 permit the Commission, either at the request of or with the consent of the Minister, to enquire into certain policies, practices and procedures. This broader power is thus dependent on the Minister to be ‘activated’. The guidelines on the Joint Policing Committees do not mention how they might undertake ‘a detailed review of levels and patterns of crimes’, even though this is explicitly required by the legislation. And even if they did, there exists some degree of uncertainty about how they could assess the progress that is being made, in the absence of a communications mechanism to share experiences and disseminate best practice amongst all Joint Policing Committees throughout the country (Dept. of Justice and Equality 2011: 11).

An Garda Síochána’s National Model of Community Policing (2009) reports that community gardaí will be proactive in building and developing neighbourhood profiles of their respective patrol areas through the garda Customer Relationship Model. This model is concerned with identifying who the gardaí’s relevant customers are and targeting them with appropriate resources. The use of this model is mentioned under a section entitled ‘Problem-Solving’, and it is not clear how well a commitment to provide resources sits with a promise of problem-solving, as the latter is premised upon some sort of diagnostic monitoring of the causes of a problem.

If authors like Sabel, Seddon and Sparrow are correct (see bibliography for references), to achieve a good service as opposed to the prevention of some flagrant abuses of power requires a careful process of diagnostic monitoring at the appropriate level, close to where incidents occur. In fact, the gardaí has had a long history of consultation with the community. The next section reviews this process of consultation and concludes that it has been laudable in maintaining the gardaí's public image and relationship with many citizens; however, it has not had a great effect on overall levels of policing service. It might seem that switching attention away from regulatory bodies to institutions dedicated toward public consultation entails a dilution of interest in the issue of standards. But this is only the case if it is believed that high standards can only be achieved through an coercive top-down process. By contrast, it is increasingly being recognised that standards can be pursued and raised through the actions of non-state actors (Scott 2010) and the use of multiple rather than single policy instruments and that mechanisms of informal social control, often propelled by civil society, frequently prove more effective than formal legal powers (Gunningham 2010).

If standards can be inculcated through some sort of bottom-up process, based upon careful analysis and consultation, then this may lend weight to the view that the recipients of a service should be involved in the attainment of high standards. Moreover, it may be the case that instigating this kind of localised involvement may pre-empt the kinds of incidents that give rise to complaints. The Garda Ombudsman Commission has noted that 'it is often difficult to determine the point at which inefficiency or under-performance can become a neglect of 'duty' (Garda Síochána Ombudsman Commission 2008b: 18), yet it is this kind of issue that an intensive form of community consultation could pick up and resolve. So the merit in focusing on forms of localised involvement and close consultation with providers and users of a human service is that it can lead to a cycle of continuous improvement if carried out properly.

Before examining how community engagement with policing has evolved in Ireland, it is worth noting what are considered the characteristics of best practice in this field. Since the mid-1990s, the US city of Chicago has been refashioning its policing model in an effort to make the police organisation more attentive to the community it serves. Chicago is generally considered to a pioneer of successful police engagement with the community.

Chicago's community policy strategy operates by dividing the city up into 280 neighbourhoods or 'beats', which are served by a group of about nine police officers. A 'beat meeting' is held once a month between members of the public and the group of police officers responsible for that locality. Attendance at these meetings has proven stable. So the first essential feature of this model is **community involvement**. The second necessary component is a **decentralisation** of police functions whereby authority and responsibility are devolved down the organisation so frontline staff can react to local problems and develop solutions that are customised to specific conditions. And linked to this is the third feature that is required to make police engagement with the community successful, namely a **problem-solving** orientation. This is necessary to discover what kind of situations produce repeated calls for police attention or assistance.

In the mid-1990s, 12,000 citizens were enlisted on a training course to understand how communities could accomplish such problem-solving. Very often, it might be revealed that the causes, such as poor street lighting that encourages illegal activities, are beyond the remit of the police organisation to solve and this requires linkages with other organisations that can offer solutions that are not based purely on law enforcement. This is why the Chicago model developed a form that captures information about the services requested and the problem locations the citizens indicate at the meetings. These forms are then forwarded to the Mayor's office where they are inputted in a case-tracking system and assigned to the relevant agency. The Mayor's office then employs personnel to verify that the appropriate work has been carried out. The most comprehensive evaluation of the Chicago policing model has been explicit that

if community policing is just the police department's programme, it is at risk of failing. Without the support of the rest of the municipal service infrastructure, it's not going to be able to carry the freight (Skogan 2007: 5–6).

Despite the successes of the Chicago model, it has found problem-solving to be the most difficult issue to establish and sustain (Skogan 2004).

Having elaborated some of the necessary features of successful community policing, the next chapter examines how similar endeavours of police engaging the community in Ireland have fared.



# Chapter 4

## Satisfying the Policing Needs of Local Communities

## 4.1 Introduction

For much of its history, An Garda Síochána did not develop formal links with the communities it policed; instead gardaí relied on informal everyday contact and the cultural affinities it shared with these communities. These endeavours were not without success as commentators noted that the gardaí were one of the 'striking successes of the new state' (McNiffe 1997) and that it would be difficult to find any other police force with such a high standing. However, significant social changes in the 1970s such as greater urbanisation, coupled with the greater deprivation associated with an economic downturn, caused the gardaí to rethink their approach.

In 1983, an Oireachtas committee advocated the establishment of Neighbourhood Watch schemes, which would afford citizens some means of channelling information about crime to the gardaí. It was intended to add a dimension of local involvement to policing without transforming it in any fundamental way. A pilot scheme was established in 1984 and rolled out around the country the following year. By 1998, there were 3,500 such schemes around the country although the evidence on their efficacy has been mixed, with the most authoritative study claiming that there has been no evidence that participants feel safer or that involved communities have a higher rate of reporting to gardaí (McKeown and Brosnan 1998). The Association of Garda Sergeants and Inspectors has commented that 'once the initial enthusiasm has waned, the schemes tend to drift into oblivion' (Joint Committee on Justice 2005: 19). In addition, it has proven especially difficult to establish Neighbourhood Watch in disadvantaged areas where there is an ambivalent relationship between the local community and gardaí. However, members of the public do distinguish between the commitment and dedication of individual members of the gardaí and the organisation itself, which may have different priorities. One person stated that

I think their hierarchical structure and their whole accountability didn't marry well with, really the whole notion of community policing that we were trying to envisage and want. They were particularly sensitive if we strayed into the whole area of having any say in decisions (cited in Mulcahy and O'Mahoney 2005: 14).

In 2009, the gardaí launched a new national model of community policing that emphasises, amongst other things, the importance of community partnerships and problem-solving (An Garda Síochána 2009). However, the model is rather reticent

about the institutions through which these ideals will be realised and the means by which this might be accomplished. There is evidence of a promising approach toward community involvement, which is reviewed in the next section.

## 4.2 The Establishment of Community Policing Fora

Community policing is most likely to exist in long-established and cohesive communities in which ‘crime is not a problem’. Given this tendency, the most comprehensive evaluation of community policing found that there was such a bias to settled, homogenous communities that they asked whether ‘these [community policing] schemes have any relevance in disadvantaged urban areas where there is a high level of drug-related crime and where the gardaí are distrusted’ (McKeown and Brosnan 1998: 84). The evaluation concluded that such schemes were ill-suited to those communities where there is little support for the gardaí and which have been adversely affected by the epidemic of drugs and related criminal activities that have blighted many disadvantaged urban communities over the past decade. However, the case study described below, of a community policing initiative in part of Dublin’s North Inner City, demonstrates that these structural characteristics are not insuperable obstacles to a functioning model of community policing.<sup>20</sup>

## 4.3 History of the North Inner City Policing Forum

The area concerned runs from Marlborough Street to the Royal Canal and from Dorset Street to Amiens Street in Dublin’s North Inner City. It was greatly affected by the drugs crisis of the 1980s and 1990s. At the time, many citizens were unsure of what was happening in their communities as a result of escalating drug consumption. People were aware of the damages caused by alcohol abuse but were genuinely unsure of what the symptoms of heroin addiction represented. Certain activists believed that there was a ‘great deal going on behind closed doors’ (Interview A) and that some people were traumatised as a result of the drugs problem but nobody was confident in their understanding of this issue.

Some people within the community convened a meeting to gather their knowledge about what was happening and develop some solidarity and support amongst residents. Fifty people came together and began to share their stories of what their lives were like as a result of trying to live with drug addiction. It was the first time

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<sup>20</sup> Interviews were conducted with the following individuals: a community representative who has had a long involvement with the Community Policing Forum; a senior garda officer who is familiar with the community and the operation of the Forum; and personnel from Dublin city Council who gave their perspective on how the Forum functions. When they are referenced in the text, they are referred to as Interview A, B and C respectively.

that people here believed that they had an 'open, comfortable, space' (Interview A) to discuss the issue. The following week over one hundred people came to the meeting. Attendance at the meetings grew and grew through word of mouth.

What began as a support group soon began to discuss the scale of the problem and they realised that it was more serious than first envisaged. Concerned citizens then began to discuss what could be done to address the issue and pooled their knowledge about where drug-dealing was taking place and who was responsible. Having pooled their collective knowledge about the subject, citizens then began to take action by marching on the houses of drug-dealers. Initially, this was successful as 'drug-dealers began leaving the area without any evictions or agency coming in', and it was seen to be an example of 'people-power' (Interview A). Action extended to the control of certain streets as concerned residents blocked access to public streets for drug-dealers who then moved onto other areas. While this strategy was successful in curtailing drug-dealing, after a period of six weeks vigilantism set in as a result of false information being disseminated so that both innocent people and drug addicts were targeted. Activists then realised that they had to 'back-off' from their street campaign and that the resolution of the drugs crisis was beyond the capacity of any entity to solve alone, be it the community, gardaí or Dublin City Council.

People from the area then decided that the various street groups needed to come together and thought that the best way of organising this was through a policing forum. A proposal was developed that the three relevant groups—community, gardaí and Dublin City Council—needed to work in a more coherent way and this idea was submitted to the Local Drugs Group Task Force for approval. In 1997, a proposal was made by the Inter-Agency Drugs Project (IADP) and the Inner City Organisation Network (ICON) that a Community Policing and Estate Management Forum (CPF) be attached to the North Inner City Drugs Task Force. It was agreed that the CPF would involve residents from the north-east inner city, personnel from the Local Drugs Task Force, members of An Garda Síochána and Dublin City Council. The task of the CPF would be to develop a co-ordinated strategy in response to drug-dealing and drug-related anti-social behaviour in the North Inner City. The board of management of the CPF then sought to employ someone to sustain the efforts of the Forum and motivate members of the public to participate. At first, reactions were 'very negative as they [residents] didn't trust the gardaí' and didn't want to work with them; residents were equally negative about Dublin City Council (Interview A).

Initial efforts met with little success and some of the early meetings were very poorly attended as a result of public antipathy. Members of the public were worried about being associated with the drugs issue because of fears about intimidation. As a result, the Forum initially operated as a maintenance group meeting and Dublin City Council had to respond to requests for facilities to be fixed quickly in order to win the trust of local residents (which emphasises Skogan's (2007) point about the contribution of municipal services to any urban policing initiative). Gaining such trust took about twelve months before issues concerning anti-social or drug-related behaviour could begin to be addressed. Local residents were encouraged to share

the information concerning such behaviour with the CPF employee who would then pass it onto the gardaí and Dublin City Council.

Relations began to build from there. Small committees based around one or two blocks of apartments or a few streets nominated representatives to attend the meetings of the CPF, which were held every three months. There is evidence that this particular forum has led to greater responsiveness on the part of gardaí and that their operations have become more transparent and open as a result (Connolly 2002). Since gardaí know that they will be questioned publicly, they feel obliged to document what they have done about issues raised by the public. A senior garda illustrated his point in the following way:

there are issues across the North Inner City and we are asked, from the floor, what are we doing about it. If we haven't done something about it in the lead up to that meeting, than you can be sure it has to be done for the next meeting. The community have given a ferocious tongue lashing if something is not done (Interview B).

Some interviewees considered that individual gardaí have become more motivated to identify with particular areas as a result of this series of intensive meetings and regular encounters with particular individuals. The CPF in the North Inner City has been successful in terms of fostering a greater culture of transparency and collegiality, to the extent that it may cut off any sense of grievance. A police officer noted that he sometimes had to deal with allegations that officers had been 'rough' with particular individuals. He admitted that

if someone did something wrong and said look I made a mistake here, it won't happen again, the person involved is apologetic for it, that works. We make mistakes, of course we make mistakes, you are dealing with criminals who are living in the area around there, you are going to have confrontation at various times (Interview B).

This apparent readiness to let matters drop can be contrasted with the Garda Ombudsman Commission's testimony that informal resolution of complaints through mediation between the complainant and garda has encountered difficulties. Up to 2008, 233 cases had been assigned to informal resolution while just one case had been successfully mediated (Garda Síochána Ombudsman Commission 2008b: 19).

The Community Policing Forum can be seen to be a relatively successful model of engagement with citizens at a local level. It has proven to be more sustainable than previous attempts to build such a rapport. Success has been partly due to the persistent work of full-time personnel who ensure that links are made and maintained between community, gardaí and Dublin City Council. A similar initiative has been pursued in the central area of Dublin city without the employment of specifically dedicated personnel. Eight general forums have been established whereby community representatives meet with the gardaí every two or three months, who try and deal with their complaints.

Both the community and gardaí have benefitted from improved relations: the community now have a more responsive police service and the gardaí have been able to tap into confidential information derived from the community. Arrests often follow from ‘graft on the ground with the guards—someone said something to a Guard at a local community meeting’ (Interview B). The local area has benefitted from a reduction in overt drug-dealing and there are now less adversarial relations between much of the community and gardaí. However, a number of questions can still be raised about the functioning of the CPF.

A significant issue is that in encouraging a greater responsiveness on the part of state services, people may overlook what part the community has to play in ameliorating a problem: ‘if something comes up the CPF will immediately come to Dublin City Council or the Garda to resolve the issue. The last people they look at are the community, they miss that part’ (Interview C). The interviewee went on to say that there could be a greater emphasis on capacity-building within the community, since it is the intervention of the community that ultimately ensures social problems do not get out of hand.

Some of the interviewees noted that the Community Policing Forum was driven by issues of extreme concern. This was beneficial in the sense that it could serve to mobilise people but it could also incite a demand for an immediate response. One of the officials interviewed noted that gardaí will reassure local residents that ‘a place has been raided, persons arrested, drugs have been seized and the file is with the DPP’ (Interview B)—a classic law-enforcement response. This is just what the public want – ‘just give us more gardaí’ was one person’s assessment when asked if there were any shortcomings with the project.

Other respondents sounded a more sceptical note about issuing such immediate responses to residents’ concerns: ‘we have put in CCTV and security doors, they [community representatives] push that from the point of view that the residents are looking for it – they feel it works, I don’t necessarily agree’ (Interview C). Malcolm Sparrow has argued that there is a tendency for police organisations, when alerted to a concentrated crime problem, to rely on one standardised response – what he termed ‘directed patrol’ – which means ‘flooding the particular area at the relevant times with uniformed patrols in order to suppress the ‘crime problem’ (Sparrow 2008: 94). According to Sparrow (a former police detective), the problem with this kind of approach is that it considers that the two most important dimensions of a problem are where and when it occurs even though geography and time may represent only ‘two of at least a dozen relevant dimensions’ (*ibid.*: 95). Other important dimensions might involve the nature of offending, the characteristics of victims, the *modus operandi* of criminal activity, the kinds of commodity attracting criminal behaviour, situational features like architecture and so on. Recounting a list of potentially relevant factors such as these is to emphasise Sparrow’s point that regulatory organisations should deal with problems at an intermediate level, between single incidents and a general category of harms. As this kind of mid-level problem-solving relies on a sustained analysis of why certain harms reoccur and on an understanding of the proximate causes of this phenomenon, it usually represents a departure from normal routines. While the North Inner City Forum improved relations between community and gardaí it is not clear if it facilitated the kind of

learning envisaged in the schema of triple-loop learning discussed in the first part of this report.

#### 4.4 Regulating for Continuous Improvement

Whilst the work of the Community Policing Forum discussed above has been largely positive, it is important not to draw too many conclusions from it. Not enough people have been canvassed to allow us to say whether it is a truly representative picture; this would require a more in-depth study encompassing more interviews, especially with frontline personnel. Still, an initial assessment has to be largely positive as it has managed to instil a responsive and intensive form of accountability on behalf of the police toward the community, apparently building up a degree of learning by way of continuous feedback from the public. The idea that encouraging practitioners of human services to liaise and engage with the recipients of those services raises standards has become increasingly influential. According to this view, service users should be given more ‘choice and voice’ in order to raise standards (Programme for Government 2011). But the idea that allowing for more ‘voice’ from the public produces an upward shift in standards is not given unqualified support by the work of the Community Policing Forum as outlined. While it is the case that allowing for frequent forms of public engagement has facilitated a more harmonious relationship between public and police, it may have encouraged customary police responses – more patrols, more arrests, more prosecutions – regardless of whether these are appropriate or not. Of course, there will be times when a law-enforcement response is the most suitable – one of the interviewees instanced investigations into criminal gangs – but the issue is whether there is an over-reliance on this method. Furthermore, it may place the burden of response upon the police and Council rather than enquiring about the capacity and efficacy of a community response itself.

Perhaps some of the problems of the kind of learning engaged by the Community Policing Forum is linked to the lack of double-loop learning conducted by the garda organisation in terms of the lessons that could be learnt from this case study of the North Inner City policing forum. Without any comparators in terms of policing responses to such issues as anti-social behaviour, it is difficult for those entrusted with running the CPF to envisage how they might do things differently. Monitoring comparative performance and the utilisation of resources is an issue that the Garda Inspectorate has raised in one of its reports (2007: 27).

In recent times, Garda Headquarters has been changing its management practices, which has involved devolving responsibility to regional commanders and ‘setting strategic targets and monitoring compliance’ (Garda Síochána Inspectorate 2011a: 3). Prescriptive actions and key performance indicators are set out in three-year corporate strategy statements and annual policing plans. Progress is monitored on a monthly basis and management also conducts quarterly regional inspections. Information on crime incidents is available through the gardaí’s computer system

although it is admitted that less detailed information is available at the local level at which an entity like the Community Policing Forum operates (*ibid.*: 5).

One problem with relying on instruments such as action plans and performance indicators is that they can pass over the concerns that might be of most concern to people in a particular locality. Certain problems or even crimes may not make it onto the register of official concern and therefore may not elicit an effective response. This has been one of the significant innovations of the Community Policing Forum, namely that it liaises with community representatives to enquire about what the community perceives as a problem. They are asked about ‘what do they see as problems, where is there an area we need to look and they will come back to me and that will go into my policing plan’ (Interview B). The point here is that the perspective is one of focusing on problems from the bottom up rather than ‘specifying the overall agency performance, and dividing that up’ (Sparrow 2008: 55). Following the former path helps to avoid a misalignment between major processes and leading problems. But it is important to note that this act of engaging with the local community is only the first step; having noted their concerns, it is then necessary to ‘parse the risk’, as Sparrow puts it, which involves comprehending why an issue is so vexatious and what makes it so. This is why Sparrow puts so much prominence on drawing out the particular causal factors that underlie incidents causing concern. It is always tempting, as Sparrow warns and our own research testifies, to rush to an immediate response. There is no single or infallible path to success and devising solutions to entrenched problems is difficult. But it is here that Garda Headquarters might play a part in deciding which is the most suitable and effective response to the issues that vex citizens.

Sabel and Simon (forthcoming) argue that what distinguishes innovative forms of service provision is a ‘distinctive form of monitoring’ that engages in ‘intensive scrutiny of individual cases to reveal systemic problems’. A clear example of this kind of monitoring is known as Quality Service Review (QSR), used in child welfare cases discussed in the Overview report. QSR involves a random selection of cases, which are then reviewed by a two-person team via assessment of all relevant documentation and interviews with appropriate persons. The cases are scored according to two sets of indicators, namely the well-being of the child and family and the capacity of professionals to devise appropriate plans and implement them. The final report lays down the scores and identifies and illustrates recurring problems.

Undertaking a process like QSR is as much about norm elaboration as it is about compliance enforcement since goals such as child safety and family stability are indeterminate in the abstract (*ibid.*). One could say the same about many of the garda priorities that have been laid down by the Minister for Justice such as the stipulation that gardaí provide a policing service that meets the needs of local communities (see An Garda Síochána (2012) Policing Plan 2012). A process like QSR assists in establishing clear examples of what such goals might mean in concrete terms and how they might be achieved: for instance, how are the needs of the local community identified and best met. By elaborating apparent instances of successful practice, it is hoped that practitioners will gain guidance on how to instigate improvements. The regime that QSR oversees is not one of rigid rules to which

practitioners must comply but one in which rules are revised in light of emergent best practice, which is always open to review and hence change. Thus ‘rules serve accountability, not by constraining discretion, but by making the system transparent—and hence open to democratic appraisal and intervention (Sabel and Simon forthcoming).

If one judges policing-related matters surveyed, from the perspective of a device like QSR, several matters become clear. It is difficult for those involved in devising local responses to assess how well they are doing. Certainly, they can judge themselves on how responsive they are to local concerns but it is difficult, in the absence of a process like QSR, to formulate a yardstick by which these measures can be judged. This problem of single-loop learning is related to a deficiency at the second loop of learning, namely that the corporate management does not seem to practise a process like QSR that would both illustrate what rather indeterminate concepts like ‘community safety’ mean and how they can be achieved. There exist entities like the Professional Standards Unit, which could play this role but there is a tendency to define its role as one of ‘ensuring compliance and adherence to operational and administrative policies’ (Garda Síochána Inspectorate 2011a: 4) rather than elaborating what emergent best practice might look like and what rules might be revised in light of this — revision of the rules rather than compliance to them could be the most important feature in raising standards<sup>21</sup>. And there does not seem to be sufficient linkage between the work of this body and organisations like the Garda Ombudsman Commission whereby the latter could analyse its own complaints data, examine what might be significant contributory factors and link with a body like the Professional Standards Unit to push through improvements.

This relates to a possible failing at the level of the third loop of learning, namely that the linkages between the corporate body that is being regulated and the regulator itself that facilitates learning and continuous improvement may not be strong enough. As stated, a body like GSOC might be too restricted to individual cases without enquiring into what might be the systemic causes of these incidents. The Garda Inspectorate might encounter the opposite kind of problem, namely that it looks at general policies and systems without being able to assess how they work out in practice. To take an example, in its third report the Inspectorate recommended that the gardaí develop ‘multifaceted solutions to local public order issues in conjunction with the joint policing committees’ (Garda Síochána Inspectorate 2007: 27). An Garda Síochána’s response has been that this recommendation has been fulfilled by being included as a strategic goal in the Annual Policing Plan (Garda Síochána Inspectorate 2011a: 9). There is no indication of how this proposal has actually been implemented on the ground with an assessment of what kinds of initiatives have been more or less successful.

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<sup>21</sup> The Garda have developed a Lessons Learned Framework. This six-stage process is intended to promote good practice by identifying where something is working well or where remedial action is needed. It is not clear what its impact has been (An Garda Síochána Strategy Statement 2010—12).

Yet if third-loop learning is to occur, those entrusted with ensuring high standards need to prompt organisations' 'rigorous self-evaluation and investment in the search for appropriate solutions to regulatory problems' (Gilad 2010: 502). This search requires organisations to detail how and why their interventions might have reduced harms and/or produced beneficial outcomes. This requires the kind of comparative approach alluded to above in our discussion of second-loop learning – it cannot be obtained through some sort of endorsement of some supposed best practice imported from elsewhere. High-quality regulation does not necessarily mean that the regulators pre-emptively try to specify what procedures the organisation in question should engage in; it would not make sense for the Garda Inspectorate to lay down what features 'multifaceted solutions to local public order issues' should contain. What the oversight body should be assessing is the organisation's efforts to gain a fuller understanding of the kinds of procedures and systems that ameliorate an issue like disturbances to the public order so that both 'gradually develop a shared understanding of what good systems and outcomes look like' (*ibid.*: 497). Presumably, the organisation would achieve relative successes in some areas and it should be the role of the organisational headquarters to probe why this is the case; it should be the role of whatever body is concerned with overseeing standards to examine whether similar successful strategies are emulated elsewhere within the relevant organisation. This learning-based approach to regulation does not preclude efforts based around external pressure and may well ultimately depend on it. It would add a normative dimension to this pressure by insisting that monitoring and self-evaluation are intrinsic to the ideal of the profession or work in question. Moral reinforcement is significant since research has shown that a disregard for and non-compliance with internal regulation can often be legitimised by perceptions that such work is secondary and alien to practitioners' professional identities. By challenging recalcitrant attitudes with information about how personnel from the same organisation have changed their behaviours and practices as a result of internal self-regulation, oversight bodies may find that they can leverage a general improvement in standards.

# Chapter 5

## Avoiding Extremes of Regulation to Enhance Policing

## 5.1 Introduction

This chapter suggests that the new institutional architecture surrounding policing contains much greater potential for fostering change that is not being realised. But the way to actualise positive improvements may not lie in the solutions that are commonly sought. One school of thought would recommend giving a regulator like GSOC greater independence and investigative powers; another might advocate more intensive and regular liaison and consultation with communities at an even more devolved level through entities like the local police fora. By examining developments in policing through the lens of quality and regulatory models examined in the overview report, we have suggested that more ‘top-down’ and ‘bottom-up’ approaches will not be successful. Rather the crucial question is how the various parts of the system interact or mesh with each other, leading to a more effective regulatory regime in general.

The NESC project on quality, standards and accountability has sought to assess human services in Ireland using the concepts and models of regulation and continuous improvement that are studied internationally. The Overview report draws attention to a number of themes: responsive regulation; a focus on, and involvement of, service users; devolution with accountability; and monitoring and learning (NESC, 2011). We briefly summarise how the Irish system of quality and accountability in policing looks on these dimensions before articulating a general conclusion about achieving improvements in the quality of policing.

## 5.2 Responsive, Smart and Meta Regulation

The idea of responsive regulation is to avoid the problems of both the command and control approach and pure self-regulation by modulating engagement and sanctions of the central authority depending on the performance and capability of the frontline provider. It also involves an attempt to link a ‘regulatory pyramid’ with a ‘strengths-based pyramid’. The developments of the past decade or more certainly move the Irish system in the direction of responsive regulation. But the system does not yet contain some of the key characteristics of responsive regulation.

The idea of smart regulation was developed to capture the fact that, in many contexts, regulatory authorities recognise their own limits and engage a range of actors, often including the regulated entity, to perform and achieve regulatory goals. At first sight, the current Irish policing system might seem like an example of smart regulation, given the multiplicity of actors and agencies involved in activities that shape the degree of quality and accountability, including the Garda Síochána Ombudsman Commission, Garda Síochána Inspectorate, Garda Professional Standards Unit, Joint Policing Committees and Local Policing Fora as well as the Department of Justice and Equality itself. Although the profusion of organisations involved in overseeing and improving the work of the gardaí might seem to indicate that there is a system of smart regulation at work, this is not necessarily the case. As was outlined in the overview report, it is not a multiplicity of parties per se that makes for smart regulation but an appropriate division of labour between them. And as has been demonstrated in this report, this division has not yet been achieved in the policing sector although it is being promoted by some of the relevant institutions.

Achieving an appropriate division of labour would mean that the bonds between the oversight and consultative institutions are of sufficient quality to propel lasting progress; this would entail that their work should complement each other. But there is reason to believe that this might not be the case. Looking at the activity of investigating complaints, research is converging on the idea that oversight should concentrate on the causes of police misconduct, rather than just looking into the symptoms, that is complaints (see section 3.2). What this more diagnostic model of oversight often finds is that the causes of complaints often stem from ‘the failure of management to put in place good policies and procedures to govern officer conduct’ (Walker and Lorenz 2011: 23). A finding like this then makes it obvious why there should be evident linkages between an oversight body like GSOC and an internal review body like the GPSU, or between these two bodies and the Garda Inspectorate. Of course, it has been claimed that such linkages do exist, in that one body like the GPSU takes cognisance of the findings of others like GSOC or the Inspectorate. But this seems to occur at a relatively informal level without discernible signs of progress. This is not a failing peculiar to policing; there are many instances within the Irish policy system whereby networks are said to form but it is difficult to gauge the progress they have made.

The idea that the various parts of the system need to cohere with each other is beginning to be articulated. For example, the Garda Ombudsman Commission has expressed a wish that a notion of a service complaint be introduced where a person is dissatisfied with the standard or level of service provided by the gardaí and which might be resolved by a frontline supervisor such as a sergeant rather than a superintendent (GSOC 2012). In effect, it is trying to move from a system based on direct regulation and toward one of meta-regulation in which it oversees frontline efforts to manage staff. Additionally, the Chairman of the GSOC has expressed his wish that the Commission work more closely with the Garda Inspectorate on issues that arise regularly in complaints so that they might form the basis of a wider review (The Irish Times, February 14<sup>th</sup> 2012). However, the former commissioners did express a regret that the process of making changes to the governing Act to

enable these kinds of changes has been ‘very slow’ (GSOC 2012: 23). This underlines the importance of some central node, such as a government department, with the network of oversight and consultative bodies assuming responsibility for overall coherence and efficacy of the regulatory regime. However, it would seem that discussions are now taking place between the Ombudsman Commission and the Garda Síochána with a view to advancing GSOC’s proposals regarding a speedier and less formal resolution of service-type complaints (Minister for Justice and Equality, Address to the Annual Conference of the Association of Garda Superintendents on the 18 April 2012). This development may portend the kind of linkages necessary for successful regulation.

### 5.3 A Focus on, and Involvement of Service Users

As we outline in our conceptual overview, the involvement of service users is an important factor in the development and application of standards for the provision of quality human services (NESC, 2011). Irish policing has long been characterised by a high level of community satisfaction but in the overview report, we underline that it is a focus on service users, rather than stakeholder engagement per se, that characterises the new models of service provision. Intrinsic to this new model is a direct form of engagement rather than a representative one. This reflects the core fact that has motivated the development of these more focused approaches: people’s needs, and the contexts in which they seek to flourish, vary much more than was acknowledged in traditional systems of uniform population-wide service provision. It is the variety of individual needs and contexts that warrants the key feature of the emerging world of services—the provision of ‘tailored’ or ‘person-centred’ services. As is broadly recognised, Ireland has become a more diverse society and it has to cope with the issues that this throws up, from which policing is not immune.

On one level, the advances in consultation achieved through entities like the joint policing committees could be seen as establishing representative mechanisms. But this representative mode of work may not be without problems as it may fail to engage with and resolve some of the issues that are troubling a community. A recent public consultation exercise conducted by the Department of Justice and Equality illustrated this issue. It elicited the observation that JPCs should not ‘**just be a complaints forum** (emphasis in original) but a body enabling an effective and active response to situations in the local community’ (Department of Justice 2011b: 11), i.e. it should be as much concerned with the improvement of services as sustaining the accountability of those providing the service. This could be achieved by the development of key performance indicators for JPCs in consultation with the relevant local communities and taking account of local knowledge and the most up to date PULSE statistics [figures from the police database of recorded crime incidents] relating to the localities/ communities in question.

What the representative model presumes is a particular model of accountability based upon the idea that the community expresses its wishes and the garda

organisation carries them out. However, a different kind of accountability, combined with a more devolved way of working may be needed to resolve some of the issues facing communities.

## 5.4 Devolution with Accountability

Policing traditionally had been based upon a hierarchical structure, which gave the appearance of tight control, but actually lent out a large amount of discretion to frontline personnel. In effect policing was based upon a large degree of devolution of powers with sporadic accountability. Whilst this gave serving policing officers the freedom to discharge their powers as they deemed suitable, it ran the risk of fostering possible inequities or even abuses, as demonstrated in the reports of the Morris Tribunal. After the Morris report, accountability was emphasised through the establishment of a range of oversight and consultative institutions. However this report has contended that the appropriate blend of devolution and accountability has not been delivered. In section 3.3, we recounted the Garda Inspectorate's view that there was scope for greater devolution and in section 4.1, we noted the observation that the hierarchical structure of the organisation did not sit well with this less centralised way of working. It would seem that the structure of the organisation still dictates the form and content of models of devolution and accountability.

Taking the latter notion of accountability first, this still seems to be dominated by compliance rather than performance concerns. This is to say that there is a great emphasis on ensuring that policies have been adhered to and that misdeeds have not been committed rather than performance being continually elevated and improved. Such a statement may seem unfair given the evident commitment of so many members of the An Garda Síochána which this report has underlined through the case study. But even here the report has made the point that devolving powers and responsibilities should make us rethink our notions of accountability: it is less about answering to some principal – be it a department, legislature or community – that its wishes have been carried out and more about exploring and exemplifying what it might mean to attain a goal like community safety. But in the case study, we demonstrated that this had not taken place. Despite the gardaí carefully attending to the community's wishes – some form of devolution had been achieved - the report has argued that various problems may not have been adequately diagnosed and the solution thought through.

If an emphasis is put on continuous monitoring and the uncovering of the root causes of incidents, then police officers would focus on problem-solving rather than rule-keeping or the disciplining rule-breakers. It could be said that problem-solving is what police officers have always done: they do not usually invoke their powers of arrest to restore social order but rely on their authority and intuition to work out how to calm a situation. But this way of working itself relies on an idea of the typical 'street-level' bureaucrat who works at ground-level unencumbered by rules or

oversight. Whereas this report suggests that seeking to combine devolution with accountability modifies both concepts.

Devolution is not just about granting greater freedom to practitioners to serve their communities as they see fit; it is also about balancing this level of discretion with a commitment to assess their efforts and impacts in light of similar endeavours elsewhere. Stressing this aspect of devolution changes how one might think about accountability. Rather than it being a 'straight-line' notion based around compliance with the express wishes of a principal, it is more akin to a mutual exploration of what the attainment of broad goals would entail. Balancing devolution with accountability means that the regime in question leave enough freedom for creative solutions that are congruent with the local context but have sufficient accountability to ensure appropriate consistency of outcomes. Achieving this kind of equilibrium requires that frontline personnel undertake monitoring of their solutions and the policy centre encourages these efforts and compares them to what is being undertaken elsewhere.

## 5.5 Monitoring and Learning

Suggesting that there should be regular monitoring and learning in the area of policing may seem inappropriate for a service that is often called upon to deal with emergency situations. Policing is, in the memorable phrase of one scholar, usually concerned with 'something that ought not to be happening and about which someone had better do something now!' (Bittner 1974: 30). In other words, policing is often called for in perceived emergencies, usually with the potential for social conflict. Many police personnel and officers might think that there is little time and scope for monitoring or a considered response; rather they have to 'do something now'. That a quick response is often called for is undeniable but this should not preclude a more measured reaction as well; otherwise the danger is that similar incidents will re-occur in the future and that the additional resources obtained from roster changes could be dissipated.

However, it is not just those at the forefront of practice that need to undertake monitoring and learning; people at different levels need to do likewise so that learning is built on a series of successive loops. The Overview report endorses the idea of 'triple-loop' learning with the first loop signifying that frontline workers try to analyse what difference in outcome their intervention might have produced; the second loop concerns a corporate body reviewing the effects of similar initiatives around the country and revising practice in light of the lessons arising; and the third loop is completed when regulatory and oversight bodies review the self-monitoring of the organisation they oversee. This is repeating our earlier point about an appropriate division of labour between the variety of bodies involved in the system of policing.

## 5.6 Avoiding Extremes to Achieve Quality

Debates about how to secure improvements in quality and standards are often polarised between two extremes. One option is to bestow greater investigative and sanctioning powers on a body that is separate from the entity being regulated; the other emphasises that frontline staff should be granted greater autonomy and initiative to make choices congruent with service users' needs. Internationally, one can see this debate being played out in many human services including policing. Here in Ireland, a great deal of commentary has wondered whether GSOC is sufficiently independent of the garda organisation that it regulates, whereas in England and Wales proposals are being formulated for locally elected police Chiefs so that local people may have a greater say in how police services are operated.

Hopefully, this report has made the case that quality and standards will not be achieved either through the simple addition of more top-down powers or greater bottom-up input. Emphasising formal, legal sanctioning powers alone does not work for a number of reasons. The number of incidents that fall under such powers are relatively small and open to dispute, and the most serious sanctions are the prerogative of the judiciary and not the Garda Síochána Ombudsman Commission, which diminishes the certainty of sanctioning (a problem that many regulators encounter). In addition, many complaints come under the category of service issues that cannot be appropriately solved through a formal prosecutorial process. This might lead one to suppose that standards are better raised through some sort of bottom-up process and the evidence adduced in this report shows that there are some merits with this way of proceeding. Liaising directly with communities allowed the police to attend to community concerns, reassure citizens that they were being listened to and could resolve complaints quickly thus pre-empting a sense of grievance. However, it seemed that very often this bottom-up process could be isolated from what organisations with a national remit were doing so that opportunities to share and learn from experiences were being lost. Thus a key to any future reforms will not lie in augmenting either top-down or bottom-up processes but ensuring that that the two interact or braid with each other to produce higher standards than could be achieved through a single process.

Some might think that there is a divide between those entities that formally oversee the work of An Garda Síochána and those that have a consultative role, and that issues of quality and standards pertain solely to the former and not the latter. But in keeping with one of the central tenets of a broad notion of responsive regulation, namely that 'numerous actors influence the behaviour of regulated groups in a variety of complex and subtle ways, and that mechanisms of informal social control can often prove more important than formal ones' (Gunningham 2010: 131), this report has analysed the role that community groups can play in raising standards. According to this model of regulation, we should focus our attention on broader regulatory influences and not just those institutions charged with explicit oversight. This would include internal management systems, as exemplified in the work of the Garda Professional Standards Unit, and the involvement of civil society in a 'myriad of different forms' (*ibid.*) through such associations as Joint Policing Committees and Local Community Fora. Each of these organisations, and other besides, can act

as 'quasi-regulators' all of which should ideally work in tandem with each other to advance the quality of policing.



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