



Police Reform in both Jurisdictions: Learning from the Past and Planning for the Future

CONFERENCE REPORT



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*Report on a joint seminar organised by
ICCL and CAJ*

Held in the Westin Hotel Dublin, 24th March 2022

REPORT PUBLISHED JUNE 2023



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Opening Remarks

Liam Herrick, Executive Director ICCL



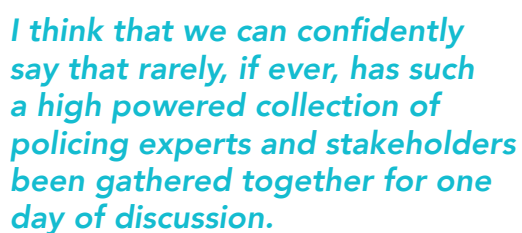
On behalf of the Irish Council for Civil Liberties (ICCL) and also the Committee on the Administration of Justice (CAJ), we're delighted to welcome you all here today to the second of two seminars on the question of police reform, North and South. Police reform has always been central to the work of ICCL and CAJ.

It was a central theme of ICCL's mandate when we were established in Trinity College in April 1976. It was one of the first items on the agenda, and at that time, ICCL and the founders were reacting to a crisis in Irish policing at that time, associated with the use of emergency powers and the excessive use of force for people in police custody. In both parts of the island, there can be no reform of policing today without a reckoning with abuses of police power in the past. ICCL has always been conscious that policing is not just a human rights issue in isolation. It is the key interface between the human rights and civil liberties of the individual, and the power and force of the state. We will hear today about how the quality of policing and the effectiveness of police oversight and governance are crucial, not just to the administration of justice, but also to national security, to the exercise of political freedoms and to the achievement of equality in our society.

Garda reform has always been driven to a large extent in a reactive way, by crisis, by tribunals and scandals. But ICCL has always put forward a positive view for the potential of police reform, and CAJ has done the same in the North: a view of police reform based on Human Rights. The global game changer for human rights-based policing was the Patten Commission Report in Northern Ireland, which set out a unique, ambitious vision for what was

possible for a human-rights based policing system. In our first seminar in Queens University in November of last year, we reflected on the road that Northern Ireland has taken over the last 20 years since that revolution in policing. Back in 2003, ICCL published a position paper, "Garda Reform: Why Patten Should Apply Here and How it Can be Achieved". It was clear to us then that Ireland did not need to reinvent the wheel - that a lot of the work on designing optimal models of police oversight and accountability had been done by Patten and could be adapted here.

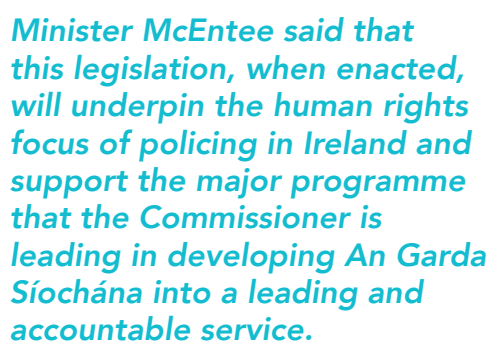
Over the intervening periods, opportunities have been missed. Attempts at reform and oversight here have had success, but that success has been partial. Today, as we sit with three crucial pieces of reform legislation before the Oireachtas, we once again have an opportunity to reach the highest possible level of police reform. We have the Commission on the Future of Policing in Ireland (CoFPI) Report, which sets out a clear, comprehensive vision for that reform. We have the blueprint, we have the political will for reform. We have oversight bodies that are critically engaged in finding solutions and reaching our full potential. We have police leadership that is genuinely committed to change - but we must not waste this opportunity. The structure of today's discussions are based around keynote addresses. First, from the Minister and from leaders of policing in both parts of the island, and then three panels which we have chosen as dealing with what we feel are three of the crucial questions for the reform agenda: accountability and oversight, security and intelligence, culture and equality. The speakers represent office holders in the key policing bodies, stakeholders in the reform process, and



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a range of leading international and national experts on the key police reform themes.

I think that we can confidently say that rarely, if ever, has such a high powered collection of policing experts and stakeholders been gathered together for one day of discussion. We believe that the outcome of today can make a valuable contribution to the crucial moment that we're in. We have already produced a report from our first seminar which Daniel Holder will speak to shortly, and there will be a report on today's proceedings as well. I would like to welcome our keynote speaker for today, Minister of Justice, Helen McEntee. In publishing the scheme of the Policing, Security and Community Safety Bill just in April of last year, Minister McEntee said that this legislation, when enacted, will underpin the human rights focus of policing in Ireland and support the major programme that the Commissioner is leading in developing An Garda Síochána into a leading and accountable service. And I think that that clear ambition is very encouraging for all of us. So it's my great honour to welcome today Minister McEntee.



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Opening Keynote

Minister for Justice, Helen McEntee



Today's seminar is really important in terms of the joint work of the ICCL and the CAJ project, which is policing oversight North and South, and this is the next phase of it. I think it's only really by supporting this meaningful dialogue, enabling all stakeholders to come together to share unique experiences, to listen to each other, that we can actually create, that we can drive, that we can ultimately implement the reform that Liam has just spoken about, and that we all obviously want to see. The Commission on the Future of Policing identified that human rights need to be at the foundation and the very purpose of policing, and the implementation of the Commission's recommendations they've outlined and they've monitored through a policing service for the future.

This is a cross government implementation plan that was published back in 2018, led through the Department of An Taoiseach. The reason for that is twofold: firstly, to show and to reflect its importance and its significance, but secondly,

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to ensure that policing is seen as an across the board a joint of government response, that it's not just from the Department of Justice, it's not just An Garda Síochána, albeit obviously the significant role that they play in keeping our communities safe. The plan itself is currently in its final consolidation phase. There have been a lot of achievements already, notably the legislative reforms and changes that are taking place. My own Department and I are currently working on significant levels of legislation, bringing them through the Dáil. There are some areas where we have already seen progress and reform, and had major achievements in already.

Firstly, the establishment of the Garda Human Rights Unit. We've also re-established the Strategic Human Rights Advocacy Committee or Advisory Committee. We've had the publication of the Garda Diversity and Inclusion Strategy of 2019. More recently, the Equality, Diversity and Inclusion strategy of 2020. We've had the redeployment of 800 Gardaí to frontline or core duties - and this is through the introduction of further civilian staff. We've had the continued roll out of the mobility devices. Again, this is about modernising our police force, making sure that they can do their work as effectively as possible. We have had connections to the EU Schengen Information System. Of course, this is so important in improving our cross border law enforcement, and already in that short space of time, we've seen how it's been hugely beneficial. We've also continued the phase rollout of the new Garda divisional model. While some elements of this have had to be paused or slowed down because of Covid-19, the vast majority of the plans that were in place have continued to be rolled out, and really this is about providing more front line Gardaí.

the General Scheme of the Policing, Security and Community Safety Bill was published last April, and really, this bill is providing the most far reaching and comprehensive reform of our policing service in a generation. It's about improving performance, but it's also about improving accountability of policing and security in this jurisdiction. And really it's about supporting the human rights of people all throughout Ireland, making sure that they not only are safe, but that they feel safe as well.

It's about greater visibility, but also making sure that we have a wide range of people and services for people in their community and in their local area, which is really important. As you'll be aware, the General Scheme of the Policing, Security and Community Safety Bill was published last April, and really, this bill is providing the most far reaching and comprehensive reform of our policing service in a generation. It's about improving performance, but it's also about improving accountability of policing and security in this jurisdiction. And really it's about supporting the human rights of people all throughout Ireland, making sure that they not only are safe, but that they feel safe as well. Specifically, the Bill can be broken down into three areas. Firstly, it will make prevention of harm to people who are vulnerable or those who are at risk, an explicit objective of An Garda Síochána. It will also make the safety of communities a whole of government responsibility. So this goes back to my point that it's not just about An Garda Síochána but also the establishment of our Community Safety Partnerships.

Many of you will know we have three pilot programmes already underway, one in


the inner city, one in Longford, and one in Waterford. This is really about bringing all of our communities together with An Garda Síochána, working with local services, local state agencies, with schools or education sector community groups, voluntary groups, individuals within the community, and young people. It's communities themselves, identifying what they want for their area and how they can implement it. It's so important that the groups themselves, the Community Safety Partnerships, are representative of the communities. Further, it's so important that An Garda Síochána are representative of the communities that they serve as well. I'm pleased that in the most recent round of recruitment, there was a particular focus on making sure that we had greater engagement with communities that don't necessarily and haven't in the past seen a career in An Garda Síochána as something for them. We've had a great response, and hopefully we will see even greater diversity within An Garda Síochána.

Secondly, the Bill will provide a more coherent governance and oversight framework for policing, in three ways: firstly, by strengthening and consolidating the independent external mechanism, through an expanded remit of An Garda Síochána's Ombudsman, streamlining its investigative process; secondly, by establishing a new Policing and Community Safety Authority, which will focus exclusively on providing robust and transparent independent oversight with the benefit of extra inspection powers; thirdly, the establishment of a corporate board, which will empower the Garda Commissioner, who will be CEO of that board. Fourthly, the Bill will ensure that not only our security legislation, but the operation of that legislation is continuously reviewed, which is extremely important. This would be done through the establishment of a post of Independent Examiner of Security Legislation. The primary function of this examiner will essentially be to set out to review our legislation, review its operations and effectiveness, and to consider whether or not it's fit for purpose - whether it needs to be changed, whether it needs to be updated, and also importantly, that it contains

the appropriate safeguards for protecting human rights.

One of the most important contributions that not only the Community Safety Partnerships, but also the Gardaí can have, is making sure that they are reflective of the communities that they represent. The campaign that took place in recent weeks encouraged not just people from minority communities, but also more women to get involved as well. It's really important that we have a gender balance when we are making sure that our Gardaí are reflective of the communities they serve. Regarding the legislation, the Justice Committee is currently concluding its pre-legislative scrutiny, and I really look forward to reading the report and the recommendations. They heard from quite a wide range of stakeholders - the Commissioner came forward to the Committee, the policing authority, the Garda Inspectorate, the ICCL, of course, the Garda staff and their representative bodies. I really want to thank everybody who took part in the process, who shared their perspectives, because it's so important as we produce this once in a generation piece of legislation, that everybody has their say and that it is as comprehensive as possible.


Drafting of the Bill is progressing as a matter of urgency; we are working closely with the Office of the Parliamentary Council, with the Attorney General's Office. I hope to be in a position to bring this legislation to my colleagues at Cabinet to seek approval before the summer. Of course, there's other work happening as well. This is not just about the legislation. We need to make sure that when the legislation is passed that we can actually implement the Bill. So the work that needs to be done there through my



making sure that human rights are at the very core and the very heart of absolutely everything that we do

own Department is progressing in parallel with this, and we are ambitious in our time frame. I really do hope between the legislation and implementing it then that we would have this done for mid 2023. So really it's not that far away. A lot of progress has been made. But I think with this legislation in particular, we really have an opportunity to implement and to underpin this change; as I said, making sure that human rights are at the very core and the very heart of absolutely everything that we do. So I want to thank the ICCL and the CAJ for bringing everybody together here today for the work that you're doing on this shared project.

It's so important that we get everybody together. People share their experiences; they share their knowledge, they share their understanding, and that way every single one of us can benefit in the work that we're doing and make sure, that working across both jurisdictions, we continue in that spirit of cooperation that I know is so important and that is so invaluable to each and every one of us.



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Keynote

Daniel Holder, Deputy Director, CAJ



The first conference was a bit of a stock take, 20 years on from the Police Service of Northern Ireland (PSNI), on the 5th of November of last year. We held it in Queens University, and it was part of this broader project sponsored by the Community Foundation of Ireland. For the first seminar, we had the support of the George Mitchell Institute and the School of Law in Queens, for which we were very grateful. We opened the event with a keynote address from Professor Fionnuala Ní Aoláin, who is a United Nations Special Rapporteur, and board member of CAJ, and she reflected on the process of policing reform in the North and the issue of compliance with human rights standards. Like today, we also had three panels in the first seminar. The first one focused on human rights and policing reform and accountability around processes and structure. In particular, we heard from Dr. Richard Martin in the London School of Economics. We heard also from Alyson Kilpatrick, who's also here today. She is Chief Commissioner of the Northern Ireland Human Rights Commission, former Human Rights Advisor to the Northern Ireland Policing Board, as well as the author of an ICCL study on Police Reform here. We heard from Dr. Michael Maguire, who is attached to the Senator George Mitchell Institute, and former Police Ombudsman in the North.

The second panel was a sort of community reality check panel. How are things on the ground? We heard from Queen's Academic, Dr John Topping, who works with a community of young people, specifically on the issue of the experiences of stop and search. We heard from Lilian Cecilia of the Northwest Migrants Forum, and also one of the leaders of the Black Lives Matter protests around policing of

ethnic minority communities. We heard from Creggan community development worker Connell McFeely on the situation of policing in Derry, and Debbie Walters of Ulster University in terms of particular experiences around the policing of Unionist and Loyalist communities. And like today we had a final panel, which was a response and reflections panel when we heard from former Assistant PSNI Chief Constable Stephen White and former Garda Assistant Commissioner Jack Nolan, with concluding remarks from Dr. Vicky Conway.



PANEL 1

Oversight and Complaints (A Human Rights Perspective)

Facilitator: Liam Herrick, ICCL (standing)

Panellists: (L-R) Emily Logan, Commissioner, GSOC, Bob Collins, Chairperson of the Policing Authority, John Wadham, Human Rights Advisor to the NI Policing Board and Marie Anderson, Police Ombudsman for Northern Ireland

PANEL 1: Oversight and Complaints (A Human Rights Perspective)



Marie Anderson
Police Ombudsman of Northern Ireland

I know that I have to speak about police oversight, but actually who welcomes independent oversight? I know that when auditors come to our offices and knock our doors and want to look at information, it's always uncomfortable. I can recognise that in terms of the challenges for police of having an independent oversight body. But I think that there are some lessons learned from Northern Ireland that we can help inform and shape how you go forward in the Garda Ombudsman's office.

So if I just turn to the main topic of police oversight, what is the purpose of independent police oversight? Well, in my view, it's very much about improving policing and it's very much about increasing public confidence in policing. It's interesting that in my legislation, which I hope to be reformed, I'm charged with the statutory duty of ensuring an effective and efficient police complaint system.

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So effective and efficient, but I am also required to ensure the confidence of both the public and the police in that complaint system. I think that statutory underpinning of public confidence is a very important part of my work and my challenge in the role. It's always interesting for me to reflect on the past. Why was there a Police Ombudsman's Office in Northern Ireland? Northern Ireland was, and some might say still remains, a deeply divided society which had experienced the trauma of conflict for many years. I have to say that policing is still dealing with not only the current challenges, but still dealing with the wounds of the past. I say that from a position of knowledge in terms of dealing with some of the most significant atrocities in relation to police conduct, concerning the most significant atrocities of the Troubles - Castlerock, Grey Steele, Sean Graham Bookmakers. I've recently published reports in relation to police conduct in those matters. The policing could not and cannot be separated, I believe, from the conflict and the divisions in society in Northern Ireland.

It's very much the police that feel this first. Many people, particularly those from a Catholic or Nationalist background, did not

feel confidence in policing because they could not disentangle policing from the other state actors and what was happening. But I think those things are changing in Northern Ireland, and I do have hope. Part of that has been the robust police oversight model that we have in Northern Ireland that has been described internationally as the gold standard, which is the Police Ombudsman's Office. Dr Morris Hayes, who is former Northern Ireland Ombudsman, developed a model for police complaints in Northern Ireland, and it still remains a good one, I believe, although we could do better. In terms of my role, I must investigate every complaint brought to me. I have no discretion. That's something that I'd like to change because I do think policing has moved on and public confidence in policing in the North has moved on and improved. But in terms of investigating all complaints, I recently was challenged by a serving police officer in relation to a complaint of perjury, which we accepted for investigation. The issue started with can the Police Ombudsman investigate a complaint of perjury?

Our response was, yes, that is a matter for the Police Ombudsman. The police officer's response and their legal advisor's response was, no, that's a matter for the court. So the question started as a jurisdictional challenge. But what emerged was that when our legislation says I must investigate every complaint- must is not a may - all complaints, no matter how minor, must be investigated. The interesting thing in terms of human rights is that when an officer is investigated, it does engage their human rights - their right to privacy, the right to a sound reputation as an officer and a member of the Police Service of Northern Ireland. So as soon as the complaint is received, the article 8 rights of the police officer are engaged. While the police complaints system does infringe those rights, it is justified because of a complaint. So there are tensions there that have to be recognised.

Back to the model in Northern Ireland, investigating all complaints is important, and this is one of my focuses for me and my time



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as Police Ombudsman, because a complaint should be about learning. Where there is misconduct and criminality, then that is a matter for the criminal courts or for the police disciplinary panel.

But a complaint is an opportunity to learn, no matter how minor that complaint is, even if it's a complaint of rudeness. It is important that that learning is fed back. I see my role as part of that complaints feedback loop. We get a complaint from a member of the public, we get a referral from the Chief Constable. However the issue comes into my office, there is an issue that must be independently investigated, publicly reported on where appropriate, and lessons learned. Why an Ombudsman model one might ask? Well, an Ombudsman is seen as a person, an independent person who can be trusted, a trusted official. So the Ombudsman model is an important one because it is about the public's trust. It is important that in terms of me and my staff, that we conduct ourselves in a way that achieves the impartiality that is necessary to adjudicate on these complaints. I want to quote to you some figures which I think are important. When the Northern Ireland Life and Times Survey data of 2019 was published in June 2020, awareness of the Police Ombudsman for Northern Ireland, 79% Protestant, 91% Catholic; perceptions of independence of the police Ombudsman, 87% Protestant, 91% Catholic; confidence that complaints are dealt



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with impartially by the police Ombudsman, 82% Protestant and 87% Catholics.

Although very often there may be a perception that the Police Ombudsman in Northern Ireland is not impartial and is only for one side of the community, in fact, there's significant trust on both sides of the community. Returning to what I would see as a successful model in the North, that is the investigation of all complaints, I still think there are gaps. We started off as being the gold standard. I could hardly lay claim to that today, because in other jurisdictions, such as in England and Wales, they have moved on. They have moved on in that the Independent Office for Police Conduct (IOPC) has an ability to accept complaints from whistle-blowers from within police. And they have moved on in terms of being able to accept super complaints from the likes of organisations that have hosted this conference today, from organisations that bring together complaints, because sometimes with those who complain to my office, there are literacy problems, language barriers, or they're actually frightened to complain because something might happen. If you're a migrant and you don't want to complain about the conduct of border officials, then you fear some form of victimisation.

So it's important that super complaints are an area that we should have jurisdiction over. But one of the things in terms of human rights and our ability to independently investigate that's important to highlight is that I have no power to compel witnesses - and I'm not talking about PAs and suspects. I have no power to compel access to information, access to witnesses who may be third parties, who may have witnessed an incident. Now, why do I think this is significant? Well, I know that the De Silva inquiry was criticised by the Supreme Court for not having those powers and it was said by the Supreme Court that it wasn't an ECHR, article 2 compliant inquiry. But as public services Ombudsman, it is for me to investigate maladministration and judgement. Let's go back to maladministration, which is failure in process. I have the same power as a High Court judge. I don't have those powers in relation to

And one of the things that I am passionate about is civilian oversight of police.

complaints referrals on motion investigation that relate to the most serious matters of police conduct. So that is one of the recommendations in what is my five year review of legislation, which was published in November 2020.

When I went to look at the model that I'd like to see for Police Ombudsman legislation, I look back at Thomas Hammerberg's opinion on an Independent Complaints Authority. That was an opinion that he provided for the Council of Europe in 2009, which was very much focused on why do you have an independent complaints authority for police, and the need to protect the human rights of individuals, particularly where matters such as serious injury or death has occurred following contact with police. So the article 2 aspects of those inquiries are important. The other thing that I looked to was the Venice Principles for Ombudsmen, which I believe are an important model. And one of the things that I am passionate about is civilian oversight of police. Please forgive those who are here today from a policing background, but it is my request that when we look at new legislation in Northern Ireland that there should be a statutory bar on a police officer, former or serving, being a police Ombudsman.

I think the civilian element of it provides civilian trust. I am not denigrating in any way the impact and the importance of having criminal background and criminal investigators in terms

there should be a statutory bar on a police officer, former or serving, being a police Ombudsman.



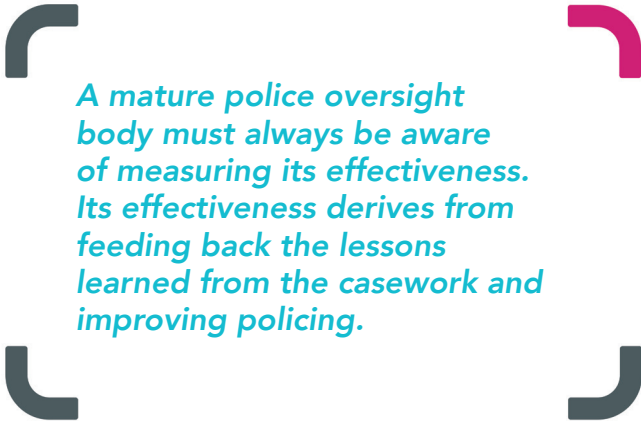
I think the civilian element of it provides civilian trust

of my staff. But finally, while my focus is on lessons learned, I think an important part of our work often is ignored because some might say we focus too much on history. It's important that you know that my staff visit police districts to share with the officers on the ground the information and learning which has been gathered by my office as a result of complaints. So if there are three or more complaints about an officer, then their supervisors need to know. If there is a particular issue in a particular area of Northern Ireland, we've noticed a spike, for instance, in relation to complaints about Newton Abbey in Antrim and those particular areas, then those District Commanders need to know - that is an important part of police oversight. It's not just about calling it when it's wrong, it's about feeding back the learning into the system. Finally, on the challenges for my office at present, there is no doubt that the uncertainty around what's happening in legacy in Northern Ireland is a significant challenge.

We have seen an increase in complaints in historical complaints which normally are a trickle. I have 480 cases in relation to historical matters, but in terms of that, we have seen what used to be a trickle now reaching eight new complaints a month. I think in part that's because of the uncertainty around legacy in the North. The other thing that I'd like to comment on is policing has changed. I see that in the complaints. I see that in cases where I am asked to look at what happened after a concern for safety, call officers, taking someone to hospital, having to remain there. The idea that police are enforcers has changed. An area that I'm looking very closely at the minute is the duty of care. When police pick up an individual and bring them to a hospital and a psychiatric assessment is done and they're discharged, and then they have to take that individual to another place of safety, what are their duties? It's a very

complex area, an area that spans duty of care, negligence, mental health legislation. What I'm saying is that our response as a police oversight body must be to be mindful of the fact that we are there in a more complex scenario than simply police being enforcers.

Finally, last year, awareness of my Office hit an all-time high. 95% of those surveyed knew about the Police Ombudsman's Office in Northern Ireland. Why? Because of my report into the police conduct in relation to Black Lives Matter protests. My reflection on that is that I recommended four things to the Police Service of Northern Ireland. I recommended that there be a human rights based approach to protests, that there are human rights based risk assessments around the decision making of protests. I recommended that there be remediation for fixed penalty notices that were served and monies paid. Finally, I recommended that there be regular reporting on policing and community engagement with the black and ethnic minority community. I have to say, I received yesterday a letter from Deputy Chief Constable Mark Hamilton confirming that all of those recommendations, while one of them was not initially accepted, have been actioned on. A mature police oversight body must always be aware of measuring its effectiveness. Its effectiveness derives from feeding back the lessons learned from the casework and improving policing.



A mature police oversight body must always be aware of measuring its effectiveness. Its effectiveness derives from feeding back the lessons learned from the casework and improving policing.



Bob Collins Member of the Policing Authority

It was the fact of my time in Northern Ireland, and particularly as Chief Commissioner of the Equality Commission, and seeing at close quarters the impact and the daily effects of the transformation of policing in Northern Ireland, that prompted me to express an interest in the Policing Authority here when that was established in 2015. It was a clear indication to me of the extent to which police reform had an impact on society generally, and on the extent to which the establishment of an independent policing oversight body was both a contributor to and a guarantor of that process of policing reform. Marie Anderson has, and I express great gratitude to her, dealt with aspects of "why police oversight." What is it about? I won't rehearse most of that ground, but one of the critical elements in the establishment of the Policing Authority was the introduction of the public dimension, of the fact that there are meetings in public where the Commissioner of the Garda Síochána and her or his senior colleagues account for our questions and are expected to answer the questions in a public forum.

That is a central part of the authenticity of a policing oversight enterprise. Section 7 of the 2005 Act identifies as the third objective of the Garda Síochána: the vindication of the

the vindication of the human rights of each individual, not citizen, not the majority, not us, each individual. That was and continues to be a profoundly significant statement of the intention and the purpose of the Garda Síochána

I do wish that everybody in the Garda Síochána would internalise that reality and express it and reflect it in how they refer to their own organisation. And I would particularly plead with my former colleagues in the media that they would recognise that it is a police service and it is not a police force, and that is not just a semantic difference

human rights of each individual, not citizen, not the majority, not us, each individual. That was and continues to be a profoundly significant statement of the intention and the purpose of the Garda Síochána, which, by the same token, in that statute became a policing service and not a police force. I do wish that everybody in the Garda Síochána would internalise that reality and express it and reflect it in how they refer to their own organisation. And I would particularly plead with my former colleagues in the media that they would recognise that it is a police service and it is not a police force, and that is not just a semantic difference. There is a very significant message behind the descriptive terminology. It was inevitable that the relationship between a police service and a regulator, an oversight body would take time to develop - would take time to mature. Change like Peace - patching Mr Yeats - comes dropping slow, and we have to recognise that being somewhat patient is an essential part of the process, while at the same time being impatient for delivery and for change.

I will identify briefly a few incidents where the existence of a publicly performing oversight body made significant change: the Homicide

the establishment of the code of ethics, which the law required us to do within the first twelve months, and observing that deadline was a critically important part of the work of the Policing Authority

Review, the Youth Diversion Programme, the breath test problem, the 999 calls issue from last year, which continues as we speak. If the Policing Authority had not existed, many of those issues may very well have been dealt with, but they would have been dealt with differently. They would have been dealt with internally. There wouldn't have been a public acknowledgement of them, there wouldn't have been the same degree of public awareness, there wouldn't, therefore have been the same degree of internal learning. There wouldn't have been the same degree and extent of internal interrogation of what it was that had gone wrong and what it was that needed to be addressed, and what that might be saying about systemic issues within the Garda Síochána and the establishment of the code of ethics, which the law required us to do within the first twelve months, and observing that deadline was a critically important part of the work of the Policing Authority. It offended many in the Garda Síochána that there was a requirement for a code of ethics, because they seemed to think that it was a statement that they had heretofore been behaving unethically and it represented a failure of confidence - it seems to me, on the part of the Policing Service and a failure of self-regard as a professional service, that there wouldn't be an acknowledgement of the significance of a code of ethics.

When lying in the operating theatre and being approached by an anaesthetist or a surgeon, one is reassured by the fact that there is a code of ethics that governs the work that those people do, the same as if you're in an aeroplane. These principles obtain even more

weight with the police service because we confer very significant powers on the police precisely because they have very a significant task to perform in society. They are in the in the gap of danger, so that we can sleep soundly and peacefully in our beds. They face assaults on a continuing basis. We recognise that - Marie is absolutely right - police officers have human rights entitlements as well. The Commissioner has responsibilities in relation to protecting the human rights of the people who serve in that organisation. But it is precisely because of the extent of the powers that police services have that there needs to be a formal public process of oversight. A curious Commissioner or a curious Chief Constable will want to know what it is about and which people complain. We'll want to know what are the issues that engage people's concern. We want to know from whom the complaints come.

We want to know what character of person and what character of event is causing concern. In the same way that Commissioner or Chief Constable will want to know, should want to know, and I'm happy to say, does want to know: what are the issues that the oversight work, that the outreach work of the oversight body reveals in terms of people's experience of policing? The Covid-19 two years was a dramatic and revelatory statement of the relationship that exists between policing and people. We are blessed to live in a democracy. We are blessed to live in a place where the Police Service seeks genuinely to be a policing service. It is not without fault. But "Ní bhíonn saoi gan locht" - the wise person is not without fault. And it was a remarkable representation of the extent to

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which people appreciated the closeness of that link between policing and community. But it also revealed the fact that there were not a few, a minority, but not a few whose experience of policing, even through the Covid period, was not as one would have wanted it to be, and that there were those whose traditional relationship to policing had been unhappy - who maybe did find it initially dramatically improved, but more recently reported slippage to previous patterns.

That is an important source of intelligence for a police service. That's an important source of insight into the minds of the people for a police service, and that is part of its value. Two or maybe three other things. This society is changing more rapidly now than at any time in the lifetime of any of us alive at the moment. That change in the composition and the attitudes of the people is outpacing the change in almost every institution in this state, the extent to which human rights and a sense of equality are now part of the DNA of virtually everybody, makes changes in society that alters the nature of our community. The composition of our community has changed more rapidly than the composition of the Garda Síochána been able to match it. Serious efforts are being made now. Some opportunities were lost in the accelerated recruitment over the last number of years, but it is good to see significant opportunities being taken now to enhance that representative capacity. And let us always remember that one of the great under-

representations in the composition of virtually every part of institutional Ireland is not based on ethnicity, but it's based on class.

And that is a truth that has to be acknowledged, and it is a truth that has to be addressed. The fundamental truth, too, in relation to seeking to be a more diverse organisation, is that the way in which policing is undertaken will have as much, maybe a great deal more effect in attracting a wider range of people to express an interest in being members of the Garda Síochána than any range of human resources strategies. This is not to diminish the latter, but it is to emphasise the significance of the former. Good policing practice attracts good policing candidates from every part of society, and good policing practice flows from a solid human rights basis, recognising that the responsibility to each individual that the statute imposes is there for a purpose - because it requires that everybody is respected in the same way, that police officers set aside their presuppositions about people when they encounter somebody in any set of circumstances. It is not only the Policing Authority which is the agent of change, it is not even just the Commission on the Future of Policing, which is the agent of change. There are very many good things in that report, although I cannot be altogether certain that they fully appreciated the emerging nature and character of an oversight body, at least judging by some of their commentary and recommendations.

The issue, then, that has to be addressed is finding the way in which the Garda Síochána can be, to the fullest extent possible, at the service of the people, representative of the people, and acknowledging all of the entitlements of the people. It is right

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the prejudices that circulate in the community, circulate within the Garda Síochána, that was a very powerful thing to say and a very significant acknowledgement of an undoubted reality.

to acknowledge the fact, as I was saying a second ago, that it is not just external bodies that are agents of change. This Commissioner has made significant changes in the culture of the organisation by a number of decisions that he himself has taken. By saying publicly at a meeting of the Policing Authority, the prejudices that circulate in the community, circulate within the Garda Síochána, that was a very powerful thing to say and a very significant acknowledgement of an undoubted reality. Flowing from that, then, our internal requirements as to how that is dealt with by setting up the Anti-Corruption Unit, which was not a popular thing to do within the organisation, but it was a very significant statement of acknowledging the essential humanity of the organisation - not an all-powerful divinely ordained entity, rather a body composed of flawed humans like the rest of us. And within that, inappropriate things will happen.

Being serious about the Anti-Corruption Unit and acknowledging reality, acknowledging fault, apologising for errors are equally not popular, but powerful statements of intent and of commitment provide a better service to the people. Legitimacy does not come from the statute or from status. Legitimacy, like respect, has to be earned. But legitimacy is absolutely central to the relationship between the Policing Service and the public because it is the public's acknowledgment of the legitimacy of the powers that the public confers on policing, through their elected representatives to statutory enactments. It is the acknowledgment of the legitimacy of those powers that cements that supportive relationship between people

and police, that integrates the power of policing with the power of the democracy within which policing operates. And attempting to articulate that, to find ways in which the unheard voices of the public can be relayed to the Policing Service in a public forum is one of the key opportunities, one of the key tasks and one of the key challenges of the Policing Authority in this instance or of any oversight body. Unless there is a radical and dangerous revolutionary development in this state, there will never be a time in the future when there will not be an oversight body for policing; a Policing Authority and a complaint mechanism to the Garda Síochána Ombudsman Commission (GSOC).

That will never come because it would be unacceptable to the public and the unacceptability to the public is a function of the fact that they have seen it at work. I am not too concerned about awareness levels or name recognition. What I'm really concerned about is that the public understands that there are bodies there who exercise these functions and who ask the critical questions and who deal with the complaints and who require the responses that those complaints merit. That is the linchpin of the democratic foundation of policing and of the public's respect for it.

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John Wadham

Human Rights Advisor to PSNI

I want to talk a little bit about Northern Ireland and the role of the Human Rights Advisor.

As people know, the Patten Inquiry followed the Good Friday Agreement and says - and this is important for human rights - the issue of policing is at the heart of many of the problems that politicians have been unable to resolve in Northern Ireland. The role of the police is to help to achieve that social and internal order. There should be no conflict between human rights and policing. Policing means protecting human rights. These are easy statements to make, but difficult to put in practice.

The Chief Constable is to be held accountable for the exercise of his functions and those of the police and to monitor performance of the police in complying with human rights, amongst other things. The importance of that legislation, and I would urge this on any police accountability system is to make sure that human rights is embedded. It's not an afterthought. It has to be crucial. It has to be in the legislation. I'm sure others would be able to comment in more detail about the process that the has gone through since it was first set up, and how important or otherwise human rights have been seen in the context of its holding the PSNI to account. Now, the history is that people more expert than me had the job. Apart from Alyson, Keir Starmer and Jane Gordon were appointed as far back as 2003, and they established a monitoring framework for human rights in Northern Ireland.

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Importantly, Bob was talking about this, is the importance of the Code of Ethics, because we're still working from a 2008 version of that, it says the Code of Ethics is not merely a disciplinary tool, it's a comprehensive human rights document which draws upon the European Convention of Human Rights and other relevant human rights instruments.

The Board believes that by carrying out their duties while paying strict attention to the ethical framework of the Code, the public can be more sure that police officers have acted in an honourable, effective and human rights compliant manner. That's obviously another important issue, because we're not just talking about the accountability body, but we're talking about how are the police held to account and to what extent of human rights apply to the activities that they have to engage in. Since 2005, there has been a series of annual reports from the Human Rights advisor of the policing board, as well as more than 20 thematic reports on tasers; domestic violence; gay and transgender rights; stop and search; both the Terrorism and the Justice and Security Act; race, and drones. Some of the ones that I've been involved in, in relation to the response of the PSNI on to the Covid-19 regulations etc, which included some discussion about the process that the police engaged in when there was a Black Lives Matter Protest, spit and bite guards seems to be a big issue in Northern Ireland.

I'm in the process of writing a report on the human rights of police officers, which I think is sometimes used as a defensive tactic. In other words, police officers have human rights too. Why aren't you talking about them? Well, I'm going to start talking about them because they do have rights and some of the issues that you will obviously be concerned about include the discipline process. Sometimes that is problematic. And then lastly, this year, I'm hoping to look at the use of force. The policing board also runs the Independent Custody Visitor system. This is comprised of volunteers from the community who make unannounced visits to police stations to check on their rights - their entitlement to well-being, the dignity of detainees, detainees held in police custody - and they send their reports on each visit to the policing board. These visits, which can take place in the day or the night, form part of our assessment of the extent to which human rights are being respected within police custody. I'm particularly interested in that, because, as you've heard, I'm the Chair of the National Preventive Mechanism in the United Kingdom, which is concerned about all places of detention across the whole of those four countries.

Now, the Policing Board is interesting for many reasons, and I've been privileged to be there to watch some of the issues that it had to deal with. Half of the members of the Policing Board are politicians and the other half are independent members - they are appointed by politicians, and there's always an issue in relation to who does the appointment of the independent people. That's something I would like to see dealt with in a different way, but the constitutional politics of Northern Ireland is complex. We currently have four Democratic Unionist Party (DUP) members, three members of Sinn Féin, one Alliance Party, one Social Democratic and Labour Party (SDLP), and one Ulster Unionist Party (UUP). It's an interesting division, a result of the last election. The political members are not chosen by anyone except their political parties, they choose which members go to the Policing Board.

When I went there two and a half years ago, I assumed that the only thing that the Policing Board would do would be debate policing and

human rights in the context of their politics. I was pleasantly surprised to see that all of the political members are really concerned about policing in Northern Ireland. They're really concerned about issues, about ensuring that victims are protected. More recently, of course, the police officers who have been involved in corrupt or unacceptable activities, including misconduct are dealt with swiftly. There is a real feeling amongst both the political and independent members about ensuring that we have the best possible police service in Northern Ireland. I'll talk perhaps a little bit more at the end about some of the issues where politics does, of course, affect the work that the Board does.

Currently, there is no "expert" on human rights on the Policing Board, though many people have worked in policing and human rights in the past. I have to say that because when I first started, Professor Brice Dickson was a member of the Board, and I was very interested in his involvement in giving their view, rather than my view about what human rights meant in detail. I would urge any policing accountability mechanism, not only to have staff who understand human rights, but also members of the body, the board itself. We have 50 or so staff that look after the Policing Board work. That includes developing issues about policing plans, the local accountability mechanisms that exist all across Northern Ireland that are administered by the policing board. We also have the police appeals process, where if a police officer is unhappy with the way the misconduct process has happened, they go to the police appeals system, and we administer that - it's quite right that the members of the panel are independent, and of course, it deals with issues of finance and issues of buildings. In fact, all of the buildings of the police working in Northern Ireland are technically owned by the Policing Board.

I was appointed a couple of years ago, and I spend two days a week as the Human Rights Advisor. I'm not an employee, I'm an independent consultant - that has pros and cons. I don't have continuity of employment, I have a contract, but it does give me independence from the policing board itself. The theory is that I can make statements or write reports

which the policing board may not necessarily sign up to. So the work of the Human Rights Advisor is obviously attending the discussions and meetings of the Policing Board, considering internal documents that the police provide, or I ask the police to provide, and that can include meeting MI-5 and the National Crime Agency.

It also includes monitoring and participating in the training recruits, public order training, monitoring the contentious parades, also, of course, as the police would say, in Northern Ireland, there are many, many accountability mechanisms that they're subject to. The Independent Review of the Justice Security Act; the Independent Review of the Terrorism legislation; the Independent Review of National Security; Marie Anderson, the Criminal Justice Inspector, and of course; from the other side of the water, her Majesty's Inspector of Constabulary; the Investigatory Powers Commissioner that deals with covert surveillance. And of course, there's the Secretary of State and the Justice Committee. So there is lots of oversight, and one of the roles that I try to perform is to make sure that we are connected together. So it was interesting when both Marie and I were doing separate reports on how the police were dealing with the protests during the Covid-19 regulations, and particularly in relation to Black Lives Matter.

Now, some people might say that's overlap and unnecessary, but in practice I think it was very successful, and the police changed their mind and resolved the issue, as Maria has already said. Some of the work that I do is internally focused - writing reports for the Policing Board that aren't published, and some of it is more public. For instance, in relation to the private work that subsequently became public, there was an Apprentice Boys parade in Londonderry. One of the flute bands decided that they would put badges of the Parachute Regiment and Soldier F when they were parading - Soldier F is the person who is being prosecuted in relation to Bloody Sunday and the High Court. Again, that was a very important issue for the Policing Board, and the particular question was whether or not the police got it right to allow them to continue to parade, and the extent to which they protected the community by flanking the

protest when they did parade through the city. And of course, inevitably in relation to those kinds of reports, and I should say that particular report is now part of an annual report from a year ago, board members have their own politics in relation to that, and you can imagine that Sinn Fein and the SDLP take a different view about what the police should have done in those kind of contexts than the other political parties, and particularly at the end of, during the process, of course, there were differences in policing protest. Should the police attend large events, should the police have been dealing with the organisers of Black Lives Matter in the same way that they dealt with the organisers of Bobby Storey's funeral, which was also a big event with large numbers of people on the streets - and of course, large numbers of people on the streets in small areas led to greater transmission, both in relation to Black Lives Matter, though the organisers were trying to ensure that that didn't happen, as well as in relation to the celebration and commemoration of Bobby Storey. I think Marie is still researching that, but there were problems, and those problems were reflected in the members of the policing board, not just in relation to how do you deal with large gatherings and what are the human rights principles?

Some of my reports are not unanimous. For instance, one political party didn't agree with the recommendation I made about ending the use of spit and bite guards at the end of 2020. So does the PSNI have the best embedded principles of human rights anywhere in the world or not? I think it's pretty good. Richard Martin, who was at the last conference that was organised by CAJ and ICCL, his book says human rights law was seen as a resource for managing trouble rather than the source of trouble itself. It was strikingly apparent that the Commander saw the application of human rights law and careful reference to the European Convention on Human Rights (ECHR) throughout the script as the most effective means of managing political trouble arising from external accountability bodies. One of the reviewers noted how the culture of policing has been radically altered by the introduction of human rights as a core element of how, and why it functions and the resulting expectations for police practice are important. However, in relation to the PSNI, how deep does that adoption of

human rights principles go? We've seen that the internal documents which I published extracts from in previous reports on Black Lives Matter, the operational, the Gold Command process for dealing with this says we must take into account human rights and we must take into account the right to protest.

That's great, but there was no detail in what did that mean, and how did you do the balancing? I should say that I'm very happy that in relation to the judicial review of the Metropolitan Police handling of the commemoration of Sarah Everard's life that was held in Clapham Common - as recently said, the police got it wrong. They didn't actually understand that human rights remains in place despite the regulations that you have to balance these issues and that you have to make decisions which are difficult decisions for the police and you can't avoid those decisions. That was the case here. And so when push comes to shove, how important are human rights in the context of what the PSNI and I do? I'd say that they get it right most of the time, but they don't get it right all the time. Otherwise, obviously, I and many others would be out of the job.

The other criticism which Richard Martin made, and which I think is correct, is how do you balance human rights which are in conflict? How do you deal with issues of article 2? Because obviously, in relation to those protests and in relation to other events, protests included, there is always going to be an issue of the right to life. It is the job of the PSNI to protect the right to life, and it says that in the statute that their job is to protect life and of course, the vast majority of the work that PSNI and I do is actually about protecting people's lives and protecting people from harm or further harm. I watched the body

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worn video of the police talking to people who were involved in the Black Lives Matters protests, and they said, we have a right to protest. And the officers individually said, yes, but we're here to protect the right to life. We're here to protect people from the transmission of the virus and that was absolutely true. Does one right trump the other? Obviously, I'm sure in this hall, and for those people watching, it doesn't, therefore, it's not just about understanding human rights, it's understanding how do these rights apply in practice?

To leave on some of the problems, some of the issues for the future. Alyson Kilpatrick knows that we are still struggling to get the PSNI to collect data about the community background of people stopped and searched under the Justice and Security Act. We also know, and I found this shocking that this happened a couple of months ago, there was a Freedom of Information (FOI) request from a media organisation to the PSNI for information about the community background of people arrested and charged by the PSNI in Northern Ireland. The figures, which are self-identification of people who self-identify as Catholics or Protestants, demonstrated that twice as many Catholics as Protestants were arrested. Now, that's a real problem. I should also say that one third of the people either didn't disclose their religious background or didn't fit into those two categories or the information wasn't clear. But the problem that I have is these figures were for the last five years.

First, why didn't we know about it? And secondly, what's the basis of this and what is the responsibility of the PSNI to ask itself those questions? It may well be that there's no direct or indirect discrimination, but we should know. So the issue about human rights in the context of equality and of course, in relation to arrest and detention, article 5 and article 14, those are questions that a public authority, including the PSNI, has to ask itself and to demonstrate its transparency. I know that they're doing work on this. I know that they're desperately trying to find out the basis of this, find out how valuable the figures are, as well as what is the reason for this - I'm happy to continue to ensure that they struggle hard with some of the more difficult issues in relation to human rights.



Emily Logan GSOC Commissioner

I'm delighted to speak at such what is really a crucial time for policing reform and oversight in both jurisdictions on this island. It has been an eventful year, not least following the publication of the General Scheme of the Policing, Security and Community Safety Bill in April, which proposes reforms that will form the backdrop to many of the discussions that we will have over the coming years, but also many of the discussions that we'll have here today. From the perspective of GSOC, we view the draft legislation as the first green shoots, if you like, for change for our institution. And we've welcomed the proposals as having the potential to address a clearly defined and long signalled gap in terms of Ireland's policing, accountability, infrastructure. This is a long signalled gap, highlighted in particular by our former chairperson, Judge Mary Ellen Ring before and during the Commission on the Future of Policing consultation review process and includes the limitations on our institutional independence, the unusually and convoluted legislative basis of GSOC oversight powers, on the challenges we faced in delivering our remit in the context of limited staffing and resources. What is no surprise to anybody is a much more mobile workforce, and the difficulty in recruiting staff with the necessary expertise. What I mean

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by that is, Marie referred to the changing landscape in policing and the changing and more complex situations that we as oversight bodies, find ourselves in, and we must be able to respond to that.


This has all come in what has become a very competitive labour market. Now, the combination of these issues that has had a significant impact on the capacity of GSOC to conduct its investigations in a timely manner, something which has quite rightly been criticised by people in this room, civil society, complainants, by Gardaí themselves, and criticised by ourselves within GSOC - we share the frustration, the external frustration communicated by others, and these issues are very familiar to colleagues here today, and the degree to which they'll be addressed in the coming months and years remains to be seen. But this expected period of reform and transition has initiated a process in GSOC of what we would describe as reappraisal and reflection. It gives us an opportunity to embark on a programme of work that has already begun, where we're internally gathering groups across the organisation to focus on the expansion of our remit and our functions in anticipation of the proposed changes. And this work will, of course, look at the challenges that we faced historically in GSOC. This period of transition is a valuable opportunity for us to work towards better fulfilling our role as a first rate human rights based policing oversight bodies.

Just as human rights are at the heart of policing, so too they must be at the heart of any oversight institution. The existence and development of policing institutions on the island of Ireland reflects a very significant power differential that exists between policing bodies and the public service, as Bob referred to, the policing service. And while policing services are there to protect the community, they also hold a very significant power over people, in particular in terms of powers, for instance, to detain and the use of physical force in the course of protection and detection of crime. GSOC plays an important role in rebalancing that power differential, not least by our role as one of a number of state actors in the State's fulfilment of article 2 and article 3 of the ECHR. It's worth recalling that in conducting our own criminal investigations, that GSOC, which is not well known, holds comparative powers and duties as the Garda Síochána in this context. These powers, such as powers of arrest, powers of search, require the utmost rigour in their application, which is something that is done very formally and very rigorously in GSOC.

We have indeed indicated in the context of the upcoming legislation that we're open to the introduction of any further judicial oversight of these powers. But what I would say is, just a reminder that we've had these powers since the inception of GSOC in 2007 - the regular question posed over recent years, which in many ways is the focus of this conference today, is how well placed are our oversight institutions in practice to meet their remits, and how do we go about addressing what could be described as unevenness or inconsistency that can come with this type of work? I know from my own years as Ombudsman that making a complaint is not easy for everyone, nor does bringing a complaint guarantee a satisfactory outcome for a complainant. You've heard the comments of

Supreme Court Judge Hogan recently when he said there's perhaps an understandable reticence on the part of many to complain in respect of failings of officialdom. But much of this in GSOC's view, and in my personal view, is connected to the broader systemic inequalities that states such as Ireland experience. In the context of our expected transition to a reformed oversight body, we recognise and acknowledge the complex set of barriers so well summed up by Judge Hogan, or whatever form the legislation takes.

It is our genuine belief that we can contribute to reducing and removing not all, but some of these barriers that we have a responsibility to remove. Firstly, we believe that a more active community engagement and awareness raising is imperative by GSOC and An Garda Síochána. Such outreach is particularly important for children and young people, and where vulnerable adults are concerned. The Council of Europe Committee for the Prevention of Torture has observed particular risks faced by children and young people and vulnerable adults in encounters with police, and the phenomenon can be observed as everywhere in Ireland. For our part, our outreach efforts, whether with young people, whether with ethnic minorities or the wider public, will be facilitated by the new legislation. When I say that, what I mean is that in its current format there's a provision that places a stronger emphasis. In fact, it's shaping up to be a very welcome, positive obligation on GSOC as an organisation to build the trust that Marie spoke about. While you have that provision already in your legislation, Marie, we don't yet have it. That's not an impediment, but it's very good to have an explicit provision that obliges us to build public trust and confidence in what we do, and that's our statutory function - to build public confidence in what we do as an organisation, as an oversight body.



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Another area requiring significant changes is data - poor collection, disaggregation analysis and retention of data by state institutions has long been a recurring theme in recommendations made to Ireland by a number of United Nations treaty monitoring bodies, and GSOC is no outlier

where this is concerned. As has been repeatedly communicated by the UN and UN committees to Ireland as a state party, good disaggregated data is a means by which you identify systemic inequalities, including inequalities of access or treatment. All of these can be identified and then subsequently addressed. A core aim of GSOC in this coming period, therefore, is to ensure that our data is good and is placed at the heart of our own work, allowing us to better understand what are described as systemic issues, allowing us to identify trends, allowing us to identify patterns and approach our work in a much more targeted and much more thematic, and a much more strategic way. It will also permit us to provide better systemic recommendations to the Garda Commissioner, to Garda management for the improvement of policies and practise, and in addition to collaborating with our sisters and brothers in the current Policing Authority, it's really imperative that we work and complement each other.

So we are collecting the data, identifying patterns and themes that Bob referred to, and sharing that information so that the kind of public accountability that Bob spoke about can happen now, that better data analysis will require reviewing our rather antiquated case management systems. They're quite old, but we are trying to build a better internal capability for both research and analysis, and we expect that the new legislation will have a role in facilitating this. Other welcome developments in Ireland and human rights will also make this shift both essential and desirable. The Commission has met members of the Anti-Racism Committee for instance. We'll soon see the publication of the National Action Plan Against Racism, and this plan, we expect, will place a strong emphasis on the collection of good quality, disaggregated, quality driven data by state bodies, and GSOC will play its part in this. We will also see the formation of the National Preventive Mechanism, the NPM, in relation to Ireland's compliance with the Optional Protocol to the UN Convention against Torture, and we can expect that such a mechanism will seek insights of oversight bodies such as GSOC, and we very much have this in mind in our own planning.

The collection of good data is also fundamental to the improvement of quality and standards, and to ensuring that GSOC itself is a learning and development organisation, and this has already been referred to - research shows that public trust in institutions is heavily dependent on an institution's own ability to maintain and improve standards through learning from its own work and through developing its capacity and the capability of its staff. Last year, we finalised our new learning and development strategy and plan for our staff. We're currently supporting ten of our staff through higher education courses on human rights, to build our own internal capacity. Marie referred to the statutory obligation, as we also have in GSOC, to undertake effective and efficient investigations. We don't know if we're going to do that unless we start internally monitoring that, so last year we established a quality management unit with a remit to put in place and monitor compliance with our quality standards, to ensure not only customer service, but also to provide assurance of compliance with statutory and other obligations. These are steps to display or to demonstrate our commitment to GSOC growing as a learning organisation, to enter into a new phase where we're not so shy about our internal learning.

In my experience, and certainly I know my colleague Hugh would agree with this, we believe that there's a mismatch between the perception of the organisation, and certainly the internal commitment that we have witnessed from our staff within GSOC. It's our belief that, especially in the context of planned reforms and oversight, that this learning will play an important part in enhancing our relationship with the public as our primary stakeholders.

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ONLINE QUESTIONS

We have a couple of questions online, two relating to the operation of the PSNI, two in relation to the operation of Garda Síochána. The first question is regarding the Patten Report, and the key recommendation saying that, essentially, we request or mandate an increase in the number of Catholics within the PSNI. The person had a question about the monitoring of that and the retention rates, how is that monitored? And what are the current breakdowns of community representation within the PSNI? The second question then for the operation of PSNI was specifically for Marie, and the question was how does she envision how her office might exercise discretion in choosing cases? She mentioned the gravity, but are there any other standards or tests that she envisions?

John Wadham

The rates in relation to Catholics in the PSNI is about 30% presently, and the Policing Board is the key body for monitoring that, apart from the PSNI itself, and the Policing Board has been considering what can be done about this and how that can be taken forward. It's not part of my direct remit, but it is something the Policing Board has always been concerned about, and is particularly concerned about how that can be changed. I'm afraid I didn't bring with me the issue about retention rate, so I can't answer that question. But my guess is if the person online wanted to go to the Policing website and the PSNI website, I'm sure those figures are available, but I'm afraid I don't have them to hand. But it is, not surprisingly, a real concern for the Policing Board and for the Chief Constable of PSNI going forward.

Liam Herrick

John, can I just follow up on that? There's a Catholic/Protestant question, of course, which

is built into Patten. But there's a wider question, obviously, of representation in a wider sense and is the Policing Board looking at that wider question of representation at the moment as well?

John Wadham

One of the things that the Policing Board is concerned about is in relation to representation at the senior level, particularly in relation to women as opposed to men. So that is an issue. There are some very impressive and senior women police officers, but when it gets higher up to the top team, it becomes more and more problematic. Whether that's worse in the PSNI than other forces or other large institutions in Northern Ireland, I am really afraid I don't know the answer, but it is something that, in fact, the Chief Constable wrote to the Policing Board only a couple of days ago with a plan to try to ensure that women police officers are represented at the most senior levels. So it's something that is certainly not being ignored, and it's something that is a struggle. Both the Policing Board and PSNI are dealing with that. I should also say that there are other associations within the PSNI for different groups, including in relation to Latin ethnic minority. And then, in fact, we are privileged in Northern Ireland to have the President of the UK Black and Minority Policing Association as the President of the PSNI body.

So there are some useful connections between what's happening, or sometimes what is not happening in England, the Wales and elsewhere, and also what's happening in PSNI in Northern Ireland.

Liam Herrick

Marie could you take that question about discretion in terms of criteria for taking on complaints.

Marie Anderson

Well, I think it's important that you recognise that it is a big resource issue if you have to investigate every complaint, which means

potentially limitless numbers of complaints. Our complaints are up by 17% this year, returning to levels we saw in 2015-16. Limited resources means delay in investigating, means delay in decisions on investigations which impacts on the complainant and impacts on the officer that's subject to investigation. So that's the context. This is a contentious issue, there are those in Northern Ireland, politicians included, that do not necessarily agree that a police officer should have a discretion to investigate. But in terms of an example, we have a power to, with lower level complaints, to enter into an informal resolution process trying to resolve what are not necessarily minor for the complainants, but perhaps relatively minor issues in terms of impact. Informal resolution is, as you know, Emily, a tool in every Ombudsman's toolkit. In terms of our current legislation, if the complainant is not happy with the suggested informal resolution, I still have to investigate, even though we know that it's a case that is not going to achieve any practical outcome - and I think that is something that needs changing and other Ombudsmen before may have also asked for that to be changed. But in terms of a test, in my experience as formerly as public services Ombudsman, and as Deputy Ombudsman for over a decade, I developed what's known as in terms of a discretion to investigate the three P's policy.

Put quite simply, is it proportionate to investigate to put your resources to formally investigate the matter? The P for practical can you achieve a practical outcome? What's going to be achieved here? Is there going to be something that there's improvement in policing? Is something positive going to be achieved for the complainant? And finally, and here's the rub, because we all know that what's in the public interest is not necessarily what interests the public. The third P is the public interest. So a public interest test. I have a total of seven live investigations around police officers engaging in inappropriate relationships with vulnerable females. No one would deny that if you're going to apply that test that conduct issue is a serious matter, it's a great matter, and it's in the public interest.

Liam Herrick

Emily, this question of threshold is one of the critical questions in legislation here at the moment, about whether all complaints should go to the Ombudsman, or whether some complaints can be leased back, as has been the practice to an Garda Síochána.

Emily Logan

I lean on my previous experience as Ombudsman that it is neither practicable or in the public interest for GSOC to investigate some of the current cases it's investigating. What I would say is also the lack of streamlining of cases, has been problematic. I'm using the word streamlining because that's the word Minister McEntee used in relation to GSOC, that was the streamlining of our investigations at the moment. We must, at the point of admissibility, make a decision about whether something potentially constitutes or may constitute either a disciplinary or a criminal matter. So you open a criminal case, and what happens is if the findings of the investigation illustrate that it's not the criminal case, we then sequence a disciplinary case. So I think we're a bit hamstrung in a slightly different way than Marie, that the sequencing of cases means it's protracted unnecessarily, protracted investigations for the public who are primary stakeholders. Certainly GSOC would support, and we have publicly said it in our commentary on the legislation, that we would much rather an early examination, like most Ombudsman do - where you have a period of what's described as the preliminary examination before you make a determination on whether something may constitute a disciplinary or a criminal matter. The Commission believes that will shorten the time it's taking to do some of our investigations, remembering that we're not a prosecutorial body, we're an investigation body. So if we finish a criminal investigation, open a criminal investigation, finish it, we then must send it to the DPP, if it reaches the threshold which is key - at that point, then the DPP comes back to us, gives the direction not to prosecute. Only then can we consider a disciplinary case so that this is really adding to the time.

ONLINE QUESTIONS

So there were two questions regarding the operation of An Garda Síochána. Should the Policing Authority include members of overpoliced and marginalised groups, for example, ethnic and class groups who are marginalised because of ethnic or class identity? The second one then, do the panellists have any comments on the possible lack of transparency and the impact that has on accountability and community trust in the Gardaí, for example, the limited application of FOI requests to the Gardaí?

Bob Collins

Can I just say one thing about the Northern Ireland environment - the Equality Commission for Northern Ireland also monitors the composition of the workforce of the Service, and reports on it annually and has continuing engagement with them. In relation to the final last point that Emily was making - in Northern Ireland, a significant number of complaints might be forestalled if people were dealt with in a more appropriate manner by the police officers with whom they were engaging, because in many times it's the absence of stability and normal intelligent engagement that prompts people to make some of the complaints. In relation to the composition of the Authority, I think it would be a great deal to its advantage if there were, there is a diverse group of people - it's a group of nine, minimum four men, minimum four women. Most of its life it has been five women and four men, there is nothing that the Authority itself can do about this other than to encourage as many people as possible to express interest when vacancies arise, and then it's a matter for ministers to make the judgement based on those who go through the formal public appointment service process that's involved. The staff of the Authority in many respects, has a greater level of diversity than the Authority members themselves, and that's a positive

thing. A key part of the work of the Authority is engaging with the community as a whole and obtaining the responses and the views and the experiences and reflecting those both in its own recommendations and also in the continuing engagements it has with the Garda Síochána. That was very specifically the case in respect of the 16 reports that the Authority made to the Minister in relation to policing under the Covid-19 emergency regulations. Like many others, we have been advocating strongly, vigorously for the collection of more detailed information by the Garda Síochána in relation to the kinds of engagements it has with people, particularly from different ethnic backgrounds.

Liam Herrick

I might come to Emily on that part of the question, I think, related to FOI and whether the Garda were captured by FOI. But I think this question of transparency applies also to the oversight bodies, and certainly I think it's fair to say from our perspective in ICCL, the question of the transparency of GSOC has been a matter that's been raised with us consistently about the publication of its work. Is this something that GSOC is currently looking at in terms of that process that you're talking about?

Emily Logan

It most definitely is - to date, in terms of public commentary, it's been around section 81 and the prohibition on publication. Certainly in terms of ongoing cases, we are prohibited by statute from commenting on any ongoing investigation. Our primary interest of the Commission is to ensure that we do not undermine the integrity of an ongoing investigation. But where we have been criticised, legitimately criticised, is when an investigation finishes. And, Marie, this is something that you've been outstanding on, and something we have a lot to learn from is when an investigation has concluded how you publish information, either the substantive investigation itself or some kind of executive summary. We're aware of that, and that is something that is currently under review.

AUDIENCE QUESTION

My question to the panellists is that where are the perspectives of minority ethnic groups in this, particularly considering that policing and law enforcement is structurally racist, and obviously, in terms of the oversight bodies, how diverse is it going to be or how diverse is the learning from Northern Ireland, considering that representation is important. And when I say representation, I don't mean just having one person from an ethnic minority group to tick a box, I mean effective representation in order to ensure that we bring change to the people and that they make meaningful contributions in terms of ensuring accountability and reporting back to the people, particularly affected groups.

Marie Anderson

I would just like to say that I'm ashamed to say that I don't have a diverse workforce and that's something that I think we need to work on. The investigation into the Black Lives Matter protest taught us as an organisation, I met with some of the complainants and it taught us as an organisation that for those of black and ethnic minority to trust us, that we need to be more diverse. So I think that's something that is definitely a challenge for us. It was interesting when I engaged with the youth group recently, what also became very apparent that the diversity of our workforce is zero in terms of the age profile, particularly in our historic inquiry stream - we are older people investigating and that we need to really work at that, but what was great about the engagement with the youth panel and with those from an ethnic minority background on it is they were coming forward with ideas for us, and that's the only way back to the engagement. That's the only way that we can change as an organisation.

I'm ashamed to say that I don't have a diverse workforce and that's something that I think we need to work on

for those of black and ethnic minority to trust us, that we need to be more diverse. So I think that's something that is definitely a challenge for us

Liam Herrick

So I'd like to thank all of our panellists. Just on this question about representativeness, of course, there is an opportunity with the legislation that criteria could be inserted in the legislation, that questions of diversity and representation could be taken into account in the appointment process, which is something certainly we've looked at, and I think that would certainly be a practical outcome. I'd like to thank all of our panellists for I think, really rich contributions.



PANEL 2

Covert Policing and Intelligence

Facilitator: Doireann Ansbro, ICCL (standing)

Panellists: (L-R) Daniel Holder, Deputy Director CAJ, Alyson Kilpatrick - Chief Commissioner of the NIHRC and David Anderson QC - former UK Independent Reviewer of Terrorism Legislation and cross-bench peer

PANEL 2: Covert Policing and Intelligence



Doireann Ansbro
Head of Legal and Policy, ICCL

This panel is on covert policing and intelligence. Covert policing and intelligence is a very significant issue when it comes to getting the balance right between protecting individual rights - such as the right to privacy- and the right to be protected from harm and the right to life. It's quite a significant issue in terms of the police reform process happening here in Ireland at the moment.

The new Policing, Security and Community Safety Bill proposes an Independent Examiner of Security Legislation for the first time.

Currently, there's no independent oversight and accountability of security legislation or its implementation; or at least no substantial or effective oversight, other than some internal oversight and oversight by a designated judge who provides a very short report at the end of each year to the Minister. So there's a lot to be discussed here today. Without further ado, I'll introduce David Anderson QC. David Anderson is the former UK independent reviewer of terrorism legislation and currently a Cross Bench Peer, he practises from Brick Court Chambers in London in EU, public and human rights law.



David Anderson
QC

Despite Covid-19 it's very good to be here in person, good as well to see some uniforms. I always think there's really no point talking about these things without a police presence there as well. Very much agree with Marie Anderson said in the last panel - good oversight doesn't inhibit good policing, it encourages and facilitates good policing. It's the way of ensuring policing by consent, for which I think both these adjacent Islands are rightly well known. Oversight is perhaps particularly necessary in the field of state security or national security, and I would say

there are two reasons for that. First, the exercise of powers, state powers, including police powers, are potentially even more intrusive than they are with other kinds of policing. For example, of the sorts of precursor offences that we have in the terrorist field, things like

good oversight doesn't inhibit good policing, it encourages and facilitates good policing

Ideally, oversight involves transparency so that everyone can see what's going on, but when you're in the national security field, it's more a question of translucency and the importance of a security cleared proxy who can represent the public and Parliament in the scrutiny that they do and report back to them is, I would say, all the more important.

preparing acts of terrorism or possessing materials that could be useful in terrorism and other offences that impinge more closely on people's expressive and associative rights, and also, of course because more policing happens in secret and cannot be known to the public. Ideally, oversight involves transparency so that everyone can see what's going on, but when you're in the national security field, it's more a question of translucency and the importance of a security cleared proxy who can represent the public and Parliament in the scrutiny that they do and report back to them is, I would say, all the more important. Oversight mechanisms in my experience, tend to evolve in response to events or challenges, and we saw this classically in the 1970s in the US and Canada, where intelligence agencies and police in various respects just went off the rails. In the US, you had the CIA investigating the women's liberation movement, infiltrating itself into Martin Luther King's family, allegedly trying to break up his marriage. In Canada, you had the Royal Canadian Mounted Police, which as I think is still currently the case in Ireland, combined with its policing function and intelligence function, was getting hold of the membership list of the separatist party in Quebec, no doubt of interest to others in the state apparatus. As a consequence of that, you had the Church Committee, you had the McDonald Commission, you had the Senate Intelligence Committee set up in the US, and you had the involvement of judges in

granting warrants for surveillance and the whole apparatus of an oversight Court and so on in the US, which I would say, on balance have served pretty well.

I'd like to introduce very briefly three milestones that we've had in the United Kingdom, each about 20 years apart - the first being the creation or the evolution of the job of Independent Reviewer of Terrorism Legislation, which is the job I held until a few years ago and of course, the job that is going to find an Irish equivalent in the Independent Examiner. That was really a reaction to the arrival of the IRA in mainland Britain, with the Guildford pub bombings in 1974. And so for the first time, counterterrorist laws were introduced to Great Britain, initially on a temporary basis. Parliament says, we'll go along with that, but so long as we get the chance to renew them every six months or every year, and so long as we get an independent reviewer who is security cleared, if you can look at everything that we can't see and can report back to us on what effectively is going to be done in our name - and that was how the Independent Reviewer evolved. It's quite an old fashioned scrutiny mechanism in a way, in that it's one individual.

I didn't have a staff or an office or a bureaucracy behind me. Every word of every report I wrote myself, and it was based on interviews or things that I had read, that makes it obviously ineffective in some respects. It's not the sort of mechanism that could possibly be a substitute for a Police Ombudsman or an Independent Office for Police Complaints. But what it is quite good for is identifying policy issues, systemic issues that perhaps emerge from what I observed or what I learned from NGOs, what I learned from academics. My job, I felt, was to funnel that thinking into Whitehall, into Westminster, get the interest of the politicians, which was often best achieved by getting the interest of the media first, and to be a sort of Gadfly on the skin of the security services and the police. The great advantage I had, of course, was that I'd read the secret stuff and I talked to the secret people so in the days when ministers could say, well, if you'd seen what I'd

seen, you wouldn't say that. They couldn't say that to me because they knew I'd seen all the same things.

So that was the job. I'm not sure that I achieved anything of any real significance in Northern Ireland, although I used to visit quite often, anything I did achieve was entirely because Alison Kilpatrick was my special adviser for certainly the last part of my mandate, at the same time as she was at the North Ireland Policing Board, and that was extraordinarily useful. Next thing I want to talk about is the Intelligence and Security Committee of Parliament. This came along in 1994, and really is a consequence of the avowal of our intelligence agencies. MI5, MI6, Government Communications Headquarters (GCHQ), the last two avowed in that year. Their job is to keep an eye on those security and intelligence agencies. Although politically constituted by serving MPs and a few members of the House of Lords, it is actually rather a non-partisan body, so rather different in that respect from the Senate Intelligence Committee in the US, and a good thing, too. On the other hand, it doesn't have the same apparatus that they have to produce 2000 page reports on torture or anything like that.

I think it's most effective when it's looking at policy issues. The influence of Russia on the British state, for example, one report it did a year or two ago. The government is very reluctant to publish what it's doing at the moment on extreme right wing terrorism. It also is, I would say, welcomed by the intelligence agencies themselves, because although they are criticised from time to time, they also know that at least there is a body of MPs who understand how they function, who on the whole approve of what they see and who are therefore able to debate national security matters on an informed basis when they do come before Parliament, as they often do. And then finally, I just wanted to mention the Investigatory Powers Act 2016. It was a huge piece of legislation, really, in response to Edward Snowden's revelations, which caused all over the world, including in the UK, a good deal of unease and suspicion and

mistrust of the state, because although GCHQ might not have been acting outside the powers given to it by Parliament, those powers were so vaguely framed that Parliamentarians didn't know, and certainly the public didn't know, even in outline, how they were really being used until the Snowden documents emerged.

It's based really on two principles, one is transparency. So a clean breast was made of all these powers, whereupon they immediately become less interesting to the general public because they can read an awful lot about them. For example, in my report on bulk powers, and then secondly, by much improved oversight. The judges are now involved in the issue of every warrant. No warrant can be issued without the approval of the judge. The other thing we've seen is a massive professionalisation of judicial scrutiny. We used to have a system very like Ireland, where a single judge really would look into what MI5 has been up to, what Counterterrorism Police has been up to, and produce a very short report, often saying not much to see here. Wait until next year and we'll see if it's the same. What you get now is from the Investigatory Powers Commissioner's Office, who is a very senior judge. The current is Sir Brian Levison, a Lord Justice of Appeal.

It's absolutely packed with tables and information and statistics and all the rest of it. I would say it's worked very well for a number of reasons. I think it has diminished suspicion among those parts of the public who were suspicious. It's helped enormously with the Americans in terms of getting mutual access to information, for example, from social media companies. They needed to be reassured that we, like them, had a system of independent authorisation of warrants. They didn't much like warrants signed by the Secretary of State. If it's signed by a judge, well, that's the language they speak in America. It's also been very helpful in the European courts in defending the way that we do things. People use this phrase bulk surveillance, which I find rather misleading. It can be something as limited as what we were looking at in Dwyer, something that used to be required by the Data Retention Directive isn't

anymore. Your mobile phone company keeps your traffic and location data for a couple of years, not so they can snoop on you, but just in case there is a murder investigation and it becomes relevant to see where you were at various times.

And certainly it's very clear to me, reading the judgments of the European Court of Human Rights, that there are a whole range of powers which are only lawful because oversight is strong and thorough, end to end oversight, as they call it in the Big Brother watch case. A couple of final reflections. One, and it may be this is not a problem here in Ireland, because you do still have this unified function within the Gardaí, but certainly in England, one problem we always had was the intelligence agencies, although often exercising very similar powers to the police. Maybe they've watched too much James Bond, but sometimes a feeling that they were on a different level and that their Covert Human Intelligence Sources (CHIS) were different from police CHIS, when they authorised surveillance it was all a bit more national security like than when the police did it. It seems to me very important, to a successful oversight body, that they are reminded they are subject to the same standards, the same human rights are involved, regardless of who is snooping on you or investigating you. There is really no leeway. The great thing about the proportionality test is it's flexible and it can take account of the importance of the objective.

It's very important to remind people, just because they've got an intelligence hat on doesn't mean that they're not subject to the same standards as police. The last thing I'd say, from my lofty experience as Investigatory

it's very clear to me, reading the judgments of the European Court of Human Rights, that there are a whole range of powers which are only lawful because oversight is strong and thorough

The great thing about the proportionality test is it's flexible and it can take account of the importance of the objective.

It's very important to remind people, just because they've got an intelligence hat on doesn't mean that they're not subject to the same standards as police

Powers Commissioner in the Channel Islands, I found as the judge, I could do a certain amount that was useful, but to be a really good monitor of how these powers were used, I absolutely needed technical people with me. These are the former police and customs officers very often who work for the Investigatory Powers Commissioner's Office (IPCO). They're backed up by a technical advisory board, and they are the people who can get inside the computer systems, who know the absolute up to date guidance on handling of CHIS, who can compare the position with the other forces that they monitor every week of the year, and I found not only did that produce much more thorough scrutiny, it also produced very good buy in from the police, because they knew as soon as my Expert Inspector appeared that they were going to hear something really useful.

Doireann Ansbro

Thank you very much - one small note there, you might have heard David refer to a CHIS - that is a human informant, and we will probably hear a lot more about CHIS from Daniel in particular. Now we have Alyson Kilpatrick, who is the Chief Commissioner of the Northern Ireland Human Rights Commission and author of ICCL's "A Human Rights Based Approach To Policing In Ireland". And as David referred to, she was also the special legal advisor to the UK's Independent Reviewer of terrorism legislation from 2016 to 2021



Alyson Kilpatrick Chief Commissioner, Northern Ireland Human Rights Commission

I have managed to offend law and order both sides of the border in Ireland, and I'm agreeing to do it again today. A colleague said to me before I came, you're not brave, so you must be really stupid to be continuing to do this sort of work - I don't want an answer to that. But I do always find it necessary to take a deep breath when talking about these issues, because it's easy to be global and you can be seduced, actually, by the secret world and think that you're learning things that other people don't know, but it's a huge responsibility. Once you know it, you know it. And be very careful what you say. It can be terrifying. You're always warned, at least I certainly was. The stakes are high. Be careful what you say. And to whom. But it seemed to me that that assessment, what can and cannot be seen and by whom is probably the key question at the root of all of this. Any time you look at covert policing or intelligence, that's what it comes down to. We can't all know everything. So who might we trust on our behalf?

David put it beautifully, translucency versus transparency and a trusted proxy - and that's what it always comes back to, if you can trust that proxy. David, I think he won't mind me saying, even if it's a little obsequious, was the right person doing that job, he was trusted and it achieved a huge amount. If he hadn't been the right person, it would have achieved practically nothing. In fact, it would have been counterproductive. So if you're going to have a person, an examiner, and make sure it's the right one, the next big question certainly that

I find very difficult at the Policing Board, was what do you do with this information? So you say you are one of these trusted proxies and I was vetted so I could look at this stuff much like John was talking about earlier. What do you do with it if you're working with people who aren't similarly vetted? I couldn't go into the policing board and say, "Listen, guys, I can tell you all about this. Let me tell you about how they run CHIS." I couldn't because they weren't vetted. I had to either sit on it, try and resolve it secretly behind closed doors, which wasn't in anyone's interests, or find a way of bringing the root cause to the attention of the board and it was very, very tricky. Then the other issue is who watches them? So who is watching me? It was tempting for me to say to people, "Sometimes we just have to take my word for it", but then why should they? If someone said that to me, I would have said, "why should I listen to you any more than listen to them? I want to see it for myself", and I have a certain degree of sympathy for that.

But what happens if things go wrong? What do you do? Who do you go and tell? I didn't have anybody I could run to, to tell things to. The only person who ever offered to listen to me was actually the Ombudsman, the Police Ombudsman prior to Marie's time. I've no doubt I would probably offer the same, but it's not a solution, actually. So when I took up the position as Chief Commissioner, most people said to me, you're away from the policing world, policing and security is done in a human rights sense, world leading, nothing more to be said. It couldn't have been more wrong. In the first month that I was at the Human Rights Commission, policing and security were the things that were occupying most of my time, from spit and bite guards, as John says, biometric retention, stop and search legacy cases, article 2 issues about dealing with the

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most people said to me, you're away from the policing world, policing and security is done in a human rights sense, world leading, nothing more to be said. It couldn't have been more wrong.

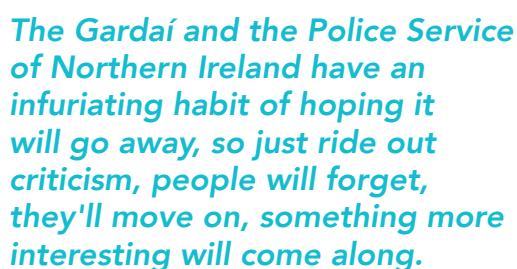
past - all of that in the first month of being at the Human Rights Commission. People remain very interested and they remain very affected by what happens in policing and security and they want to make sure that the rest of us are still paying attention.

What I think is also worth bearing in mind, and I echo what David says about seeing uniforms in the room, and if there are some people in the room who don't wear a uniform, you know who I'm talking about. You know who you are. You aren't identifiable, but you're working in this world. If any of those are listening, do try and remember that this is a world familiar to you. You understand it, you don't feel at risk from it, but the rest of us do. It frightens us. We don't understand it. We think it's a world in which anything can happen without any recourse and nobody will ever know. And at best our secrets and our embarrassments and our little Google searches that we don't want anyone else to know about will be revealed. But there is no secrecy left and we worry that we're going to be mocked or worse. That's why I think people become so fixated on getting real answers and getting accountability and transparency. It's not hollow, and while it's difficult, it has to be done. There just isn't any substitute for it. What I find probably one of the most difficult things in policing and security is that those who work in it, particularly on the security side, and this is very much the case, I think, in Northern Ireland, is that they can become isolated, defensive - they feel misunderstood, picked upon sometimes, no one appreciates what they do or what they add to our collective safety and the health of our nation. And they aren't without some justification because there's been

a number of inquiries, court cases, reviews, inspections, reports over the last few years, all offering advice and making recommendations on what should have been done better, what police needed to do differently. Some of the criticism is accurate and fair, and some of it not so much. Inquiries and reviews do tend to happen in response to a crisis or a scandal so it's unsurprising that they're going to be focusing on negative and as difficult as it is, it's important that they do, because bad policing, bad security, must be exposed quickly and fully, so it is in nobody's interest - and as David has said, it's certainly not in the police and security services interest to try and conceal. It all has a habit of coming out eventually.

There is also, though, this widening sense of them and us, and I think people like us have to try and bridge that gap as well, but also on behalf of the public. We're not a substitute for that, the police and security services do need to engage with the public, they can't simply ignore them or think they understand what it is the public want. When I published my report for ICCL a couple of years ago, I was quite critical of the Garda Síochána on a number of fronts, and I wasn't cavalier about my criticism, although they maybe thought I was. I thought very carefully before I did criticise, but I understand that it probably stung. The first question I got asked, and it was live on the radio, was what do you say to all those poor Gardaí who see this list of failures and feel like they can't win whatever they do - and very prevalent in that question was, and what do you know about it anyway? The only answer I had really for that was, you're going to have to read the report, read the whole report, don't just read the headlines. It's sort of the same point, that David was making, is headlines and bullet points are not enough. You have to set out your reasoning, you have to explain why you've reached certain views, and that goes for the overseers as well as the police and security services themselves.

Short, a few paragraphs here and there saying everything is fine, honestly, nothing to be concerned about just doesn't cut it anymore.



The Gardaí and the Police Service of Northern Ireland have an infuriating habit of hoping it will go away, so just ride out criticism, people will forget, they'll move on, something more interesting will come along.

They also thought, I think, Gardaí and certainly the Police Service of Northern Ireland, what can I bring to the game? I've never assumed any risk in my professional career, although I have to say some of the Magistrates courts I used to attend and some of the prison rooms I used to have to see clients in, there was some considerable risk that went with that. But I knew what they meant - what they meant was I've never had to make these sort of really difficult decisions and I've never had to put myself in harm's way and that's true, but I don't help them by turning away from something that I see as being wrong, or at least in my opinion is wrong. If I'm prepared to justify it and they're prepared to then engage with me, that can only be positive. The Gardaí and the Police Service of Northern Ireland have an infuriating habit of hoping it will go away, so just ride out criticism, people will forget, they'll move on, something more interesting will come along. The Gardaí response to my report was simply, we are and always have been committed to human rights and everything we do. What I would say to that is that isn't an answer. It's not even a response, it's a platitude. And those sort of platitudes are offered far too often instead of answers. People are tired of it. So they either want proper engagement and explanation or they want simple acceptance. Something hasn't been quite as good as they would have you think. Now in community policing, things have changed enormously, I think - in the security side of things, probably not quite so much yet. But again, as David Anderson has said, they're not immune from human rights law. It applies equally whether you're doing it behind a closed door and stakes are high, or whether you're neighbourhood police officer who's stopping somebody in their vehicle.

Let's look at Ireland. Ireland has a long history of dealing with threats to what maybe we call the nation state over history. Sometimes it's called terrorism. Sometimes it isn't. It goes right back. I think the first mention I could see of terrorism was in relation to the Fenian in the 19th century, throughout the Troubles, which I lived through in the North, and the continuation of this threat from what I referred to as dissident Republicans and Loyalists. It may seem strange to jump back into that sort of time, but it explains a little bit about the machinery, I think south of the border in Ireland, and Ireland's Constitution, has this threat of war, armed rebellion built into it. The Irish are very good at fighting each other and we like to rise up and complain and the Constitution has developed to prepare for that. It provides in itself for suspension of *habeas corpus*, special courts, emergency laws, special powers, all to deal with the risk of internal subversion - and this threat from within, I think, is something that Ireland North and South is very conscious of. We can't trust each other. And I think that explains some of the responses to crises and scandals over the years. Some awful things really did happen during the Troubles in Northern Ireland.

I was there throughout all of it and during that time, human rights had little respect from anybody involved in the conflict. So the idea that human rights trumps everything else is a practical nonsense. When there is violence and terrorism happening around you, your human rights very much take a backseat. However, you can't have a secure, peaceful society and breach human rights at the same time, so these things are a constant dialogue with each other. What would be so important, I think, to all this process of reform, including if you get an Examiner, if you get an Ombudsman, is how they react and how they deal with those oversight bodies. My feeling when I was looking at Garda Síochána was that they were still defensive, they still were not used to openness, transparency, to engaging with the public and to engaging with oversight bodies. During my work, I was reminded of something that Conor Brady said - he was the former editor of the Garda Review, founding Commissioner of GSOC - when he recorded,

not very long ago, deep disillusionment with the Garda. I could not move the rock, you could not get into Fortress Garda. Now, my experience was not as bad as that. But there is still an element of truth, certainly going back to 2018, as far as I could see – the Garda Inspectorate in November 2015 said there has been minimal and often ineffective internal change made to the structure of Garda Síochána in response to recommendations made in many previous reports and inquiries. You can have all the laws in the world, you can have all the policies, all the oversight, but if the people aren't really engaged in it and open to it and transparent or translucent, then you're not going to get anywhere. I also had a look when I was doing my report and I just wanted to know what is law and national security in Ireland, and I couldn't find it anywhere. There were bits of law that sort of were relevant different bits, but there was no law. And I found just yesterday the first textbook, *National Security Law in Ireland*, as far as I can see, was published just two years ago in 2019.

I haven't read it yet, but I'll be buying it. But that says something in itself. There was no source of the law. There were some judicial decisions which touched on national security, but there was no regulatory regime and there still isn't. There's nothing for CHIS. We're going to talk about informers agents, undercover police officers, etc. Nothing like that in Ireland, which is surprising, to say the least. David has talked about his role and he has accepted in the past it's not perfect, it's one person, but it's there, it's in place and he made it something. At least in the UK, for all its problems, for all its moves towards security and away from rights, we do at least have the framework, we have those bodies and we have somewhere to go. In 2017, Mr Justice Fennelly said that no consideration whatsoever was given by Garda Management or the Department of Justice to the legality of systematically recording calls on 999 phone lines and stations throughout the country. He recorded and was critical of the history towards human rights obligations within Garda Síochána. I do know there has been something of a cultural shift and we're hearing people this afternoon about talking about

culture and ethos, but if that doesn't change, it doesn't matter what any of us say has worked.

That is a fundamental change that you're going to have to be looking for. The Commission on the Future of Policing is definitely worth a look. They put human rights compliance front and centre for the reasons that everyone has said already this morning and we're repeating. But they also highlighted the difficulty, as I saw, of having the police force, the unitary police service, being also responsible for all national security or state security matters. There was no separation and that, it seems to me, is still a problem. The Commission recommended that it was divided out, albeit the executive policing arm should still be very close to and train with and carry out executive policing functions. So unless and until that is separated out, I think there's also a real problem. It does mean they see each other's information, but pre-PSNI, in Northern Ireland, there was what became known as the force within a force. So even when they're all handling the same information, you still have these little pockets developing, so the fact that it's all within one unitary service doesn't mean you have good sharing of information. So that isn't the reason in itself. More likely you're going to be imbued, the community policing will be imbued with the security agency type, which is a very different one.

The other point I would like to make, about Ireland, somebody might be able to tell me I'm completely wrong about this and I really hope I am. But the oversight bodies can't go anywhere near security policing. I don't see any hands going up saying, no, you're wrong about that. So GSOC, Ombudsman, Policing Authority, all are excluded from security, but there's no definition of what security policing is. What I found was security services simply referred to as those services protecting the security of the state. Now, there is a list, but it's terribly broad, which doesn't really help you very much. So it's impossible to know its parameters. And policing services is simply defined by them not being security services, essentially. But this is a curious vindication of human rights, included as an objective of policing and security services,

but policing services are defined as functions regarded other than provision of security services, and that's one of the vindication of human rights that only applies in relation to policing services. I don't know if that's deliberate or not, but it's very confusing. And the policing authority, when I asked them, they weren't able to answer either.

But this hands off national security has got to stop. There must be respect for what must remain secret and for people's protection, but this idea that the default position is that you just don't tell anybody, nobody deserves to know, has got to stop. Ireland really seriously needs to reconsider. Look at Northern Ireland, it's not perfect by any means at all - I think Daniel is going to tell you some of the reasons where some places have gone wrong, but at least be open to it. They did trust people like me, like David, others who were veterans, to go and look at stuff they couldn't say to me - if you knew what I knew, you would understand because I had seen what they had seen. They had to at least give me a reason and most of the time the reasoning was correct and they were protecting human rights, but at least there was an obligation on them to explain it and somebody else could see it without simply taking their word for it.

Let me just finish with this. If you're in any doubt about the possibility of reform and how seismic change can really be once it's gripped and once the cultural mindset changes, let me share something of the previous Chief Constable, George Hamilton. He said this in marking 15 years of the PSNI, and he had to see some of the worst atrocities in his time with the PSNI and the Royal Ulster Constabulary (RUC) - he said circumstances faced by his officers, including the ongoing threat to police and policing partners from violent extremists, continuing divisions within society and diminishing resources, were only going to be tackled by a steadfast adherence to human rights principles, he said, and I quote, "accountability, openness, transparency around the decision-making became all the more important in responding under challenging circumstances, such as a real

threat", and he was talking in that case about Dissident Republicans and Loyalists. Now, just to put this in context, the amount of change in 1999, the Patten Commission said this of the RUC. There needs to be a culture of openness and transparency in the police service as a whole, in which police officers, as a matter of instinct, disseminate information about their work, the prevailing instinct at present is defensive, reactive and cautious in response to questions. The PSNI were served very well by opening up to the public and to its oversight bodies and that trust has been repaid, I would say tenfold.

The very last thing I'm going to say is when I talked to somebody from the Garda Síochána, just recently about this, they said, "all you need to solve all of these problems, put people's mind at rest is the whistleblowing law, the new whistleblowing law, and for colleagues to look out for each other to be the eyes and ears." All I would say back to that, and it's really important because I think it's quite persuasive, it's superficially, very plausible. But let me just read the cultural audit of 2018 that the Garda published - this is to mark the process of cultural reform and modernization in relation to perception of the organisation is open to change, innovation, it scored only 4.9 out of 10, that was marked by Gardaí. It's also notable that speaking up and reporting wrongdoing achieved a score of 5.5 out of 10. So Garda themselves have said, "don't leave it to us, it's not fair you need to take responsibility, have an oversight regime, give us structured policy that we can comply with, protect us when we're in court. We'll do our job properly. But you have to do yours as well."

"accountability, openness, transparency around the decision-making became all the more important in responding under challenging circumstances, such as a real threat"



Daniel Holder Deputy Director, CAJ

My specific focus is on the use of informants within policing informants or CHIS, Covert Human Intelligence Sources, and there's some overlap with that and undercover offices of course. As many people will know, the use of informants in the North has been perhaps the most controversial of all areas of policing. It's actually still really an emotive issue, and that's because of the right to life issues that surround it, both for the informant, but also for victims of informants. It's led to a situation where there's a body of thinking among some sections of the community that informants shouldn't be used at all, but of course, all police forces use informants, always have, always will - to an extent, they predate the evolution of modern police forces and really the question then turns not so much about whether police services use informants, but when and what for in terms of permitted conduct. With informants, of course, you tend to get the doctrine coming out of secrecy forever, my favourite example of this is the UK's resistance to releasing a file due to the risks that might identify an informant in the city in Dublin, even though the file dated back to the 19th century.

There is also the doctrine of neither confirm or deny (NCND) and the problem with that is not only is it always universally applied, but

also that it can clash with accountability, and in particular, when you have informants involved in wrongdoing, whether a serious question about conduct, certainly an NCND doctrine can't be used to essentially conceal human rights violations and prevent accountability for them, which has been a very live issue. But turning to the two uses of when and what use of informants, like all forms of covert policing and surveillance, is of course, an interference in family and private life - that doesn't mean, of course, it can't be unjustified, but that's regulated by article 8 of the ECHR and various other provisions. So it has to be justified by one of the legitimate aims under article 8, the obvious one is the prevention and detection of crime. What follows from that is, obviously informants should only be used in relation to groups that are actually involved in crime and should not be used to infiltrate groups involved in legitimate expressive activity. For example, the infiltration of protest groups, which, in many jurisdictions, has been quite a serious issue over recent years.

Of course, the fact that some of those groups may be involved in quite minor offences also doesn't reach the threshold of intervention under article 8. It's not just that it must pursue a legitimate aim, but it also must be necessary in a Democratic society proportionate to that aim - so it's no wonder you have recommendations from the likes of the United Nations Special Rapporteur on the right to protest. Look at the issue of infiltration of protesters and categorise it as something that is highly intrusive and carries a high risk of violations and therefore should not be allowed, unless reasonable grounds exist to suspect that a serious criminal act is likely to be committed. That's the type of threshold that's being put forward for the one question. When is it legitimate to actually use CHIS and to infiltrate?

when you have informants involved in wrongdoing, whether a serious question about conduct, certainly an NCND doctrine can't be used to essentially conceal human rights violations and prevent accountability for them, which has been a very live issue.

There are a number of models that have been put into place in various jurisdictions. There are consent decrees in a number of US States, for example, put in place to prevent police spying on protest groups, so it's not as if there aren't models there to prevent the straying of the use of informants into areas of legitimate protest activity.

That does not arise, of course, when informants are being used in relation to criminal gangs or paramilitary groups, where *de facto* their activities are, of course, in breach of the law and criminal. But that turns to the question then, of what do you allow informants to do, what permitted conduct are they allowed to engage in, what conduct they allow them to be authorised to do, and the extent, of course, to which that engages criminal offences - and when informants are allowed to commit criminal offences, well, where does that leave the law? You're actually policing informants outside of the rule of law or not? Do you have a system of *de jure* policing informants outside of the law? Are you essentially legalising the crimes that they're authorised to commit, or do you have a more formal *de facto* system whereby informants are placed beyond the law? And the risk of that, obviously, is the corruption of the whole justice system. Detectives can't investigate. Detectives aren't allowed to conduct arrests on informants. Prosecutors aren't allowed to prosecute. Prosecutors have information withheld from them. Courts have information withheld from them. You can see the problems that would create back to the issue, of course, of permitted conduct.

What type of criminal offences could an informant lawfully be allowed to conduct? I mean, the bottom line for us is always very much been, well, that couldn't be an offence that in itself constituted a human rights violation. We can go through each article of the European Convention to delineate the type of things to which I refer so let's start with article 2, you get past the generic article 1 of the ECHR, the right to life provisions of the ECHR. You could not authorise an informant to kill someone. That would be a pretty clear human rights violation

under article 2. Article 3 couldn't authorise an informant to be involved in torture, for example, punishment, shootings, beatings, it would breach article 3. Article 5, what about false imprisonment, kidnap? Things like that get more complicated with article 6, the right to fair trial, but that engages the issues around the use of agent provocateurs and entrapment of individuals. There's a lot that can flow out of human rights jurisprudence that CAJ, along with three other NGOs, was involved in, we were co-applicants in a case called the Third Direction case that a number of you may be familiar with.

This related to MI5 guidelines on informant criminality, the existence of which came out through other litigation almost incidentally. The MI5 guidance that was ultimately disclosed or in redacted form and the course of proceedings contains the last line. It comes in two parts. The first half of the sentence is that MI5 officers should not encourage, counsel or procure a commission by an agent of a criminal offence, there would be one set of policies - the second half of the line is on to the extent that the offence is covered by an authorisation issued under these guidelines, ie, that the encouragement, counselling or procurement for the Commission of offences is permitted, providing it's been authorised. In the context of the court proceedings Counsel for MI5 ultimately were asked whether that meant MI5 could authorise an agent to commit murder. The response that came back was, yes, if you look at the broader context of the guidelines, they were quite clear that the system that was in place did not grant *de jure* immunity to prosecution rather, criminal offences were still committed, but there was a system whereby the security service could make representations to prosecutors that there was a public interest override in relation to whether a prosecution should take place. But at least the prosecutor, of course, was an independent decision maker, rather than the Security Service taking that decision themselves. Within the RUC, we now know a lot more, largely thanks to Police Ombudsman's reports and other investigations about the systems that were in place, particularly in the 1980s, after the Walker report on this area of policing and

yes, there are systems that precluded Criminal Investigation Department (CID) detectives from engaging in arrests and investigations of persons who were informants. There was also a lot in the De Silva Review about essentially a legal lacuna that was created by officers seeking more rigid guidance and ministers not being willing to sign off on what was going on, but essentially giving the message. I think the quote is always used to “carry on doing what you're doing, but don't give us the details.” There was a legal lacuna there. It allowed practices whereby the toleration, facilitation and even direction of informant involvement and serious crime took place.

That caused huge problems for society, and we're still living with the poisoned legacy of that. I don't want to rehearse here all the findings of the Stevens Inquiries, the Corrie Inquiry, the De Silva Review, many of the Ombudsman reports, etc. But suffice to say, when you look at De Silva, there is something we can agree on, which is the system that was brought in. In terms of the UK's Regulation Investigatory Powers Act, Ripper did not remedy the problems that had been identified because Ripper is really only about the when question. It isn't really about the what for the permitted conduct of informants, and that a different system was going to be needed in order to properly regulate the conduct of informants. So what did Patten recommend in that context? There were certain recommendations that were directed specifically, structurally to the RUC Special Branch. But in terms of the broader piece, there was also a police officer, Ombudsman Office and receiving complaints and included this area policing, although some of its remit was observed by Ripper and the Investigatory Powers Tribunal. But what Patten had recommended was actually policies on this need to be in the public domain, including on the issue of the handling of informants.

Patten was, of course, very careful not to suggest that you put operational methodology in the public domain, which would be clearly inappropriate, but that the legal and ethical

guidelines governing all aspects of policing work, including the handling of performance, should be in the public domain. There are pieces in the PSNI code of ethics, but we're yet to see a much broader policy framework on that. Patten also recommended a very specific oversight institution, a Commissioner for Covert Law Enforcement in Northern Ireland - a senior judicial figure with a remit to oversee surveillance; use of informants and undercover operations; powers to inspect the police and other agencies acting in their support functions; powers to compile documents; responding to direct representations or referrals from the Ombudsman or board, and; powers tracked on their own initiative to ascertain if covert policing was being used within the rule of law, and only when necessary. That institution was never actually established. It was legislated for in Ripper, but not commenced. It's not been quite let go of. There was a move during the passage of the 2016 Act to remove that provision, which didn't get legislative consent from parties within Northern Ireland, and obviously there's an extent to which the Investigatory Powers Commission, the array of other bodies, perform some of those functions, but perhaps not the totality of what Patten had originally envisaged. I think it's fair to say there's been a huge amount of police reform with the PSNI and the Northern Ireland context, including in this area, but this area was a lot slower. It certainly lagged behind other reforms.

It wasn't really until the Police Ombudsman's report, the Operation Ballast report, in the early 2000s that uncovered ongoing practices that raised significant concerns around the way informants were being handled – such as failures to arrest informants, the crimes to which they'd allegedly confessed, subjecting informants suspected of murder to lengthy sham interviews and releasing them without charging falsification, or failing to keep records and interview notes. Again, this is when you have a *de facto* approach of trying to place informants above the law without a structure to do that, and the conclusion that it was systemic. But that did lead to quite a significant review within the PSNI in the early 2000s. A quarter of

informants were let go, half of them because they were deemed to be too deeply involved in criminal activity.

Certainly very different structures exist within the PSNI today, although again, for those on the outside, there isn't a huge amount of information available about that. The other significant development, though, and this relates to an extent, to the Third Direction case is the CHIS Act, The Covert Human Intelligence Sources Criminal Conduct Act 2001 that was passed through Westminster, through the House of Commons rather quickly, within, I think, ten working days from memory. It was in the context of the Third Direction case, and perhaps government had envisaged a more adverse outcome for them, a more beneficial outcome for us as applicants at the stage of the Court of Appeal. But what the CHIS Act does is it actually sets a formal system up of criminal conduct authorizations, where senior officers can formally authorise crimes to be committed by informants. There's more of a system and a paper trail, and we fully support this whole area being regulated in primary legislation, that's very important. We did have some serious issues with this particular piece of primary legislation however, one being the lack of express limits - no preclusion on what type of criminal conduct could be authorised.

We were seeking at least the preclusion of human rights violations. Government wasn't willing to do that, although actually has done it in the Code of Practice, and the secondary regulations. The other problem was that this moved to a system removing a lot of independence from decision making, of *de jure* immunity, it made crimes authorised by informants lawful for all purposes, hence, crime becomes legal - we do think that's the wrong approach and it also has further problems in the sense of how it can corrupt the justice system. It's sometimes easy to highlight with an example - let's say an informant is authorised to commit a crime that causes harm to another person, because it seemed to outweigh broader considerations, keeping the cover seemed to outweigh the harm that causes to another

individual. But let's say in an unplanned way, the informant happens to be caught red handed by passing police patrol. What then happens? Is the crime investigated? Well, actually, there wasn't a crime, it was authorised, it ceased to be a crime. So can the police investigate? And what do detectives tell the family? Do they spoof to the family that they're investigating the crime? What do the family, the victims then feel when no one is actually prosecuted or convicted when they knew they were caught red handed? Again, that type of system has the potential to damage confidence in the justice system. So to go back to the beginning, given the particular context, we as an NGO, you have to be convinced that any sort of offences, the authorization of any offence, the benefits can outweigh some of the problems that creates, but we know this is a very complex area and a very difficult area, and the bottom line is that the option of having no regulatory framework at all isn't an option. There has been a particular journey on how this area is regulated and structured in the North, and I think that's one from which a lot of lessons can be learned that are relevant to this particular jurisdiction.

Doireann Ansbro

I think it's really important to remember that when we talk about compliance with human rights we always talk about necessity and proportionality, but we also need to have laws that are clear, accessible and foreseeable. And when we don't have a legal framework at all regulating this kind of policing, it's very questionable as to whether we are able to comply with those human rights requirements at all.

I think it's really important to remember that when we talk about compliance with human rights we always talk about necessity and proportionality, but we also need to have laws that are clear, accessible and foreseeable.

AUDIENCE QUESTION

My name is Eddie Molloy. I was a member of the Commission of the Future of Policing, and we debated at length two loaded words in relation to the structure of national intelligence and security, which was the term being used. That was whether the head of that function should be a director or a coordinator. And the Commission landed on coordinator. Now, I have spent almost 50 years working on organisation structures, and a coordinator is a unit compared to a director. A coordinator cannot oblige the sharing of intelligence, a director can. There has to be a hierarchy in the structure, and that

becomes doubly important in Ireland, where we have the police service performing the two functions, normal policing and intelligence and national security. If Conor Brady were here, he would give you chapter and verse on a long history of national intelligence and security being used as a pretext for avoiding scrutiny of misdemeanours and corruption in an Garda Síochána. So I don't know where it's at at the moment, but if it's still a matter that's not resolved, I would like to say that it's important that the powers of the head of whatever it's called, that function is a director who can oblige sharing of security information among the agency's revenue, foreign affairs and the defence forces.

ONLINE QUESTION

How does Lord Anderson and the panel feel about the absence of any form of prohibited criminal conduct by CHIS in the covert human intelligence sources Act 2021, particularly in the view of the experience in Northern Ireland with police and army collusion with paramilitaries, and also the controversial policing activities in Britain of the London Metropolitan Police through the work of

the Special Demonstration Squad and the National Public Order Intelligence Unit? Does he believe that this is a model that should be followed by other countries? Or has the UK enacted law that creates an unacceptable risk of violating human rights law and standards? And the second question, does the benefit of our utility of using informants out-weigh the potential damage to police legitimacy and hence consent for policing? How is that balanced and who decides?

David Anderson QC

On the first question, that was an issue that was quite hard fought over in the House of Lords. What the government said is that as soon as you have a black list of crimes that can never be authorised, you are presenting the organised gangs with a nice way of testing anyone to see if they're a CHIS. All they have to do is take a crime off the list, invite them to do it and if they won't do it, then you've got a CHIS on your hands. Now, that implies that organised crime groups are able to familiarise themselves with the CHIS Criminal Conduct Act, but not with the human rights textbooks, and as Daniel said, the argument has to some extent been undermined also by the fact that there is a blacklist in the guidance that has been published. But the fact

that it is in the guidance suggests to me that on this their heart was at least in the right place, and the ministers consistently said, of course, it would never be acceptable to authorise a crime that would be contrary to human rights.

If I could just add two things on the Bill that Daniel didn't mention, partly out of pride, because they were both my amendments and that we managed to get into the Bill as it was going through the House of Lords. One is that every time the police propose to authorise a CHIS to commit a crime, they must, if possible beforehand, in real time and if not very shortly afterwards, inform the Investigatory Powers Commissioner, this very senior judge, and the judge has the power to say "yay or nay". Now, if the crime has begun, it can be difficult for the

judge to roll it back again, but the intimidatory effect of having to go before a judge saying, "Is it okay if I authorise this person to handle some stolen goods", which is the sort of thing that it often is, I think will be a very powerful discipline. The other thing relates to unlawful, lawful for all purposes. I share some of Daniel's difficulties with that. In particular, what if there is a victim of the crime? I managed to get an amendment accepted by the government that said, at least if you are the victim of a crime committed by CHIS, who's been authorised to do so, you can at least claim from the Criminal Injuries Compensation Board for your injury. So, yes, it's imperfect, but I think Daniel, and if I may say so, his very balanced presentation was right to say that it is much better to have this power regulated than the way it's been since time immemorial, which is unregulated.

Daniel Holder

Ultimately, the way forward is to have a proper regulatory framework, as has just been alluded to, including the improvements that were made to the Bill. Just to pick up on a couple of other issues that we mentioned about the SUV unitary police service, and functions and things like that. I can see those arguments, but at the same time, having a fragmentation of agencies also brings its own problems and can create significant accountability gaps if all the agencies aren't subject to the same levels of accountability and control. That's one of the issues we've faced in the sense that the PSNI is fully accountable to the police. The Ombudsman is accountable to the Policing Board, yet this most controversial area of policing at least in so far as it relates to national security, which we're told at the time was called for from Republicans, was transferred over to security service MI5 instead, who isn't accountable to either of those bodies so it creates a significant accountability gap. A bug-bear of ours has been the issue of the definition of national security and what it actually means, and it being an unrealistically elastic concept at some times and the risk of it being used to cover up wrongdoing. We had a go at teasing out a definition, certainly in relation to legacy, where it was looking at right to life issues, but also issues around operational methodologies being concealed, provided that they were lawful

and current methodologies rather than unlawful and obsolete. Judges, at least, have begun both domestically and internationally, to place a few parameters on the concept of national security or state security, but I think that's something that could still benefit from greater legal certainty.

Alyson Kilpatrick

I just offer one thing in relation to the question about informers and the question does it cause more harm than good or more good than harm? I've looked over the past two years at what's known as an Operation Kenova, which is into allegations against a state agent called Stake Knife and a number of murders - and it's impossible to answer that question because there is the general, "can informers be a good thing?", and the answer is undoubtedly, yes, they can. But in individual cases, "can they be a really bad thing?", and the answer to that is also, yes, they can. So it's about how they're controlled, it's about how they're managed, it's about the records of all of that, it's about parameters and the moral decency involved as well, which sometimes goes out the window. It's because it's human nature. Police officers want to protect. I don't believe they go out there to do harm. They want to protect. That desire is so strong. Sometimes they can turn away and decide who gets to be protected and who doesn't as if playing God. That's when informers become really dangerous. But that's human nature. The law has to be there, and my personal view is that while it's uncomfortable reading Acts like this, basically saying "we can authorise somebody to commit a crime", I'm not comfortable with that - but I'm much happier that it's out in the open because it was always happening. So at least now we're talking about it. That has to be a step forward.

Daniel Holder

Final comment. It's not just the pre-authorization regime. It's also looking at what happened after the event. That's why these one page reports signed by a judge are absolutely no substitute for getting a team of people in to look at every file, talk to the people - if they see a problem, pursue it, and then write it up and record the serious errors in a report like that.

Afternoon Keynotes



Brian Gormley
Director of CAJ

We've had a very stimulating morning of looking at some of the issues around police accountability, and we've had lots of people who are engaged in that role, but we haven't actually heard from any police officers themselves as yet. We're now going to hear the real thing from two highly experienced officers from An Garda Síochána and the PSNI. It's interesting that this panel, the theme that's to be addressed here is the importance of accountability and human rights frameworks in police decision-making. From my point of view, it's been one of the distinctive features of the reform process that the PSNI has been engaged in for the last 20 years, and of course, it is a process. It's not an event. So it's still ongoing, but has been, amongst other things, the attempt to put human rights calculations at the heart of operational policing. Very often human rights are caricatured as tying the hands of the police or in a slightly more benevolent way, stopping the police doing bad things. Whereas I think what we've already heard today is that at least as regards the PSNI, there has been an

Very often human rights are caricatured as tying the hands of the police or in a slightly more benevolent way, stopping the police doing bad things. Whereas I think what we've already heard today is that at least as regards the PSNI, there has been an attempt to bring human rights into concrete decision making and down to the operational level.

attempt to bring human rights into concrete decision making and down to the operational level. We're starting off with a relatively new Deputy Commissioner of the Garda Síochána, Shawna Coxon. Suffice it to say, this is an extremely experienced police officer who comes to this island with a huge amount of experience relevant to a service which is embarking on, or already has embarked on, a process of reform and development.



Shawna Coxon

Deputy Commissioner of An Garda Síochána

I wanted to start just by talking about some of the positive aspects of police culture, because I know that we're going to shift to other areas that we want to change, but I think there are some really important things that we have to think about when we talk about culture. It's always important to start with the places you don't want to lose, the North Star, if you will, the areas that you think are truly important. There are two that really strike me, and one in particular strikes me as someone who is new to Ireland. The first one is just the heart for service, the desire to be a part of something bigger than themselves. Often people describe being the job, not just doing the job, but it's actually a part of who they are, how they identify with the world and I think that's a key aspect that I've heard myself, and I don't think it's unique to Ireland. It's very special and important.

The other piece that I think is fairly unique to Ireland, actually, and is gold on the ground, as I've heard the Commissioner call it, which is the community policing as it exists here. I can talk about it as a model. I can talk about how we do it and certainly I know the panel is going to get into that a little bit this afternoon, but really the strength of the local is how I sort of see it, especially as someone who's come from a big city. I don't think it can be replicated the way that Gardaí know people in their community, what happened during Covid, where the policing model shifted to give support in ways that it had not before, in a way that was community centric. What does the community need? What do individuals in the community need? Who is vulnerable? What does vulnerability look like in the middle of an international pandemic? And how can we support that? Because of course, it's so important that communities be central to anything we do in policing. That's why I wanted to start by talking about those two

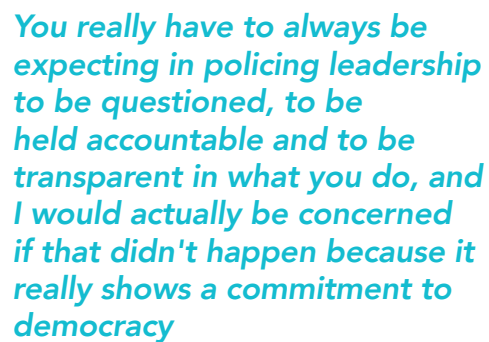
positive aspects as we start to look at culture, because when we talk about community, it's actually communities. There are so many different communities out there and they're very different, the lived experience can be very different, and I appreciate that a couple of people this morning have mentioned invisible voices or what I would call discernible voices - people who aren't at the table, they're not in the room, they often don't have power to speak at all, let alone to speak truth to power, which can be that much more intimidating. And so we are embarking upon a journey where there is already a huge commitment to seek out people who haven't traditionally had the kind of power to speak to police and to inform what they want policing to look like in their communities, and how we might respond to that through the lens of equity - doing things a little bit differently because the needs of each community are quite different at times. In fact, I think that that really leverages the powerful aspects I talked about with the appreciation of the local, of what community policing really looks like and how it unfolds in this country.

Now, an Garda Síochána has a very proud tradition of policing through moral authority, and that could be a day long conversation. But I think certainly as we celebrate 100 years this year, that it's important to just acknowledge that, and in fact, one of the things that we have to think about when we look at going forward into the future is the importance of human

one of the things that we have to think about when we look at going forward into the future is the importance of human rights in the centre of any policing model

rights in the centre of any policing model. I look at the fact that the An Garda Síochána Act, written in 2005, actually places human rights at the centre of policing - this is unusual, by the way - it doesn't exist in other countries. So the upfront acknowledgement in the legislation - and we're going to have new legislation that's going to make this even more powerful - but a recognition that it needs to be in the centre of everything that we do is really critical and actually special, I would say. And so while there's a hugely important role in terms of human rights and how that unfolds, I think we need to also acknowledge, and this is why I'm excited to be here today speaking with you, police have a special role in society. They are able to suspend liberty and I've done it, we've all done it in terms of our policing powers and roles. This is a unique role to be able to do that and in fact, it can have coercive effects. It needs to be done, but how it needs to be done, what that looks like is something that always needs to be questioned and it's why there is such an important space for accountability and transparency. You really have to always be expecting in policing leadership to be questioned, to be held accountable and to be transparent in what you do, and I would actually be concerned if that didn't happen because it really shows a commitment to democracy, because when those things don't happen, and we've seen this in history, it actually leads to a place where that coercive control can take on very dangerous effects.

Certainly within an Garda Síochána, there are many different initiatives, I'm just going to mention a few here that have been done with respect to human rights specifically. We have a new human rights strategy in the organisation, a new human rights section has been established with a human rights framework, and there's the decision making model of which human rights is the centre of it. We have new human rights University courses; over 1,000 have taken across the country, myself included, and that's being done through the University of Limerick. We have our code of ethics, of course, which has been mentioned this morning already. There are many areas that impact culture that have an impact on human rights in terms of how




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they get operationalised, and what that looks like in the organisation - I can actually speak about this for an extended period of time, but I'm just going to mention a few. We have new recruitment strategies to bring in more diverse candidates to An Garda Síochána, we've updated the regulations for promotions, we have the new student leaver and that's going to increase diversity in the organisation and by the way, they've also come forward and had an impact by doing things like looking at our policy, making recommendations on how we could recruit more young, diverse people like themselves, what they suggest we do to change things and they've done that from a policy standpoint as well as a strategy standpoint; the Anti-Corruption Unit, which was mentioned this morning, there are many other areas that I could talk about. The fact is that when you talk about human rights it can't be a checklist of initiatives, it has to be a whole of service approach and I would argue a whole of sector and a whole government approach and certainly the CoFPI gave a commitment to do so, and I think that is unique and powerful in terms of what's happening in the organisation right now.

That brings me to just mention, Jack Nolan spoke at the Fall Conference, and I was struck as someone who had been in An Garda Síochána for four years, at his reflections going back into the past, which is so important to maintain and to remember - but also where his heart and his mind were at going forward and as he looked at all of these changes. - he noted that they were quite aspirational and the sort of implicit question that he didn't ask, but I felt

was on his mind was around what is the impact? So what does all this mean? What's this going to look like in five years? We can talk about where we want to go, what is the North Star, but then how does that actually relate to what is happening operationally? I link this back always to the lived experience of various communities, we can't just look at it as a community in terms of the entire country, we have to look at the experience of different people depending on who they are and where they are, and look at things like the experience of young people with the gender based violence strategy that's happening right now. What is the experience of women living in Ireland versus men, looking at new Irish communities, people with different ethnic backgrounds, and of course, social demographics? Because we have to really keep not just human rights, but equity and inclusion at the heart of what we do. I think personally in the last year, I've been here eleven months now, some of the things that have really come up operationally that we're going to have to reflect and look back on and ask ourselves, "did we get it right?", and are there things that we need to learn and take forward with us? I think of things like Covid and the way that that has affected communities differently - certainly we all say we're in the same storm, but not in the same boat. My lived experience through Covid has been very different than other people that I know, and certainly I know that really who you are, where you live, how much money you have, all of these impact what that has looked like for you in the last two years. With that, we've had events, protests and demonstrations that have changed in terms of how they've unfolded, and certainly you've seen that in the news, and that's an area that's being examined right now as well. Of course, over the last couple of weeks, I look at the number of Ukrainians who are arriving in Ireland, and I love that the doors are open and they're coming in to seek refuge here, and in fact, I think that's very special - but we have to look at how that will unfold in terms of human rights and other things that we can learn from that.

The last couple of things I wanted to mention before I close is just that when we look at



we have to really keep not just human rights, but equity and inclusion at the heart of what we do.

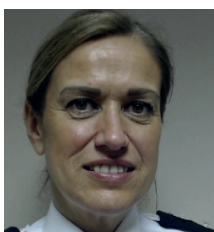
these things, both the different initiatives we have that are in flight right now and the ones that have actually been concluded, there's a lot that's happening in the organisation. We need to move beyond just looking at situations like the few that I've just mentioned, in terms of what the last couple of years have looked like, and we need to move beyond whether something is legally permissible or not and whether or not it's necessary because we can talk about legally, yes, we need to do X or Y, but was it the best practice and not just what happened, but how did it happen? Was there a better quality in terms of interactions or in terms of strategies? And what could we have done better? Because what we have to be mindful of in these situations, we talk about human rights, is, it all comes down to impact, not intent, not what was lawful, it comes down to impact. What kind of impact has it had on individuals? What has it had on communities? And what does that mean in terms of the nature of democracy? Is the nature of democracy the same depending on who you are, what gender you are, what age you are, how much money you have, where you live, what you look like - and so when we talk about systemic impacts, it's complicated. But all the more reason because of the special nature policing has to democracy, we have to keep these things in mind, and we have to be looking at it from the bigger picture of a whole of service approach. We need to have that constant infusion of external perspectives,



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which is why today is so important. I've already had some thoughts and reflections based on what others have talked about this morning, and certainly what some people in the audience have asked, and we need to always be bringing that in to our own thought processes as we look through our individual lens and we make decisions as leaders in policing - because privilege is that we often cannot see some of the issues that are in front of us, no matter how well intentioned we are - and so this is why it is so important to have communities actually drive what policing looks like from their perspective.

And so I go back to all around, what does this all mean? For me, it means always examining what the impact of our decisions are based on the community centric approach, what communities think, individual communities from their perspective, what do they think, particularly communities who don't traditionally have a voice or who may have a very difficult time speaking truth to power because of inequities that exist in society. I know that there are things like legislation that are going to enhance that, but it's really about the collective ability of everyone in this room and everyone working in this space to come together to keep human rights at the centre of policing in Ireland.



Melanie Jones
Chief Superintendent, PSNI

"A new beginning to policing in Northern Ireland, with a police service capable of attracting and sustaining support from the community as a whole". This was the opening line of the Independent Commission on Policing, or the Patten Commission, as it's now better known, and was taken directly from the Belfast Good Friday Agreement. As colleagues today will be aware, the Police Service of Northern Ireland marked 20 years since its evolution. For a number of my colleagues, many of whom served as police officers in Northern Ireland for many decades, it was an opportunity to mark a significant milestone and to look back and reflect. But as an officer who joined the service and moved here from England more than 15 years after the PSNI was established back in 2001, my prevailing thoughts on this monumental moment in a process of comprehensive policing reform was not just where we'd come from, but what this meant for where we are going. In this sense, I couldn't help but return to the words "a new beginning", the words taken directly from the Good Friday Agreement, which will become the

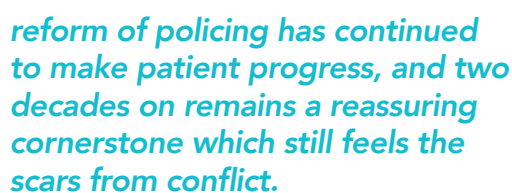
title of the Patten Commission Report, because a new beginning doesn't describe a moment in time or a one off event, but rather a journey. It is only when you read the full Patten Commission report, complete with its 175 recommendations for change, that you realise the nature and scale of the journey travelled and the journey ahead. Far from reforming the traditional public service context, this journey would be a key outworking of the Good Friday Belfast Agreement, a recognition that a new beginning for law and order would be a central prerequisite for a successful and enduring peace. Over 182 pages detailing 175 recommendations for change, a new direction and vision for policing in Northern Ireland was defined, including landmark reforms in areas such as representation, an approach based on policing with the community, and centrality of human rights - and the creation of world leading accountability mechanisms that will provide crucial legitimacy and credibility that had previously been missing for some areas of our communities.

So where have we got to? In spite of all the


challenges to the peace process, which marked its own anniversary just a few years ago, reform of policing has continued to make patient progress, and two decades on remains a reassuring cornerstone which still feels the scars from conflict. That does not mean that the last 20 years have not been without difficult and indeed dark days. It is with profound sadness that we remember the loss of our colleagues. Too many colleagues, too many people, each of them a brother or a sister, a son or a daughter, father or a mother and a friend or a neighbour never made it home. We remember them and their loved ones each and every day. Lots has changed in 20 years - policing is more diverse and representative than it was, albeit there is still much more to do. The bastions of independent accountability and oversight, which are widely recognised as world leading in the policing context, have largely stood the test of time. Other things haven't changed as much as we would have hoped. A society totally free from terrorism still eludes us. It will be remiss of me not to recognise the progress that has been made only this week, with the threat level being reduced to substantial - the first time this threat level has been reduced since 2009 - and this is testament to the strength, the resolve, the determination, and the hard work of the communities and the police. However, even in facing those challenges, a strong common bond exists that unites the police officers and staff of the past, the present and the future - a recognition of the vital role that visible, accessible, responsive and community focused police service plays in a successful and thriving Northern Ireland, and a commitment and determination by every single officer and member of staff to continue to make that vision a reality. Whilst policing at times still faces difficult and sensitive challenges, as it always

has, the central tenet of what it means to be part of the Police Service of Northern Ireland means we can reach forward now into a new decade with optimism.

I was encouraged when I listened to a lecture by a highly respected and experienced human rights professional when they said about the Northern Ireland policing context, that this approach was a tried and tested template that merits consideration to other jurisdictions. As someone who's come from elsewhere into a senior leadership role in the PSNI, I can say from my own experience that human rights is more deeply and systematically embedded into everyday practice than any other role in my policing career. One of the most fundamental requirements for delivery of policing services framed around a human rights architecture is the training, development, skill and confidence of our people. This training starts from the very first day they joined the police service, regardless of their role or rank, and continues throughout everyone's career. Police officers and staff are required to be human rights practitioners. This is a great responsibility. We are expected to make decisions with integrity, consistently applying the tests of proportionality and necessity, and I reflect on my own rules and responsibilities, most recently as an operational commander in Belfast where I would often reflect that the human rights was my mind map that helped to shape and influence my decision making. The lifeblood running through my considerations and decisions, the oxygen in the room, not something that could be seen or touched, but is fundamental to existence or in this case, good decision making. This integral and universal application of human rights must apply for all of our decisions, for all the people and for all of the time. This is essential if we are to benefit from the trust and confidence of our communities. I have been the Policing Commander during some of those testing and challenging moments in public life in Northern Ireland, and I would reflect from the very positive role of the Policing Board Human Rights Adviser being present in the Police Command Room, and both the current and previous advisors have been speakers



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to you all this morning. It may be difficult to understand or counterintuitive, but I welcomed that sense of accountability. Their role is not to endorse my decision making, but I found it helpful and reassuring to know that my real time considerations and decision making were being witnessed first-hand and could be reported upon impartially. With that accountability, in real time and indeed retrospectively, through the work of the Northern Ireland and the Police Ombudsman comes legitimacy. From legitimacy comes trust, confidence, and the consent and support of our local communities - and in the context of policing, with the community being in partnership between the Police Service and local communities, this constructive tension between police practice and accountability is absolutely vital. They are two sides of the same coin.

But where are we going? Of course, the journey is never complete. The world and our communities continue to change and evolve, as do the challenges facing policing, never more so than the past two years. Policing in a pandemic brought a range of challenges, but none more so than the role of policing and legislation that has potential and far reaching impacts on the liberty and choices of all. We have recognised and had to deal with the incredibly difficult position that policing and our people have been placed in, being required to interpret legislation made of pace due to the pressing public health considerations against human rights, and the potential damage this can do to public confidence - and we haven't always got it right. The most important thing is we reflect and we learn from these things. But in looking to the future, it is hugely important that we acknowledge the many people in our society who still feel the profound hurt and the

lack of justice for what happened in the past. For them, these are not past events, it is not the past, this is their present. Whilst it is for those who elect to make decisions on how we address the past, the Police Service will continue to do the very best we can in difficult and complex circumstances for those who continue to feel the hurt. We also still face challenges in policing a society still marred by decades of conflict in the present. Despite significant progress over the last 20 years, we are not as representative of the society we serve as we need to be. Contested and controversial matters of identity still run deep in issues such as protesting, parading, and the display of flags and emblems in public spaces. Not only do these issues make systematic human rights based policing approaches more difficult, but they make it all the more necessary in order to maintain the trust and confidence that must underpin policing in Northern Ireland.

As for the future, we know that crime is becoming increasingly borderless in a new world. This future, which is arguably our present, is going to present contemporary and profound human rights implications and challenges for policing. In this respect, we cannot be complacent on these key pattern themes, and our approach has to be one of continuous improvement. This is why, in addition to well established accountability mechanisms already in place, we are pursuing additional measures to drive progress. For example, the Chief Constable commissioned the development of the Strategic Community Engagement Team following the Black Lives Matter protests. This group of senior officers and staff from right across the organisation, chaired by Assistant Chief Constable Bobby Singleton, has been established to improve community engagement from the very top of the service, right through to neighbourhood and delivery level. Independent advisory groups rolling panels of lay persons with significant expertise and insights are now widely used throughout the service to provide independent advice and scrutiny on a range of policing matters. A Police Powers Delivery Group made of senior officers from across the service now

routinely meets to discuss improvements, improvement initiatives in relation to the use of police powers such as stop and search and use of force, and we've heard from Shawna how important that is because of those very specific powers and the impact that that has on our democracy. In addition to the independent advisory groups, we have plans to pilot a range of scrutiny panels which will bring independent expertise and accountability in this important area. In conclusion, these initiatives are just a snapshot of some of our work, but they do, in my view, show that we recognise that this particular journey, a new beginning for policing in Northern Ireland, never ends - and that despite the challenges we face, we are resolute in our determination to keep moving forwards. So in thinking about the future, it's helpful not to think about the Patten Commission as a set of recommendations which begin and end, but rather a set of living themes that guide and steer policing in an ever changing landscape. These core themes of human rights, representativeness policing with the community and accountability do not sit independently of one another. They are intertwined and interdependent. They have to be cultivated and progressed together. A partnership between the community and their police will remain our defining mission for the next two decades and beyond.



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PANEL 3

Cultural Change, Standards and Equality

Facilitator: Dr Lucy Michael, IHREC (second right)

Panellists: (L-R) Martin Collins, Director Pavee Point, Paula Hilman, Assistant Commissioner AGS, Andy George, President of the National Black Police Association (UK)

PANEL 3: Cultural Change, Standards and Equality



Lucy Michael
Commissioner, IHREC

This panel is entitled Culture, Change and Equality. There are so many continuing challenges for policing in this area.

Policing globally is tackling some of the issues around dealing with stereotyping that pervades our whole society, policing just one part of that. Institutions which are grappling with what equality, diversity and inclusion means. Policing is not alone in that. While I started my career as a criminologist, I moved broadly into the area of racism and the representation of minority ethnic communities because policing goes hand in hand with so many other functions of our society. And so there are those old challenges of stereotyping institutional change, changing how workplaces operate, the kinds of policies that we have, and how those need to be made fit for a new world and indeed, a diverse Ireland that policing here was not designed for. And we do that in the context of an Ireland that is currently second highest ranked for racism in the Fundamental Rights Agency survey. In the absence of a national action plan against racism for more than ten years, the legacy of a racist immigration referendum in 2004, all of which have shaped attitudes in Ireland, the police amongst them and we do it in the context of some new challenges. Old issues such as racial profiling are given new effect with border controls, whether that's European border controls in the context of a refugee crisis, or as CAJ pointed out at Lifford Bridge and Donegal last week, racial profiling around immigration - in fact, that came to a surge in 2019. We saw the Irish Human Rights and Equality

Commission (IHREC) report data yesterday showing decreasing levels of trust in the Gardaí to deal with hate crime, very disappointing given the efforts that I must say, have been put in in that regard, and Assistant Commissioner Hilman has been, of course, at the front of that and issues which have affected trust - like the investigation into the death of Noah Donahue and the GSOC investigation into the death of George Nkencho. All of these are issues which you will be well aware have drawn attention to this area of culture change and equality, and that is why I think we are going to have robust discussions today and I really am delighted to welcome our panel. Our first Speaker is Inspector Andy George, President of the National Black Police Association (NBPA) of the UK, and serving police officer in the PSNI, who spends the majority of his time completing his duties for the National Black Police Association.



Andy George President of the National Black Police Association

My career began in 1999, I was born and raised in Northern Ireland, one of about two to three families, probably in the entire town that I grew up in, so I was used to being the only person that looks like me in a room and that probably hasn't changed over the years. The flip side to that, I was one of 10-15 officers from a minority ethnic background that joined then RUC, but I was also one of the 92% majority from a Protestant background, which gives me the unique position of being really from a minority community, but also a majority - and that has given me a unique perspective on how sometimes we see the world in a certain way, and expect others to see it in the exact same way and layer our own perspectives on top of them. That'll give me a real opportunity to challenge policing, to be better around that, and also to challenge the bias and deeply ingrained views which we sometimes can have. I want to give a bit of a background just around the National Black Police Association (NBPA) and what exactly it is, because I'm aware not a lot of people really know in Ireland, North or South, what exactly we do.

The NBPA represents the majority of Black, Asian, minority ethnic police officers and staff members across the United Kingdom. There are around about 50 associations - all 43 police services in England and Wales, police in Scotland, the PSNI, but we also represent the National Crime Agency, British Transport Police and the Ministry of Defence Police. I think the Civil Nuclear Defence Police are the only ones that we don't have represented - that equates in and around 5,000 members, so around half of all Black, Asian, minority ethnic officers and staff across England and Wales. We were formed as the NBPA in 1999, in the aftermath of the review and the murder of Steven Lawrence

on the recommendations and Report which followed from Lord McPherson. We were given the recognition by then Home Secretary, Jack Straw, and some of our founding members actually gave evidence at the McPherson Inquiry, which some would say completely changed the outlook of where the inquiry was going. That's something that's been really important to us, because sometimes community groups and those outside of policing can be kind of almost cast aside, that they don't understand all of the kind of unique experiences the policing goes through. As well as that the NBPA members can often be seen to be disgruntled employees, so we can be pushed across like that - but the McPherson Inquiry and subsequent engagement since, it's shown that once we say something that's in line with the communities that we serve, it's really powerful and hard for those in positions of power and responsibility to kind of let it go.

We have three really overriding things that we do. The first thing we do is support our members. Our members are still subject to inequalities through the misconduct system, through lack of access to training, the recruitment and promotion opportunities. That's one of the main things we do. A lot of our members are actually at crisis point, even within police. Some are at the point where they feel at times that the only thing they can do

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is almost take their life to make sure that their message is heard – so there is a deep link to well-being and vulnerability around some of this work that we cover. The second thing that we do is give strategic advice and guidance to senior police leaders, and national stakeholders. I have just come back from working with the National Police Chiefs Council's Race Action Plan, around trying to get it back on track in two years' time. We still haven't got a coding plan which can be pushed forward. So we sat across around about 15 working groups with the National Police Chief Council trying to fill that gap in representation, and making sure that lived experience is part of the information that's on the table before decisions are actually made. We also engage with the Home Office, with the Independent Office for Police Complaints and we've had a feed into the recent inquiries around Operation Hotton in relation to the misconduct of officers in Charing Cross in London. We've also been part of their thematic reviews around Stop and Search and Taser, and are currently working with them on a thematic review around discrimination, racism and policing. We also work with Her Majesty's Inspectorate of Constabulary (HMIC) and a number of other stakeholders. The last thing we do is amplify the voice of communities. I think that's the most important thing that we do. It's the thing that got us to where we are and I think the fact that we do that has placed us uniquely staff association wise - because we stand where the bridge between the police and communities is, and we can sometimes maintain trust and confidence when that trust and confidence has been eroded from communities.

There are four areas we really work on, and I want to talk about those individually and really get them back to policing here in Ireland. In England and Wales, around about 7% of police officers are from Black, Asian, minority ethnic backgrounds. As you move up the ranks within policing, it moves to 4% at Superintendent level and 1% at Chief Officer level. We've only ever had one Chief Constable from a Black background, and one equivalent in the Metropolitan Police at Assistant Commissioner level - despite black police officers being



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around from 1837, when PC John Kent patrolled the streets of Carlisle - so there is a lot of work to be done around that. Whenever you bring that back and relate that to PSNI, I've heard a lot of talk about representation today, I think we have always focused quite rightly on community background and gender in PSNI. But I think the communities that we serve are changing at a rapid rate and we need to make sure that we kind of evolve with them. The PSNI officer wise, we make up 0.5% of the workforce. That's around about 41 officers in 7,000 police. We also have just over 2,000 police staff members from ethnic minority backgrounds, so representation is very low - but for me, representation is what makes us legitimate in all communities and again, increasing the representation in the Catholic community allows us to become more legitimate and prevent attacks on officers, and we now police a community with half the number of officers that we did whenever I joined policing.

The second thing we do is engage internally. For me, the internal engagement is key. We fill that gap with that representation - being 1% of Chief Officer levels, is it any real wonder that mistakes are made in decision making? Whenever you do not have a culturally competent workforce that has that lived experience, then whenever they make decisions and gather all the information that they're required to do, there's always going to be a detriment to minority ethnic communities whenever they are not factored into that decision making. So we engage as much as



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Whenever you do not have a culturally competent workforce that has that lived experience, then whenever they make decisions and gather all the information that they're required to do, there's always going to be a detriment to minority ethnic communities whenever they are not factored into that decision making

we can internally, externally as well. External footprint is key for us. I remember the first time I went to the Islamic Centre in Belfast, at that time they didn't realise that we had any ethnic minority police officers at all. The first time I went all of a sudden they felt a connection to policing by seeing me standing there in uniform. They thought that there was one somebody in there that understood the issues they had, and that would represent their views internally and advocate on their behalf. So I think that has to be looked at and understood better. I often say when we work with ethnic minority communities we are like those family members that everybody has to come to your house at Christmas and birthdays, eat all your food and leave. We go into ethnic minority communities for recruitment and hate crime. We often go in whenever we are looking something, but for me, relationships are only built over time and like those members of the family, they're not the ones that you will ring whenever you need them, it's the ones that are there when you don't need them and have built up those relationships consistently over time that we will reach out to.

Powers and policy is obviously a really important area that we work around. In England and Wales, the data set is probably one of the biggest drivers that we have to challenge policing to be better. That data set allows us to know that you're seven or eight times more likely to be stopped and searched if you're Black in England and Wales, you're twice as likely to have force used on you and you're

twice as likely to die in police custody. Having that kind of data set allows us to break that down and target things towards the specific community we need to target, and allows us to drive change from the external side around the support again. That's the last area that we work around. Grievances is one of the biggest areas and that internal procedural justice. I know the Ombudsman in Northern Ireland have that as well, and sometimes handing some cases back to police services doesn't always represent the best outcome - although I do support the whistleblowing side of powers that the IOPC have, and we have actually supported members by raising whistleblowing complaints which the IOPC have been able to oversee. It's a really badly needed power which will help to increase confidence around grievances across England and Wales. What we have is 4% of race hate or racism and discrimination incidents in the police service are filed as grievances, so that's 1-in-25, that's 24 out of 25 that aren't found. That allows racism, discrimination, and bias and bullying to thrive in organisations. It prevents us from holding those people that want to display the behaviour to account, and it's something that we need to push on.

As President of the NBPA, it was embarrassing and shameful for myself that we were the only police service in the United Kingdom that actually enforced the legislation, the Covid legislation around the Black Lives Matter protest. We engaged extensively both with the PSNI and with communities from Black backgrounds and I was inundated with texts and emotional pleas from members of the community to get this right. We also met senior police leaders the Friday before the

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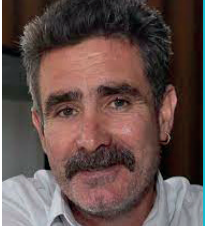
Senate Health Protection Group and some of our members were moved to tears. There was a deep feeling that we should obviously not have policed them the way we did. My own thoughts around that is the fact that the Good Friday Agreement has brought so much protection and parity and equality for the established communities in Northern Ireland, but what it hasn't done is move things forward for new and emerging communities and it's something that we really need to look at. My own thought is that policing sometimes moves on external consequences in Northern Ireland, that can be large scale public disorder, can be political intervention, and sometimes that influx of terrorism. But for me, the communities that were policed on the Black Lives Matter process did not have the same protection, and that's what allowed them to be policed in the manner that they did.

We need to make sure that all the measures brought in around the policing board, the Ombudsman and others, that they are evolved and brought into modern day, representing three and a half to 4% of the population in Northern Ireland that need that protection as well. For me, diversity, inclusion and policing has always been seen as a fluffy HR internal thing, but it's what makes us better, it's what makes us more effective and allows us to police communities or police with communities. The foundation of UK policing, in particular in Ireland, is policing with consent. We need the support of communities to tell us who's committing crime, and to prevent harm in society. If we do have that, then we will not have those victims coming forward. We would have people and witnesses there to do that

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and that's something that needs to be done. More infrastructure is key as well, and I think the infrastructure and expertise that your organisations bring needs to couple them with that lived experience. Once you bring the infrastructure from organisations together with lived experience, I think that's where we will have real meaningful solutions brought forward. Representation is something that we all need in the longer term, but the NBPA are that way of gathering it up now. So I ask you to look for that informal way of bringing minority voices to the fore.

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Martin Collins

Co-Director of Pavee Point Traveller & Roma Centre

A lot of what I have to say is also equally applicable to the Roma community. Let me start off by saying about 30 years ago, I was out socialising with a friend of mine in Finglas named Michael Collins. Michael was in an RTE soap called Glenroe that used to be on every Sunday evening many moons ago and Michael played the character of Johnny Connors and it was the first big break, actually, for an Irish Traveller in Irish television. He was a huge role model and a huge inspiration to other actors like Johnny Connors and others who followed. We're in the pub in Finglas and as you usually do, after a few beers, we went to Chinese in Main Street Finglas and as we were there waiting to get served, two non-Traveller young lads came in about 19 or 20 years of age and they engaged in a conversation with us and they recognised Michael and said, "how are you, Johnny Connor, how ya Johnny Connors?". Michael was very polite and very courteous, but he said, "my name is Michael Collins". He said, that's a character I play in the soap, so it developed from there, it actually escalated from there. And the guy says, "well, all you are is a scruffy, smelly knacker." For those who are not familiar with the term "knacker", it's a racist term, hugely offensive to our community. So then it got physical. The Gardaí arrived on the scene and I tried to intervene before the Gardaí arrived and I got bit on the head and I got seven stitches on the head and the two settled lads walked away from the scene. The two Traveller lads, myself, and my cousin Michael were arrested and in the course of the arrest, I explained to the Gardaí what was happening and we said, they're coming out with racist language and they're calling us "scruffy", "smelly knacker", and he said, "well, that's all you are". That's what the Garda said to me and he physically assaulted me. We were brought up to Finglas Garda Station and I was bleeding

quite a bit and I sought medical attention, I wasn't given it.

The next day I went to see the Sergeant or the Inspector, and I wanted to make a formal complaint and there was a lot of innuendo and body language at that meeting, more or less, "think about it, may not be in your interest", not that explicit, but there's a lot of innuendo. I went from the Garda station, then got the medical treatment and I initiated a complaint with the old Garda complaints system and of course, inevitably I lost and we know why? Because I think everyone in this room would regard the old system as totally ineffective in terms of offering any effective legal remedy to victims of malpractice by Gardaí. But I say that because I want to acknowledge and welcome in the interim the new infrastructure we have now, that does offer legal redress to individuals who are victims of malpractice or discriminatory or racist treatment by An Garda Síochána. GSOC is obviously a very important development, and then as part of that infrastructure we have the Policing Authority as well, in holding Gardaí to account for the highest professional practises that we all aspire to and that we all deserve. But these bodies are not just about holding to account in any punitive way, although that has to be part of the approach - make no mistake about it, we need a carrot and a stick. But the carrot is also very important, and that this new infrastructure can offer advice, support, and create an enabling environment for a much more professional and appropriate policing service in what is now for all of us, but in particular in this context for a multi-ethnic society.

It's in that context I'm speaking here today. An Garda Síochána, as I understand it, is almost 100 years in existence. Now, I'm not a

to a certain extent continues to be a white, settled, primarily male and able-bodied institution. It continues in that vein. So when you have an institution comprised of those elements that will give rise to a certain culture, certain practises and decision making which will unintentionally exclude and disenfranchise people who don't belong to those categories.

historian. So I'm sure I'll stand correctly on that. But in that time, it is, and to a certain extent continues to be a white, settled, primarily male and able-bodied institution. It continues in that vein. So when you have an institution comprised of those elements that will give rise to a certain culture, certain practises and decision making which will unintentionally exclude and disenfranchise people who don't belong to those categories. I'm not suggesting it's intentional, but that's the unintentional consequence of having such an institution composed or comprised of those elements. So when you have that culture institutionalised for decades, almost essentially in this case, it's something that's not going to be eradicated overnight, and none of us should expect that to be the case because that culture has been institutionalised for over 100 years. So it's quite easy to have structural reform with the Policing Authority, GSOC and other reforms. But cultural reform is a very different matter. You can change the brass plaque on the door of the building, but it's cultural reform now that's needed, because we're having the structural reform, and it's really important, and I welcome that,

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and it's essential. And that will also inevitably feed into cultural reform as we progress. It's well documented, as we all know, and indeed not just documented, but it's indisputable. We can see the manifestations of that mistrust - for example, even though we only make up 0.6% of the total population of the Republic of Ireland, 22% of the female prison population are Traveller women and 15% of the male prison population are Traveller men. So we are disproportionately represented within the prison system.

There are issues here beyond policing, it's the wider criminal justice system. And of course, it obviously doesn't instil confidence when you have court judges describing Traveller men as being Neanderthal and living by the laws of the jungle. These were Traveller men, up in court, obviously as defendants. So there's a wider systemic issue within the policing that prevails within the criminal justice system. When you ask Travellers what are their views in relation to Gardaí, and I have, and many others have, what we're getting back is they perceive the Gardaí as a repressive arm of the State that's designed to control, contain and harass them. That is the reality. That's the feedback we're getting from Travellers on the ground. And that's the challenge every one of us have collectively. Traveller organisations, Roma organisations, The Gardaí, we all have to work together in partnership to try and address these sentiments, very real sentiments, which is actually part of people's lived experience. And then Travellers will also raise issues around policing - should the Travellers sort it out among themselves, if there's feud or conflict within the community and then, of course, you have the other extreme examples of disproportionate over the top invasive policing, as we would witness our

it obviously doesn't instil confidence when you have court judges describing Traveller men as being Neanderthal and living by the laws of the jungle.

Traveller weddings and funerals, when towns are effectively asked to close down for Traveller funeral, for example. It happened recently in Manorhamilton in Leitrim. These are real issues. It's the lived experience that my community have. So I think we're all challenged, as I said, to develop and implement initiatives that will create confidence and trust among Travellers and that they can feel and expect a professional policing service.

And in this context, I do want to recognise some of the positive initiatives which have already been taken by An Garda Síochána in this regard - for example, they've adopted their diversity forum, and there's also a Traveller-specific inclusion forum, the Garda Advisory Committee and then we have the Garda Integration and Diversity Units. These are really, really important developments and I think will make a very positive contribution in Travellers having a stronger sense of confidence in dealing with and interacting with the Gardaí. And then, of course, we have a number of recruitment strategies over the last number of years to further diversify and An Garda Síochána and we all know the best way for marginalised excluded communities to have any confidence in state institutions is when you look at it and you see your face looking back at you. It's not the only way, but it's an important part of a suite of measures when we're talking about marginalised excluded minority ethnic groups. If we're trying to instil confidence in them that they feel they can get a good service from An Garda Síochána. In that regard, I am reliably informed there are two Travellers in the Garda at the moment, so very low. Those are two Travellers we know of, but there may be others who, for a whole lot of complex reasons, will not identify as Travellers either because they feel there might be some negative reaction within An Garda Síochána, or there may be some negative reaction from the wrong community or a combination of both. But it is hugely complex. I suspect myself strongly that there are more than two and to change the culture, to further evolve the culture, if you like, we need anti-racism and human rights training to be embedded within the system and I think there

has been a huge strides in that regard.

In 1996, we used to go to the Gardaí College in Templemore to train the Phase Three recruits and it was fine, but I would say it really wasn't embedded in the system. We were invited down as a couple of Travellers trainers to talk about some of the issues and so forth. But I think there has been some improvements now, where it is becoming embedded within the structure of the Gardaí Training College. But of course, this anti-racism human rights training is not just for trainees, new recruits, but it needs to be also part of the continuous professional development and then part of that suite of measures - what's really important is the whole issue of disaggregated data collection, disaggregated by ethnicity, gender and so on. It might sound like a bit of a cliché, but I think it is very true. If you can't measure it, it's very hard to manage it. So we need accurate information on the experience of ethnic minorities in relation to An Garda Síochána, in terms of stop and searches, in terms of recruitment, in terms of promotion, right across the gambit, so reliable statistical information does help inform more targeted and more effective interventions when dealing with marginalised and excluded groups. I know and welcome that in the Commission on Future Policing in Ireland, and the new heads of a Bill on Gardaí powers that's been drafted, that it will actually facilitate the collection of the disaggregated data and I think that's really important. The last point I would make is that the Equal Status Act would be a really important instrument that would give another layer of comfort or protection to groups who will experience discriminatory behaviour at the hands of a Garda. My understanding is that at the moment, the scope of that Bill doesn't extend to the Gardaí and I think that's something that should happen, and I don't think anybody has anything to worry about or to be afraid of that.

Finally, can I just make two more quick points? In 1962, there was an Englishman called Grattan Puxon who came to live in Ireland. He wanted to avoid conscription in the UK - he lived with Travellers and he was the first person to try and

organise or mobilise, if you like, a resistance within our community, and played a really important part in criticising and consciousness raising Travellers to defend themselves and stand up for their rights. In 1963 it is alleged that firearms or something of that description were planted underneath his wagon - trumped up charges allegedly. He went to court, and was given an ultimatum - either leave the country or face these charges. He had to leave. Nobody at the time gave any credence to the allegations or felt it was plausible. It was claimed it was planted by the Special Branch. 20 years later in 1982, Nan Joyce, the first Traveller woman and activist to stand for a general election - she was gaining momentum in the campaign and lo and behold, the Guards arrived on the scene and found some stolen jewellery underneath her trailer. That was her campaign undermined again in 1982. Nobody really gave it much credence, that's not plausible, that wouldn't

happen. 20 years later, again, in 2002, as part of the Morris Tribunal, what do we discover? A gun was planted on a Traveller's caravan in Donegal. So here you have these incidents 40 years earlier, 20 years apart, '62, '82. It was allegedly claimed that these events took place to undermine the credibility of Grattan Puxon and Nan Joyce. People say 'That couldn't happen, that couldn't happen,' but in 2002 we had the Tribunal, and then subsequently, we've seen other events, so people reflect and say, 'yes, it's plausible'. Now, there's no strong evidence, it's allegations I have to point out, but I'll finish with that. So the last point I will make, I will reiterate, is structural change, we have seen it needs to continue, it needs to be properly developed, fully implemented, for to have the desired results. But that needs to lead on, as I said earlier on, to cultural change. And I think we're a good bit off that mark, at this time.



Paula Hilman
Assistant Commissioner of An Garda Síochána

I stand here today, having joined policing 37 years ago. and policing has changed so much - Marie spoke earlier about how policing has changed from a command control structure response, to very much vulnerability, safeguarding, cooperation and collaboration, working in partnership. It's then also how we adapt both our workforce, our members, our Garda officers, our members, our staff and our Garda reserve, and how we respond to that. But also then how we respond to the change in society that we're seeing. I look forward to our census now on the 3 April, but what we do know already, and estimate is that 17% of the population now in Ireland is non-Irish - and how we engage with those minority and diverse communities and develop policing services that keeps everyone safe. Our mission statement - which is the same in the Service of

Northern Ireland and An Garda Síochána - is keeping people safe. I've returned from a trip to Scotland and it's their mission statement as well - but that means keeping everyone safe, it doesn't mean we're only keeping you safe because you're from this community or you're from the settled community, or you're from the white community. It's keeping everyone safe and then ensuring that we're representative of our communities.

I was planning to quickly go through our journey and where we are, our diversity and inclusion and strategies, and then our culture and where we're going. Before I start, I must say that I'm standing here today able to talk about this because I work with a great group of people right across An Garda Síochána. What I'm going to talk about today, there are two main bureaus that work in this, and that's the

Garda National Diversity Unit and our National Human Rights Unit - that group of people who are the drivers, and then what we do permeates out and what we share out throughout the organisation - I want to pay credit to the work that they do and they certainly support me in my role. So, firstly, in terms of human rights, as I've said, policing society, it's really involved and our driving force is the Commission for Policing in Ireland Report, that's our Patten report. The principle that human rights are the foundation and purpose of policing. It's at the heart of our decision model, as it is with many other organisations. For us, human rights are our code of ethics and I can say, standing here today, that 96% of our organisation has now signed the Code of Ethics. I know it's many of the conversations we've had with the Policing Authority, and I know that we have been very committed to getting that figure increased. But the Code of Ethics, human rights and the Constitution are at the centre of our decision model. We looked at a couple of things - to give you a slight more detail about that, our human rights framework, that's a significant document. It's a comprehensive resource for our entire organisation, not just for the group who designed it. And it's a reference point for all of us, whether we're drafting policy, training or operational personnel. It identifies the key human rights engaged in any circumstance. It provides a detailed overview of our human rights and engage in the relevance of the human rights as they relate to policing. And it addresses each right on a right by right basis. It was issued in 2019 and it continues to be updated and developed.

Using the associated human rights screening to all these areas, the policy, training and operations are screened from a human rights perspective before progressing and if deemed necessary, or forwarded to our own human rights advisor - we also seek external advice too, because it is very important for us as an organisation not to be inward thinking, and much of the training and a lot of what we've done has been developed with others because we don't have all the answers. Martin talked about how An Garda Síochána is made up,

of what the Traveller community think about as settled, male, white. So how we get those other voices, how we hear from others lived experiences to shape our policies. We have the significant policies that we've really looked at in this, our overarching use of force policy and our firearms policy, and they've been subject to external human rights scrutinization and examination with the aim to instil good practice in relation to human rights and equality objectives are based on the important principles of dignity, fairness and respect. We are also finalising and will be introducing a quality impact assessment, and this is a tool that has been progressed in later stages of development. It's aligned with our public body commitment to create equitable, diverse and inclusion work environments under the Public Sector Equality and Human Rights Duty of Section 42 of the Irish Human Rights and Equality Commission Act 2014, and a Public Service 2020 Policy Framework. I know, and we've heard so much about this, it's how we bring these to life, but we need to have these tools that then we can apply to all areas of policing.

I'll discuss some of the training that we've undertaken, and that's in terms of human rights. It is something we're proud of, what we've done is we thought about the position we find ourselves in and the research we had - how can we really do something that would be quite significant and make the difference that everyone is telling us, and the feedback that we're getting that we need to implement? So we thought we would take the opportunity to learn and develop from external expertise, and introduced training for staff in two key areas: our Policing and Human Rights Law in Ireland course, and then a practical understanding of human rights-based approach to policing. As of



human rights and equality objectives are based on the important principles of dignity, fairness and respect

May this year, 1500 of us will have undertaken the Policing and Human Rights Law in Ireland course, which is 10% of our workforce right across Garda members, staff, and reserves. It also has been extended out externally which we're very pleased to do, such as to some partners under the PSNI. We took the opportunity, and created a structure that was co-curriculum, not just academic, delivered by both presenters and ourselves. I presented on hate crime, others present in their areas of expertise - we also have presenters from the academic community as well, many of the areas we've talked about today, such as hate crime, diversity, human resources in terms of our work makeup, victims of crime and use of force.

The second stage of that training is that practical understanding, and it's back to what Martin talked about - what we've been hearing with groups, with people's lived experiences and especially areas of vulnerability, people with drug and alcohol addiction, mental health and neurodiversity, we have engaged with them and they share their lived experience with us as part of the training. A lot of this has been delivered online and that helps us to deliver that right across the organisation. Some of that was driven by the pandemic, but we have videos and we are sharing these each month and that's to help that understanding. We did want an unconscious bias training to really challenge all our thinking, ADHD, missing persons, neurodiversity, to name but a few. So that is all part of that package of training. As we move forward under human rights as well and in terms of the service we deliver, we are looking at the new strategy - our human rights strategy has just been finalised, and we're looking at public order as part of that and also mental health, how we respond to mental health, because we have a lot of responsibility and we are bringing people into Garda stations where perhaps that's not the best environment for them. So the Mental Health Commissioner has been working with us and how we can best support those members of our community who have been in contact with, who have had mental health issues.

Secondly, I'll look at what we've done under

equality, diversity and inclusion. The Minister talked about our Diversity and Integration strategy, which finished last year. Some of the key deliverables I think it's important to share with you today: in 2019 we published a hate crime definition that put us in line with most other international police services. We've updated our IT system so this year, 2021 was our baseline for publishing our hate crime data. For the first time, we're going to have annual publication of hate crime data, that we have that level of examination around and assurance around. I don't know why we compare it to 2020, it's not the same, but I do know that we will have seen increased reports coming down An Garda Síochána. We also have an online hate crime reporting facility, which we launched on the 21 July last year, and from that we've had 78 reports on that, 40 hate crimes and 38 incidents. So there's another mechanism and a very strong a message, please report hate crime to us - but there are potential crimes and incidents that may not have been reported to us other than by that means. We've updated our policies, procedures, bringing them to life, rolling out diversity training within the next few months, and initial training right across the organisation of awareness. It's about inclusivity and then we're going to do some leadership training rolled out.

And then finally, it is so important that we have the voices of those that we are serving in our communities. Our National Diversity Forum was established as part of the strategy, and they have been monitoring implementation of the strategy. We extended their role to be a critical friend and they're giving us feedback because it's only by having those candid conversations that can we really start to really shape, develop and update our services. Regarding the Garda Traveller Advisory Committee, we hear from all the Traveller groups right across the country in terms of the impact on how we can develop our policing services around that. We have our Garda diversity officers there and other key persons. All of us who did the human rights course are human rights Champions, but regarding Garda Diversity Officers, they are developments from the Ethnic Liaison Officers.

We have 331 of them across the country, they overcome communication barriers, they support victims, and they provide a response to emerging trends - because what's important to us is that when we look at our data, the information shapes how we respond - is where do we see our crimes happening, against what groups of minority and diverse communities, and how we respond to that? For example, we introduced some training in Blanchardstown recently, and they very kindly came down and were part of that training and being responsive to what we were seeing, what we were hearing from young Black men in the Blanchardstown area. We devised training that spoke to that area and that's what I want to do going forward, is having the general training for the Garda Diversity Officers, but being responsive to local trends and local geographical areas.

Finally then, to conclude, it's about our own organisation and our own culture that we've been hearing so much about. We have our ongoing campaign we have been very proactive in reaching out to all minority, diverse communities, and I thank all of the groups that work with us that we could enable us to engage, to encourage people to report. When I joined the police, I was one of 4% of females in the police service in 1985. In terms of female representation in An Garda Síochána, we have the highest female representation in Europe. Two out of our two Deputy Commissioners are female. I'm one of three Assistant Commissioners who are female, out of eight. Out of our six Executive Directors, we have two Substantive and one Acting Executive Director. So in terms of female representation, we actually are still on a journey, but we've come a long way. But we recognise with other groups, and I think Martin had a really valid point, because I've asked that question, how many Travellers do we have in Guards? And the fact that perhaps I would agree with you, Martin, with probably more than two, but they don't want to publicly identify and that will be so important for us in terms of our cultural change - that why we are hitting the target, I'm sure you've heard of it missing the point. We may get better to see our representation in terms of diversity and how many people we get from

other minority ethnic groups, and we've changed our uniform policy to be able to do that, but it's creating that inclusive culture - because if we don't retain and people are open for promotion, then we have failed, because that's what we need. People need to be able to bring their whole selves to work and it's how we will create that culture, whether it's the establishment of more staff associations like the NBPA. But as we get more representative, what are those staff associations like? How do we create that culture for that? We are looking at future barriers to recruitment to ensure that we can reach out.

Our intern programme, which some of you may be aware of, was recently launched with 27 interns - I saw them in the canteen the other day, and just seeing that level of diversity and that age group is really heart-warming, and they're helping us because diversity in its widest sense, socioeconomic, age background, it's the widest sense of diversity. And they're involved in all of our programmes.

I know Alyson talked about our cultural audit. We have reviewed the findings of our last culture audit - we are part of an organisation that we know our members are very proud to be part of, An Garda Síochána. We know we have high trust rates in many communities, but then we also hear the voices of those who say that they are over-policed and under-protected - that they don't have confidence to report, and that's what we are working to build that confidence and that relationship, and why we're here today. It's been really beneficial to hear so much, but to conclude, I think we'll just emphasise that we're on a journey, we have come a long way - I've been in the Gardaí for two years, but I can see where we have come from, from the Commission on the Future of Policing in Ireland report. We know that we have still some work to do, but we're an organisation that is committed to doing that. The Commissioner has been very vocal on that, and I and my other senior leadership team, executive members and all across the organisation are willing ready to support the Commissioner, to deliver what we need to in that regard.



Yasmin Cader

Deputy Legal Director, ACLU

I want to start with a really important concept that we look at when we're analysing this institution, which is you cannot know where you're going if you don't know where you've been. I want to ground this conversation first in a short history of American policing, which has never been a neutral institution, it has been fraught with racism and oppression from its inception. Now, the origin of modern day policing in the US, where it started was with what were called slave patrols. These patrols were formed to establish a system of terror, a system where uprisings of enslaved people were squashed. And so these slave patrols pursued, apprehended and returned those who had escaped to those who claimed to own them. That was in the early 17 hundreds in the Southern States in the Carolinas. It continued until the end of our Civil War and the passage of our Emancipation Proclamation, but it didn't stop there because it was replaced with what were called armed militia groups, who were charged with empowering and controlling the denial of access of rights to those who were recently emancipated - and so these armed militia groups relentlessly and systematically enforced the Black Codes. The Black Codes were a system of laws that regulated and restricted access to labour, to wages, to voting rights and to general freedoms. Even after the Black Codes were abolished, we had what was called Jim Crow, which is legal separation and segregation and again, the police were utilised to enforce this segregation and subjugation. Many of you may recall in your history lessons of some of the worst moments of our history in the United States is the images of the civil rights movement, and the police turning firehoses and brutally beating protesters who were seeking the civil rights movement. That was the job, the role and the purpose of the police then, so this institution has some very pernicious historical roots.

So what's happening today? Well, contemporary policing and law enforcement in America is still fraught with racial oppression, with discrimination and with violence. We heard you mention the Black Lives Matter protests that happened there. The ones that generated here, with the death of George Floyd, became this uprising because of the daily degradation and dehumanisation that communities of colour have faced. That manifests through racial profiling which remains widespread, where Black and Latino citizens are overwhelmingly the targets of low level police interactions, traffic tickets, searches, arrests for minor crimes, and they are targeted for this through predictive policing mechanisms and frequently treated in hostile, intimidating manner. That's just talking about how people are treated with day to day interactions. But let's talk a little bit about violence.

Police violence in the United States, as you well know, is an incredible, terrible ill that we're trying to address. Black people are just more likely to die at the hands of police. Black children are 20 times more likely than white children to be killed by the police. For young men of colour, police use of force is among the leading causes of death, and when you make international comparisons, police in America kill people three times as much as the police in Canada and at least 16 times as much as the rates in Germany and England. We also have to look and contextualise this institution of policing in the context of our country's addiction to incarceration. The United States has less than 5% of the world's population, yet we incarcerate almost 25% of the world's prisoners. So that's just a little bit of contextualization of history, and what those of us who are really interested in transforming this institution are doing is rethinking the role, the function and the purpose of policing now in the United

when looking at elements within policing of meaningful structural change, we must address excessive force, we must address over policing, and we must seek to earn trust with the communities that have been unfairly targeted

States - since World War II, our government has increasingly abandoned its function of addressing poverty and structural inequality. We have really decreased significantly meaningful investment in social services and public institutions, and as a result, we've had an exacerbation of inequality, an increase in poverty, and a deepening of racial inequity and instead of addressing those societal ills, we've become an increasingly incarcerated state that is focused on punishment.

In this context, where do the police fit in? Where the police are asked to address all societal ills, to address drug addiction, disorder, mental health problems, school safety issues, immigration, sex work, youth violence, youth unemployment, and then also crime and it is this institution that is being turned to for all of these problems, which is not the concept, function, purpose or ability of this institution to manage - and it's unfair to put that on the shoulders, in our opinion, in my opinion, of the police. Instead, the role of the police, which is one of enforcement of crime and one of enforcement of law, and is an arm of the criminal legal system. It should be founded, or rather focused, on the limited circumstances where force is necessary to keep people safe, responding to circumstances where violence is imminent, not to address all of these societal ills. Instead, what we should be doing is investing in the creation of jobs and opportunities, treating addiction, investing in our communities. So I just wanted to frame the conversation with that in mind because I think it's so important that we are really disciplined about thinking, what should the role of police

be? But when looking at elements within policing of meaningful structural change, we must address excessive force, we must address over policing, and we must seek to earn trust with the communities that have been unfairly targeted. Many of the other panellists have talked about that. For those elements of accountability, one very important part of that that we have seen that has had efficacy is transparency, opening up these institutions to public inspection, opening them up to academic research where it isn't a pull to try to gather the data, but instead, the academics and the public are part of developing the mechanisms for collecting the data on use of force, on stops, on search, on harm and death in custody, media investigations. It shouldn't be in opposition, but it should be an open book. Transparency is key for accountability.

Secondly, civilian oversight is key, civilian oversight with power so that the community is effectively overseeing the actions of the police and able to engage in meaningful discipline when necessary. Reconciliation: we all are familiar with the lessons that we've learned from most recently South Africa, with the Truth and Reconciliation Committees. There are departments here in the United States that are reckoning with that history I discussed, they're reckoning with the past and the current history and saying, "before we move anywhere, we need to listen and we need to absorb and we need to acknowledge the extraordinary harm that has been done by this institution", and then really again, limiting when use of force is proper. We have had effective changes in the law that have changed the permission of force and the use of force from when it's deemed reasonable to only when it is seen necessary for the defence of human life. That is such an important element to reduce the harm, ending pretextual stops and predictive policing data. Our last speaker talked about the collection of data and the importance of it. We have to understand why that is important, but we also have to understand where it's faulty because it can be a circular loop, where we're looking at certain communities, where there's poverty, we're policing excessively in those communities,

we're creating data to say that crime is in those communities and then we're present in those communities that causes a disparate impact and a disparate treatment between groups. Now, when we have seen effective change in culture, and I know that was one of the purposes and points that we wanted to talk about was changing culture. What we have seen work is when everyone involved is leaning into the difficult and the challenging. When police departments, for example, are looking to engage with the community, who in the community are they seeking to engage with? We have to listen to the louder voices. We have to listen to those who are sceptical and upset and are maintaining a critical lens. It may be harder for those individuals of these communities to be satisfied upfront, but when ultimately that trust is earned, you will have co-authors that will provide meaningful legitimacy. What unfortunately happens often here is, when we do community engagement, is the individuals of the community who aren't the loudest voices, who aren't the greatest sceptics, and who are those who, for some reasons political and otherwise, want to be seen in alignment, so we have to lean into the difficult that goes in the other direction too.

I've heard a lot of talk about training, and what we have found to be effective is workshopping more than training, because there's a lot of what we see within departments when from up high. Principles and training and change of culture is put upon the people on the ground, meaning the police officers on the ground. There's a lot of rolling of eyes and distrust. So we have to embrace the biggest sceptics within the Department and ask, when I talk to you about this training, I want you to do differently. What are you worried about? What are you afraid will happen? And those sceptics need to be brought in to build the solution, because sometimes there's really important things that they are worried about that we need to address, to have these principles be able to be met out in realistic, meaningful ways on the ground and we need to be able to find the pieces of the culture that we can validate, while critiquing the parts that we don't like.

I just want to talk a little bit and this is going to be challenging, but I need to say it because it's what we've learned. What has not worked. There's been a lot of talk today about cultural sensitivity training, implicit bias training. What has been the challenge of that training actually resulting in change in behaviour, is the other training that we have received here in policing, which is the message of officer safety. Officer safety training the way it is done here in the US is that officers are told from the Academy to their field training in their daily reports that innocent actions in certain neighbourhoods can turn deadly in a split second, and so they need to be ready to use lethal force at any moment. That message undercuts any implicit or cultural bias training completely, and so we are really working on honing in on the efficacy and the failing of that officer safety training, because it's not true. It actually isn't true that people's lives are at such risk. That is something that has been a myth, that has undercut change.

Another hard truth is that while for many reasons we value and embrace, of course, the principles of diversity, and we think it's such an important element of all of our public institutions when it comes to changing issues of harassment or violence of minority communities, the diversification has not worked, not on its own, not by itself. It may look better, but the results have not been ones where we have a decrease in these issues. The other challenge is the concept of community policing, and it is in some ways what we call without the kind of structural, meaningful reckoning and changes that we've talked about. If you just slap a concept of community policing over otherwise unchanged structure, it doesn't change because all you're having are people coming to community meetings being here, but with an organisation whose job is to criminalise all disorderly behaviour, and to deal with societal ills that are far outside of what should be its proper scope. So I want to just end there, not on a negative note, but on a hopeful note that lessons can be learned from what we have experienced here in the US.

ONLINE QUESTIONS

First question for Martin. Someone was wondering if there are any examples of good practice from a human rights perspective in operational policing North or South, that could be replicated. So maybe if you have any examples of that. We also had a question about cross pollination between policing services North and South in relation to working arrangements. The questioner noticed that they see many PSNI officers taking sworn or on sworn posts within An Garda Síochána, but how much reciprocity has occurred between senior ranks in the PSNI? And then with regard to police officers, how many exchanges have occurred in the last five years, for example, to learn from policing practices? From a human rights perspective, are there any considerations from an operational form or for frontline specialist officers from the PSNI and the Gardaí to engage and learn from each other?

Paula Hilman

The Good Friday Agreement enables police officers from the Police Service of Northern Ireland to apply for An Garda Síochána and again, members from An Garda Síochána to the Police Service of Northern Ireland. It's a personal choice, and how I came to be here. In terms of common sense and that cross pollination ensuring of good learning, there are several ways we do that. Again, there were some structures set up; groups that meet biannually. When I used to be the hate crime lead, I used to come down to them as well. They discuss things such as hate crime and criminal justice - there are four different groups that meet biannually, so that's the structure that's in place. Because many crimes and criminals do not recognise the border, it's very important to share that information that we need, as well as showing good practice. We are just about to re-establish our formal

secondment process that we had previously. I recall 2006 as part of the Patten exchange - a lot of Garda members- welcoming them to the PSNI. It's due to start again within the next month or six weeks, and one of the things we've done slightly differently is that this time it's also going to be open to Gardaí and PSNI staff members. Before it was police officers and Garda members only so it's open to staff and will be wider, open to some specialist branches.

Martin Collins

Well, I'm not aware of any good practice concerning Travellers or Roma that is both North and South, but in relation to Travellers, I think it's important to say that there is an ongoing dialogue between Travellers and An Garda Síochána - that's mainly, but not exclusively, through the Traveller Advisory forum which has been established, and then also through the integration and diversity owners. But even outside of that and not just Pavee Point data, but indeed other Traveller organisations in particular, the local ones, have an ongoing engagement and dialogue with the Gardaí around a whole number of very sensitive issues. I do know from our own perspective and Pavee Point, during the whole pandemic for the last two years, we actually worked very constructively and vice-versa. The Gardaí worked very constructively with us around a number of very sensitive issues related to Covid-19 that I prefer not to go into details about, but it was a really very constructive, collaborative effort between us.

AUDIENCE QUESTION

Has the Strategic Human Rights Advisory Commission (SHRAC) been continuous since 2005?

Paula Hilman

I don't know if it's been continuous since 2005, I do know since my time here in 2020, it has been sitting since then. But I could find out for you. My own experience of that Committee, first of all, and this could be applicable all over to all sorts of other groups who aren't aware of what may be there that they could avail of, but whether they were aware of us or not, the Assistant Commissioner at the time in the question of the policing of Corrib, never sought human rights advice, never sought any advice from that Committee. And just finally and I know I'm kind of single issue, but because the policing of protest has massive ramifications, I haven't heard it actually listed as a particular element in human rights proofing and I do hope it doesn't come under public order, that it has a separate human rights proofing about it and that would apply both North and South.

Lucy Michael

We can clarify the SHRAC was not in existence for that length of time.

Paula Hilman

Thank you for that. SHRAC, the Human Rights Advisory Committee is about giving us feedback and updates on policies, and our approach right across the organisation. In terms of what you talk about in relation to policing a protest, that would come under the work we are doing, we would class a protest as an event, so it comes under the wider events title. Events could cover many things. Public order is one contingency that you may use, but they do come under public order and public safety. That would be our strategic approach in terms of how we're now looking at that - we're actually implementing the Garda Inspectorate report recommendation from 2019, and we're implementing the gold, silver and bronze command structures - so those structures apply, whether I think people think of public order, perhaps by the time that disorder has occurred, it's equally about planning to prevent that as well. We are introducing that structure and that's what our human rights legal adviser, Superintendent McNamara, will be giving advice on in that area - so the human rights legal advisor would be involved in the planning of a significant operation. They would give advice on that and they could be present on the day. We're looking at both international practice, and we're implementing the Garda Inspectorate Report on Public Order Policing, which will include that it applies to any event and then finally, it is about using the decision model. The decision model is how we make our decisions in whatever we're dealing with, and human rights is at the centre of that, ensuring that whatever approach we take is necessary, it's legitimate, and it's proportionate to the objectives of what needs to be achieved.

AUDIENCE QUESTION

I have a question and then more for a comment in terms of diversifying and An Garda Síochána. I mean, I'm sorry to put it blankly, but traditional methods of equality, diversity and inclusion do not work as long as it is optional. If you are really committed to diversifying, why not commit to legislating for it? Create quota systems to ensure that it's not just optional, it's not just one person, but we are ensuring real change - we live in a world that was created based on racism and inequalities, and I think that legislating for it would be a way to ensure that more people from an ethnic minority background worked there. Whether it is a victim friendly desk in An Garda Síochána police stations or whatever it is, or even being a police officer is ensured. In terms of time, I hear all the time, people in positions of power, they talk about how change takes time, but how long must ethnic communities wait until they have access to justice? How much more time do we need to address these things? I mean, by the looks of things, 100 years from now, people will still be talking about gender equality, racial equality. I think that's absolutely unacceptable to me and must be unacceptable to everybody else.

Andy George

So, from a NBPA point of view, our position is we agree that positive discrimination is probably the only thing that is going to rectify the ethnicity balance within police services both across Great Britain and Ireland, North and South. We have had successes, obviously, in the police service of Northern Ireland, and that should really be the guide on where we're heading. Where the appetite governmentally and institutionally is set for that, I'm not 100% sure it is something that we've pushed and advocated for. In the long term, that's something that we should definitely be pushing for. But we also need to look at the short term and for me, the short term is more

about that relationship. For me, recruitment is a by-product of good or bad relationships and I think that was the case with the Police Uplift Programme, which was the effort to recruit 20,000 additional officers in England and Wales, and has failed to reach its diversity mark that it set itself and that it wanted to hit - that was because it didn't come with an engagement strategy, and it didn't come with that bit and that long term engagement. So what we're going to push for is between now and the next census that we will have set targets to try and have police services that match their community in every single aspect.

Yasmin Cader

I just see that there is a question about community policing and what was the suggested change? What is really hard about the community policing model is that you put police in the community, and the theory is that the community will bring you the concerns of its neighbourhood and its conditions to the police. But the problem is that the police are the punitive enforcement actions, the tools they have are punitive enforcement arrests and ticketing. They don't have the power to address all of these other needs that communities have, and so that's one of the fallacies and problems with the community policing model, at least here in the United States. The other problem is that, again, it can cause, if not a real acknowledgement of what the police role should be and what the police's role is. What we have is, again, this disconnect, so that those who are coming and seeking a real engagement are left really dissatisfied and that dissatisfaction can then create defensiveness and assertiveness from the police. So in terms of a very positive example, reconciliation is key in taking lessons from effective reconciliation processes in other contexts, and then also being really creative in how to engage with the community –because often those who come to community meetings are those who own homes, who own businesses, who are landlords, who the most socially marginalised, people who rent, youth, people who are homeless who are immigrants are rarely represented and those are the people that we need to be creative about the ways we engage with them.



PANEL 4

Reflections and Delivering Reform

Facilitator: Liam Herrick, ICCL

Panellists: (L-R) Doireann Ansbro, ICCL, Donncha O'Connell, Professor National University of Ireland Galway, John O'Callaghan, Deputy Secretary General Department Of Justice, (Not pictured) Sir George Hamilton QPM, LLD, MBA (Dist), BA (Hons), Former Chief Constable PSNI and Alyson Kilpatrick, Chief Commissioner of the NIHRC

PANEL 4: Reflections



Liam Herrick

This is the last panel of what has been a very rich and intense day, I think we have all of a huge amount to think about. This last panel is really to bring us back to what this is all about, and really the purpose of the two seminars is to reflect on where are we with the ongoing project of police reform in both jurisdictions, or more accurately, the reform of policing - including, obviously, police oversight - and the last panel is to look from a number of

different perspectives, including people that are centrally involved in the process in different ways. As to answer the simple question, where do we feel the reform process is at now? To begin, we're going to turn first to Sir George Hamilton, who was the Chief Constable of the PSNI from 2014 to 2019, and retired from policing in June 2019 after 34 years, having served in Northern Ireland, England and in Scotland.



George Hamilton
Former Chief Constable, PSNI

From all of the lived experiences and perspectives that we've heard this afternoon, it seems to me that police reform is really about the relentless pursuit of police legitimacy - that's in the face of things going wrong operationally, it's in the face of sometimes highly charged and dynamic political operating environments, it's in the context of policing being a human endeavour - and people will make mistakes and do wrong in policing as they do in every other walk of life. But that pursuit for legitimacy, even with all of the prejudice, the discriminatory practise, the under representation at its core, it seems to me that police reform is about this pursuit of legitimacy. And that's important because legitimacy is the licence to operate in most liberal democracies and even beyond. The state depends on policing by consent or policing

with consent. Some jurisdictions, of course, put more emphasis on that concept and have more success at it than others, as we have heard today. And so that pursuit, I think, needs to be there if we're talking about learning from reflections on reform in the past, even in the recent past - we need to recognise that this is a journey, and it requires a perpetual state of reform because society is constantly changing, policing is constantly changing, expectations are constantly changing - so we can look back at what has happened in certain snapshots along the way and learn from it and hopefully not make the same mistakes again, or develop what has worked into something better and greater, and share practice in that way. But we would be making a huge mistake if we thought that reform was something that could be done once and for all. But the three pillars of police

reform that we experienced in Northern Ireland, thanks to given to us and offered to us by the Patten report, were around accountability, human rights based approach to policing, and representativeness.

I have been involved in lots of police reform projects across the world, some more successful than others, and people tend to want to start with models, community policing models, investigative models, decision making models, processes, structures, IT systems - and they're all important, of course, but they're only become important if they are developed in the context of these three very strong fundamental pillars for legitimacy and policing. On accountability, being answerable, that is not just about a reluctant compliance to answer questions and to give as little information as possible - for police services to really gain this legitimacy through accountability, it needs to be embraced, it needs to be welcomed, even if that's uncomfortable at times. In Northern Ireland, we had lots of formal accountability through the Office of the Police Ombudsman. You had an input from Marie this morning and also from the Northern Ireland Policing Board, and then at a local level, through policing partnerships as well, where the police were legislatively compelled to be answerable to their communities. But for legitimacy to be really grasped and to be maximised, I think it requires in policing an embrace of that accountability so that it's not reluctant compliance, it's actually wanting to be answerable, it's wanting to give account almost before the questions are asked at the

very lowest community level. It's easy to rattle off these concepts sometimes as excerpts out of the Patten report, but what does it look like in practice to make it successful? That's accountability.

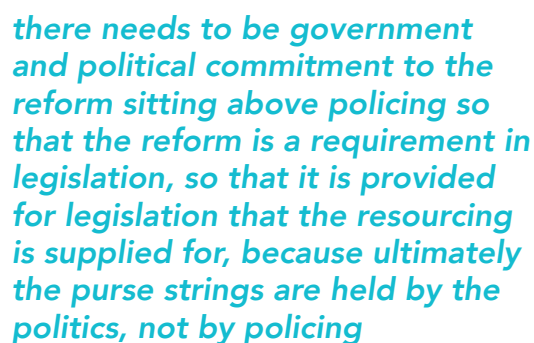
Human rights, and there are people in the audience on the panel more equipped than I to comment on this, my experience, especially over five years as Chief there, was that it had become commonly talked about as an anchor point, reference point within the organisation, from the strategic decision making to resourcing decisions to operational decisions, it became that error that was brave, as Melanie described it. I don't mean we have cracked it or we had cracked it when I left, but it certainly was a part of the ethos of the organisation, and the human rights pillar for me is about culture and ethos, but it also needs the authority and the power of legislation and policy. And why do I say that? Because fundamentally you want to get to a point where the organisation has adopted a genuine, authentic human rights ethos in everything that it does - but actually, we all know that culture is a really difficult thing to change, especially in old fashioned hierarchical organisations. So it's easier to start with behaviours and behaviours can be influenced through policy, through regulation, through statute, through registration. Someone cleverer than I said that rules and regulations can't change hearts, but they can constrain the heartless, and I think that's why it's important that a human rights basis is enshrined in policy and legislation, and in the requirements of policing duties and policing obligations.

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On representativeness, I think for an organisation like policing, a public service with all of those powers, to remove people's liberty and to search their person, to search their home, to intervene in terms of safeguarding responsibilities and monitoring of people and all of that, for it to have legitimacy, it needs to be representative of the community it serves. It goes without saying, given some of the powerful inputs that we've heard this afternoon from various speakers around the problems of an underrepresented and

non-inclusive police service, for legitimacy to be BAME representative this is really important. An interesting question that came in the last session, around is there a need to move towards a statute that would make it lawful for positive discrimination to ensure that people, all groups and backgrounds are representative through an enablement to employ people on a quota basis? We did a version of that in Northern Ireland with the 50/50 recipient system that lasted for ten years. Patten identified that to get people from the Catholic nationalist community up to around 30% was a critical mass - of course it needs to be at or around 50% to be completely legitimate and authentic - but that for ten years of 50/50 recruitment, people were accepted into the organisation on the basis of their community background, having attained the required standards through a robust selection process, but people will then selected one at a time from each of those groups of people from Catholic community and the non-Catholic community. That representativeness was not finally dealt with, but the critical mass of the 30% was created over a ten year period, otherwise that would have taken generations. So in my view, and no longer being fettered by holding a public office, I can say more, but I think that that should remain on the table. I think fundamentally it is a political decision rather than a policing decision, but nor do I think senior police leadership should be afraid of it and I think it should be something that is at least available for consideration, but I say that also firmly believing that decisions such as that are for the political space rather than for police leadership. So those are just some of my disconnected joggings around the sort of three pillars of accountability, human rights ethos and representativeness.

I want to talk now for a couple of minutes, just about what are the critical success factors for implementing police reform under those three pillars? And very briefly, my three points on this is that there needs to be government and political commitment to the reform sitting above policing so that the reform is a requirement in legislation, so that it is provided



there needs to be government and political commitment to the reform sitting above policing so that the reform is a requirement in legislation, so that it is provided for legislation that the resourcing is supplied for, because ultimately the purse strings are held by the politics, not by policing

for legislation that the resourcing is supplied for, because ultimately the purse strings are held by the politics, not by policing, police leadership's job is to do the best with what they've got, but you need that level of state government political commitment if reform is truly going to happen. Secondly, you need commitment and ability at executive police leadership to do the change, to be committed to the need for change and also have the technical and organisational skills to deliver major change, major reform in the organisation and if that doesn't exist within the organisation, then help should be sought from other places who can help to deliver that. So you've got government commitment, executive police leadership commitment to the change and the confidence to do it. This sort of links to the second point about police leadership, there needs to be an ability to manage the normal distribution curve. In any change process, you're going to have proponents of the change, those are enthusiastic about it at one end, at the other end, you're going to have people who are potentially organisational terrorists who are extremely resistant to the change, sometimes for their own personal, legitimate reasons, the journey they've been on, the hurt that they've felt and all of that. But in the middle, you've got this big mass of people who could go either way and the leadership challenge for police leadership is that you harness the willing, that you convince the large majority the hump of the normal distribution curve, and then you find a way to actually sanction or exit the people. That sounds a little bit ruthless and harsh, but the people who are actively resistant to change

need to go. That's difficult in public sector terms, it needs to be legitimate and it needs to be ways of recognising the contribution that those people have made whilst being upfront and honest with them. If you're not buying into this change, really, you need to think about whether or not there's a future for you in this organisation. In the North, of course, we have a generous severance package that enabled people who genuinely, for their own good reason, didn't feel able to make the transition from the RUC to the PSNI and they were given incentives around pension entitlement and enhancement and so on to exit the organisation early. That also had the added benefit of reducing the numbers to create the headroom, to make the organisation more representative through the 50/50 recruitment mechanism. So harness the willing, convince the majority and exit or sanction those who are resistant to change. It doesn't mean that you don't listen to them, but actually there comes a point when the minority at that end of the distribution curve cannot be allowed to hold back the change, leading to legitimacy and a more acceptable police service that is able to garner public support and have confidence in policing.

Finally, there are some things that the reforms in Northern Ireland did not address that have created major problems for those of us that came along through the change and then afterwards trying to continue to develop and improve the organisation, and the biggest one of those was dealing with the legacy of the past. The Good Friday Agreement brought us a degree of peace that some of us thought was never going to be possible, but it did not deal with legacy. I think the politicians, both in Northern Ireland and the governments in Dublin and London either thought that they had dealt with legacy or else they didn't think, but that is a running sore that has been a millstone around the neck of policing - and I don't mean that disrespectfully to victims and survivors and those that lost their lives, because for them, this is not a legacy issue, the hurt and grief and pain is as severe today as it was the 20, 30, 40 years ago when it was first felt upon them.

But my point is that the reform mechanisms have been wonderful and I'm a proponent of them, I'm advocating for the general Patten approach in other jurisdictions even today, but it was silent or it was blind to the problems of legacy and dealing with the history of our past. And it's probably a bigger issue than policing, it's a political and a governmental issue, but actually the people who bear the brunt of it are currently policing, and the main casualty of it is confidence in policing today because of what went on in the past. I could talk for an hour about the context of that, the reasons for it, my ideas for the future of and how it can be resolved, but I think about the UK government's current proposals. I'm not going to get into it, but what I'm saying that is in reform we need to be mindful of the things that come left field, that policing itself doesn't have a huge amount of control over, but if they're not thought through and dealt with at the time, they don't go away. They are extremely resilient in terms of hanging around and negative implications for policing now and into the future and legacy is a good example of that.

Liam Herrick

Thank you, George. That was really excellent, very direct and very frank and one of the points that George made there about the distribution curve, I don't think that we have, at least not now, a significant body of members of the An Garda Síochána who are very mobilised against reform. That may have been the case some time ago, but of course, it is a crucial difference between reform in the North and reform here - that there was an attrition, a significant exiting of a proportion of the police service in the North and the recruitment of a fresh generation of police officers, which is not something that's likely to be possible here so that is an important distinction, I think, when we talk about the reform process. The second panellist I want to introduce is John O'Callaghan, Deputy Secretary General of the Department of Justice, who is responsible for the area of Criminal Justice within the Department.



John O'Callaghan

Deputy Secretary General of the Department of Justice

To make the best of this, I just want to bring you up to date briefly on where we are with the reform programme and say a few things about it from our experience. The first thing to say is that reform has been underway, particularly since around 2005 - the Morris Tribunal, then the Garda Act, then in 2014, the Policing Authority legislation was developed and then to now. In between we've had the Commission on the Future of Policing, which was a seminal report. It set a very pure roadmap and it had the benefit of being drafted by a number of people who lent their own expertise, their own experience - it was a confronting time, there was no member of an Garda Síochána on it, there was no member of the staff of the Department of Justice or representative of the Government per se on it, it was independently chaired. I think for all that some criticised it but it did give it a strength when it came to it being published and ultimately being accepted. It was clearly a report that was completely independent in its development, and I think most people could see it for that as a kind of warts and all look at policing in Ireland, and that the recommendations stood up to the test that inevitably came. I think the other thing about it was it wasn't just about An Garda Síochána, it was about policing in its widest sense.

Previous speakers have talked about how the Guards and Police and other jurisdictions deal with the full range of social issues that arise in communities like we have, and the focus and the emphasis in the report on community policing and on community safety in particular, I think was a very important departure from what we've had in the past. This wasn't just about reforming the Guards, it was about reforming how policing was done. Going back to a point that George made in terms of successful implementation, key success factors, the

oversight of the centre in terms of reporting, implementation architecture was set up - was all critically important. The Department of the Taoiseach took centre stage on that. Again, there was an independent chair appointed to manage that process and lead it, and that resulted in not just the Gardaí's feet being held to the fire, but the Department's feet being held by other departments, having to come up to the mark in terms of what is expected with them, and we can see some of that coming through now and being delivered.

Obviously Covid intervened and quite a lot of the initiatives and a lot of the work that's being done requires training, and some of that was delayed due to Covid and had to be postponed, but it is being done and will be done, but that has been achieved during that time. We're beginning to roll out a pilot in Limerick of the crisis intervention teams, which bring together the HSE and the guards for the first time in that kind of cohesive unit that can respond to particular crisis or issues when they arise. So it's not just the Guards going to an issue which actually requires support of other services. We know that historically, come Friday evening at 5 O'clock, the other services their time is up and then it's over to the Guards for the weekend, overnight and so on and we're beginning now to see the change that's needed to address that.

The culture was mentioned earlier. One of the things that was more striking for me in the Cultural Audit was this perception that promotion in the Guards at the junior ranks, promotion from Sergeant to Inspector, was very much about who you knew, not what you knew, and we have reformed that now - the Public Appointment Service have started their first competition for Sergeant, which would be completely independent of An Garda Síochána.

That's not to say that the wrong people were promoted in the past, it's just the perception of how you got promoted that was having an impact on the culture. In terms of shining a light, the civilianization programme is very important too. When I first got involved with this area, there were about 1,000 civilians guard of staff in An Garda Síochána. There's now over 3,000, around 3,200, and we're aiming to get to 4,000 in the near future. But I think, again, there would have been resistance in the past to civilian staff, that I think culturally isn't there anymore, and there's no one suggesting we should get rid of the Policing Authority or GSOC. While you might say that law doesn't change culture, I think it actually does over time. I think things that are legislated for, and particularly where you're dealing with the police, definitely my experience of dealing with the guards, the law actually does count, and that's as it should be. When it's in statute, then it is followed, and over time it does become part of the way things are and people get on with it. On community safety, the Department has established three local community safety partnerships in Waterford City, inner city Dublin, and Longford, and the idea is that over two years we learn from those and ultimately, when the legislation's passed, they will replace the joint policing committees. And, there have obviously been developments in ICT and so on.

But I think that we may be focused too much on change - in the past it's come out of crisis, whether it was the Morris Tribunal or the various controversies we had in the last five to ten years, and there's a response to that. In my ideal world we'd move to some normalised state where change was just what happened, we are continuously in a state of looking to see how we can improve and it's more about continuous improvement - rather than waiting for the sense that you can have reform programmes and you reach a new platform that might be good, but over time that's no longer fit for purpose and then something else hits or some other crisis strikes, and you're back into setting up another group of people to look at how you've arrived at the task you're now at. Whereas, in an ideal world, you'd be continuously looking at how

you can improve, continuously looking at how you do things, continuously looking at the environment you're operating in and changing that way - I keep saying that doing change in peace time is more effective. We've had the Policing Authority, when it was established that legislation was completed, I think, in about six months. You don't necessarily have the amount of time you would like to have to tease things out fully if you're doing it in the face of crisis or demand, so things have to be done now. I think that was the benefit of the Commission report. They did have time to do the job. They did it quickly by the standards of some reports, but at least it was thoughtful, and in terms of what's developing the legislation, there hasn't been a gun to our head to do it - obviously we're trying to do it as quickly as possible, but we have been able to consider things. We have been able to consult and continue to consult, and that process is ongoing. Doing these things in peacetime, it's sometimes hard to motivate yourself, because the question is "why would we spend the time doing that when they could be doing other things that are actually urgent?". But I think you do get a better product at the end if you do have the time to do it properly, and hopefully we are doing that now.

Just to finish off on the legislation, we have three major pieces of legislation being prepared. I actually saw the latest version of the Policing, Security and Community Safety Bill this morning and it's reaching a great height at this stage. I'm promised that it's reducing in size over the next few weeks, but there has been pre-legislative scrutiny on that and we're expecting those reports in the next month or so. The Bill then will hopefully be published this side of the summer, and progressed through the Oireachtas then - as part of that, one of the big things from the Commission was that the Commissioner will become a true Chief Executive Officer. We're also making very clear distinctions between accountability, oversight and internal governance of guards by changing the role of the Policing Authority, creating a new Police and Community Safety Authority, that would have additional functions; creating a Garda board that will be responsible for internal

governance in the guards, and; then changing GSOC and giving it greater responsibilities in the area of complaints. We're also establishing a new Independent Examiner of Security Legislation - there's a number of different judges in place at the moment who look after the various pieces of legislation in that area, that we brought together under one statutory Independent Examiner. Then we have a Digital Recording Bill which comes, in part, out of the Commission report, which recommended that the Guards should be provided with body worn cameras. That has caused us to look at all of the equipment that's used in the area of recording, and also future proof that for things that come down the line. Then the Police Powers Bill, which is, again, coming from the human rights aspect of the Commission report, looking at search, arrest and detention, and all of those powers which are spread across numerous statutes at the moment, again, codifying that reform in one place.

We're also doing a review of the Offences Against the State Act at the moment. One of the questions was put to us in the paper was to look at both risks and risk protection in relation to human rights. My sense is that there is a commitment to human rights in An Garda Síochána. Now, there are a lot of things that were mentioned there earlier that have been put in place on foot of the Commission report that obviously requires work, requires dedication, requires commitment in the long run. But I think that is there to a significant extent now. And I think this is credit to bodies like the ICCL, who pushed that agenda over a long period of time, and have brought a lot of influence to bear on it. I suppose the risk that we carry into the Department is just the sheer volume of work that's involved in this - oversight of the implementation of the Commission report is a huge task in its own right and then, as I said, there's a significant amount of legislation that's currently been prepared - flowing from that is the establishment of a number of new bodies, some growing out of existing bodies, but effective new bodies with new responsibilities and so on. So that's a big job. My final word would be that I would like to think that if we

were here in ten years' time, we wouldn't be talking about some other Commission having sat and come up with another report and that we were now implementing that. I'd like to think that we had passed this stage, we were in some sort of steady stage where reform was just what happened and change happened in due course and that a bright future is ahead.



Professor Donncha O'Connell

University of Galway

I'm very grateful to ICCL and CAJ for the invitation to take part in this really well timed event, and I congratulate them on taking an all island perspective. That's really important and really valuable, bearing in mind the value of equivalence of human rights protections enshrined in the Belfast Agreement of 1998, something that we have forgotten, frankly, and that we need to reconnect with for all sorts of good reasons on both sides of the border. In 2002, a young researcher in the ICCL called Liam Herrick published a report about the need for a Patten Commission in the South. I had left ICCL, and I remember at the time really admiring the boldness of you have it there the title of the report, and the dismissiveness of the State here to the idea that we needed anything like a Patten Commission. We might have needed a Patten Commission, but for perhaps different reasons than in the North. Nothing happened until 2017 when we did have a Patten Commission of sorts, led by someone who was on the Patten Commission, Kathy O'Toole, and when that happened, it was the last throw of the dice for the Guards. This was a really, really serious context in which the Commission on the Future of Policing was established in 2017, many years after it was recommended by the ICCL, which, as always, was ahead of its time. In the meantime, we had the Morris Tribunal Report in relation to Donegal, and the Bar Tribunal Report in relation to the tragic killing of John Carthy in Abbeylara, and I do believe that was far more catalytic in terms of public opinion about the Gardaí than a lot of the other controversies. I think Donegal was frankly too complicated for many people to follow up with the awful event that happened in Abbeylara, and the awful response to that event by the Guards at that time, and the difficulty in finding out what happened in relation to that event, truly struck at the heart of the core

support base of An Garda Síochána in Ireland at that time. Then there were other controversies, and we lost two Garda Commissioners, two Secretary Generals of the Department of Justice, and two Ministers for Justice. There are still ongoing controversies in relation to the Disclosures Tribunal, which isn't finished its work.

So far from kicking the can down the road, as some people suggested, when we were established as the Commission on the Future of Policing, we actually took that suggestion very seriously and undertook to produce what we still believe, is a very radical report - setting out radical reforms based on a set of coherent and indivisible principles - and in doing that, we did draw on the work of others, and that actually says more about the resistance to reform that existed than anything else. Many of the things we recommended were in the 2014 Report of the Garda Inspectorate. Many of the things we recommended have been recommended by the Policing Authority with good authority. Many of the things we recommended had been suggested by other independent experts and indeed by members of the judiciary. So the idea that we were creating something brand new is clearly not true. We were drawing on the work of others, bringing that work together and trying to kind of envelop it in some cohesiveness. We did, as John has pointed out, have the advantage of taking the longer view, because we weren't reacting to an immediate crisis that needed a quick fix. We were yes, operating in the context of crisis, but with the view to kind of planning for policing for the future, to take that longer term view on the 100th anniversary of An Garda Síochána, or as that approached. When we carried out our work, a huge amount of that work was listening, was travelling around the country,

talking to people, talking to rank and file members of the An Garda Síochána and more senior people, but also talking to communities and talking to all sorts of other players in civil society. One thing that struck me - and I have to say, just personally for me - I definitely changed my mind about the guards having sat up and listened to so many of them. My views were, I would say, too simplistic about what An Garda Síochána was or what the problems were, and I certainly found, in some occasions, it deeply moving to listen to what they told us. I did find some of that very educational, and it did get me to change how I thought about the extremely difficult job that police have to do, and their job is one that I simply couldn't do. It was really evident to me and to other members of the Commission, particularly from the rank and file members of the An Garda Síochána and younger members, that they all wanted change, none of them were defending the status quo. There were some people who defended the status quo, but not among the generality of the membership of An Garda Síochána, and that was something that we found really compelling, that there was nobody in any kind of concerted or any kind of even spontaneous way resisting change. They all want to change and they all understood that the status quo was untenable.

When we published our report a year later in 2018, the government was receptive, and quickly accepted all of our recommendations, entering a caveat in relation to one, which is worth mentioning. That was the question of guards directly prosecuting offences, which we made a really clear recommendation on - that should be discontinued, and there should be a state prosecution service that exists everywhere else, and that this kind of coupling of An Garda Síochána in the prosecution process with all of the attendant negative consequences that has for judicial culture and other matters needed to end. It is the one recommendation that hasn't been slated for immediate implementation, but one that I would say personally, it is really important that it should be implemented because it is a really, really major dysfunction - in how we run our prosecution services, but also it has adverse implications for very significant

work for police time and for policing itself.

Looking back at the report this morning and in this connection, I want to pay a very particular compliment to the Secretary to the Commission, Sinead Ryan, who did really an extraordinary job in keeping the Commission together, but also in producing a report that is consistent internally, that is a fairly coherent publication. People like Sinead often go unnoticed in the work that's done, but her influence and her contribution was absolutely critical. I noticed, reading back on the report, that we optimistically predicted that this could all be done by 2022 to mark the 100th anniversary of An Garda Síochána, but I also note with renewed optimism, the Minister's prediction this morning that it would be done by 2023, which isn't bad if you take account of events that have happened in the meantime.

The final point, just before I make a few general points about what was said by others, is the whole question of communities. One of the things that we learned, really, from talking to Guards, but also from talking to people who worked with the Guards as community leaders, was that the value system of the Guards really needed to be changed very fundamentally, and that the idea that community policing was the correlation of other forms of policing really had to be radically altered. We had this understanding, really pressed very strongly on us, that community policing was actually the most important thing and that was something that we really had to change - and we got that in our context in the UK as well, with police and with others. So that was something that came across very strongly, very strongly influenced on the Commission by Dr Johnny Connelly from UL, who actually brought us to communities and brought communities into us, and served a really important function in getting us to understand that this was crucial.

I want to just make a few general comments about what has been said this morning. In relation to GSOC, one of the things that is positive is that GSOC, as Emily has set out today, are indicating an awareness of the design

problems with the Ombudsman Commission. The previous GSOC did so as well, and in fairness, they were arguing for change before we were established, and their document setting out what the change should be was a very strong document and argued for very radical change. It's really important that from the entity that requires change, there is this enthusiasm for it and the support for it. Some of the arguments that have been made against the proposed changes for GSOC are a bit tenuous, to be perfectly frank, and some of the comments about constitutional problems are really flights of fancy - I just don't take that very seriously and I've taught constitutional law for quite a while. I just don't think that some of those arguments are well made. In relation to the Authority, there's so much about what Bob Collins said that I agree with. Everything that he said this morning was absolutely, as always, brilliant and sophisticated and really valuable from a general public sector point of view, and the way in which the authority engages now with the Commissioner is truly impressive. The key point Bob was making today in relation to the whole question of representative is class - that is absolutely crucial and class will cut across other issues as well as identity. That's really important in relation to the changing nature of the Authority subsuming the Inspectorate, the creation of a new Garda board - I know that this is not universally approved, but I would just say this in relation to governance, the idea of the Commissioner being subjected to layered governance is not such a bad thing. It's the nature of the job that he or she will be accountable to Parliament, whether through the Minister or Board, to an authority, and that will have other elements in public accountability as well. If the confusion can be minimised, that's a very legitimate ambition. The idea that you would outsource internal governance was a problem for a majority of us, not for all of us, but for a significant majority of us. The new intelligence that the authority will have by consuming the Inspectorate and by having this section of the various community partnerships, will actually add hugely to its authority and to its powers.

Just very finally - and I don't want to say much about security because I'm on the Review Group of the Offences Against the State Acts, which will also publish its report within an optimistic time frame - I think the points that David Anderson made and in fact, the example of David Anderson, has so much value in this jurisdiction. One thing we need to be really careful about in relation to the Independent Reviewer is who the Independent Reviewer is. The tendency in Ireland is to appoint retired judges to jobs like that. Retired judges are fine for some things, but for the kind of active role that is envisaged for the Independent Reviewer, we need to think in a different way about that. Finally, we need to avoid complacency. Legislation is not going to solve everything, but you can't achieve the change that you need without it - John is absolutely right on that. We have to be ambitious. We have to aspire to being proud again of An Garda Síochána, bearing in mind things like the public sector duty that we can use really well through bodies like IHREC - we have to look back. You can't not look back, but we must never go back. If we acknowledge this moment in time, as we approach the promulgation of legislation, we need to see it actually at the moment at which we approach the end of the beginning.

AUDIENCE QUESTION

We started the conference this morning by referencing the RTE Special Investigative Report, regarding Gardaí and the state transgressions. We can only decide as a society to go forward with police reforms. If you know where we are going. I raise the outstanding Sallins Miscarriage case - when will Gardaí and Government apologise to those who were wrongly imprisoned and tortured, and assure us that those bodies of the State will be held accountable for their actions?

Liam Herrick

This was a point that George Hamilton spoke directly to. I think, George, at the end of your presentation about how significant legacy issues have been, legacy has a slightly different interpretation, perhaps in the North than it does here. There are issues here that are related to the conflict, but there are other issues that are of long outstanding nature that have no political dimension to them and there are issues such as Sallins, the Kerry Babies case, and the Lynskey case, all of which were examined in the RTE series. Is it possible to move forward without addressing the harm that is done to public confidence and policing by these outstanding issues? And indeed, there are other issues, other cases, and we have some families here today that also have outstanding cases. George, you raised that issue in the Northern context. What would you have to say about the outstanding nature of those issues here? I think it's fair to say GSOC here has not had that retrospective look that has been an element of work of the Police Ombudsman in Northern Ireland.

George Hamilton

I have limited knowledge of the detail of those cases, but the general principle is exactly the same, whether it's legacy issues related to the conflict in the North - and actually there are significant spill-overs in terms of release of information from Ireland into the UK to help answer questions for families and so on. But that aside, in relation to the case in this very good question, the same principle applies. The worst thing that the State can do is kick the can down the road any further. There needs to be a mechanism that covers truth recovery and also the potential for a criminal justice outcome. With the truth recovery needs to come some response to the truth that's recovered, whether that's an apology or compensation, or something else. But the principle, and I've seen this in other jurisdictions as well, is that if the State does not deal with this, it doesn't go away, it keeps growing, it actually gains momentum, and it's intergenerational - and that's the point that I was trying to make. If police reform generally is about this perpetual need to build legitimacy and confidence in policing, the cancer that affects them is very often seminal legacy issues that don't have any infrastructure to deal with it, or are being pushed away in the hope that they go away. That's my feeling. Having looked at this, in a number of jurisdictions, and, of course, that was probably magnified in the North because of the extent of the death and loss and suffering that fell out of the conflict. But I think the same probably applies as a principle in relation to these cases

Liam Herrick

John, I appreciate obviously, in terms of the Department, there might be limits on what you can say, but I think one of things, George is getting there, that this isn't just a police responsibility, it's a governmental responsibility to address outstanding cases of injustice. Is there anything in relation to some of those outstanding cases or even at a general level that you would have comment on?

John O'Callaghan

I suppose at the general level, yes. Of course, there's responsibility on the State. Obviously, I can't get into talking about individual cases because all of those cases are different. They have their own circumstances, and they've all been dealt with at different times in various ways, as you know, some of them there's compensation, some are legal cases. So they're different and I can't really discuss.

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Donncha O'Connell

I just recall Marie Anderson's comment this morning about a learning organisation, that you don't deal with legacy issues and absolutely accept that they're not here more than current issues. If you don't deal with them, you're not seriously a learning organisation, so the same would apply to the State - you simply can't deny the past. You have to deal with it, however unpleasant it may be, and I think that's a real indication of seriousness and purpose. In relation to the Sallins case, which you mentioned, the truth of it is that the Sallins case isn't just about the Guards it's also about the judiciary, and that raises really kind of fundamental questions that are difficult questions for the state.

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Liam Herrick

Doireann you've been doing a lot of the work for us on this issue about some of these historical inquiries, including relation to Sallins. Is there anything that you'd like to comment?

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Doireann Ansbro

We just need to remember that there is a legal obligation on the State that remains in force under article 3 of ECHR to investigate any allegation of torture or ill treatment. And where that investigation hasn't happened, there's a continuing violation. So arguably, the state is under a legal obligation to set up an independent inquiry that's compliant with article 3

Liam Herrick

This is a crucial thing. We're talking about human rights as legal obligations and as I said at the outset, today is the UN Day of the Right to Truth. So as long as human rights violations are not addressed, they are continuing human rights violations. That's an essential point. I'm now going to hand over to Doireann briefly to wrap up and sum up today's proceedings, and then to invite Denise Charlton to give a final word of thanks on behalf of Community Foundation Ireland.

Summary of the day

Doireann Ansbro



Thanks everyone. We will be writing a report on today's proceedings which will be publicly available, and we'll be happy to distribute. I think that there's a very clear interest and engagement in all of these issues that we hope will continue going forward. So just in terms of key learnings, this is the second of two conferences, and I think it has been a really opportune moment to reflect on police reform North and South, not least because the PSNI celebrated its 20th anniversary at the end of last year.

And with the very solid progress being made in terms of police reform in Ireland, I think a number of themes can be taken out of both conferences but I will focus on today. One of the key themes is the fact that human rights are absolutely central to effective policing. The Commission on the Future of Policing said human rights are the foundation and purpose of policing. The Minister echoed that this morning so there's clearly acceptance across the political sphere, and indeed across the policing sphere, based on all those we've heard today, that human rights is central to policing.

I think though that there are maybe two different views around human rights. One is that, and this is very clearly ICCL's view, that human rights are a legal obligation, as I've just said, and the other is that human rights are a way of policing, and I think both are legitimate, absolutely. I just think that we need to be clear that where Gardaí or the PSNI are exercising any form of policing powers, they are almost inevitably infringing on rights and it's absolutely crucial that in every exercise of a power that infringes on a right, the individual Garda or police officer says to themselves, is this the minimal infringement I can make on human rights? I think that's what's crucial. It is necessity, it is proportionality, but crucially it's the minimal interference and I think

once we get that into every single police officer's head that's when it becomes the air that officers breathe.

We've also heard about very significant reforms that have already taken place. We have the Human Rights Unit within An Garda Síochána, the Equality, Diversity and Inclusion Strategy. We have legislation going through and obviously a range of other actions being taken, including recruitment. One of the issues that has come up throughout the day in almost every panel is this idea that we are no longer seeing police as enforcers, but as a service, and what that means is the police are there to serve communities. So what does that mean? It means we have to have community engagement and we have to have community representation and we've had a lot of speakers develop those ideas. But I think the clear learning I've identified is that community engagement isn't just about reaching out - I loved Andy George's metaphor of not being the relatives that come at Christmas, but actually being the person who's always there. So building relationships with communities, I think is absolutely vital in terms of representation. There were a lot of interesting observations around what does representation actually mean? It's representation of minority ethnic groups, it's representation of women, but it's also a representation of people from different classes, and I think that's absolutely vital and probably has been lost and has not been focused on to a great degree. There's also a question of whether we need to introduce quotas in Ireland to ensure that diversity is actually happening and to ensure that we have a representative police force and not a white settled male institution, as Martin Collins described it. Obviously, in order to embed human rights in a force that is actually representing our community, engaging with our community, and ensuring that human rights are the air they breathe, we do need systematic cultural reform.

There are clearly measures being taken - Paula Hilman took us through the various training that's going on, and then we had a very interesting view from the US, from Yasmin of ACLU, which was sometimes training isn't enough, you need to do workshopping and really expose people to what human rights mean, but also is there training that's actually somewhat contradicting the human rights training, such as the need to be ready to use force? I think that's a very interesting point.

In terms of oversight and accountability, a key point that came out for me is the absolute need for clarity of both the legal basis for the exercise of police powers, for the powers of oversight bodies themselves, and also, very importantly, proper resourcing so that the oversight bodies can have the expertise they need to engage in human rights - but also do the kind of research and analysis that allows for learning, and I think we heard this in every panel that to be effective, an oversight body needs to be able to feed the learnings back into the police service to allow improvements. Data collection and transparency are a vital points in this regard too.

We also heard about the importance of public scrutiny and I think a really key point that came out for me was we all accept that there is a degree to which we need oversight, we need accountability, but do we create exceptions for national security? And obviously the answer is yes, very clearly so. But it's not good enough if we are actually committed to a human rights based approach, if we're actually committed to accountability, public scrutiny and ensuring that intrusive surveillance, for example, isn't actually happening. In terms of national security, I thought it was very important where we discussed that idea of the concept being an elastic term. What we need is a clear legal basis and we need parameters of definitions so that things aren't happening on the basis of national security that actually shouldn't be happening.

Two other points: first is the need for a holistic approach, many panellists mentioned that policing reform and effective policing isn't just about the work of police officers, it's also about a whole of government approach, the Minister said and Paula Hilman talked about the whole of the Gardaí approach and I think it was really

important to hear from John that there are pilot programmes happening in Limerick in relation to the crisis intervention teams, which of course was a recommendation of the Commission on the Future of Policing - having the HSE and the An Garda Síochána work together, I think is actually a very revolutionary moment in the history of policing in this country, and I think it's very positive. We heard about the work that An Garda Síochána is doing with the Mental Health Commission as well, in terms of making sure that people with mental health difficulties are properly looked after. I think an interesting point also was this idea that Gardaí have a duty of care, so when you're analysing how they're doing their job, it's not just about policing, it's also about how has the duty of care being upheld. It's something we've discussed in ICCL before, it's something that needs more analysis.

So, finally reflecting and learning, in the Northern context, obviously, we've talked a lot about the legacy cases and it's clearly very important that we address those in Ireland as well and we do have, as Liam said, family members here today and accountability is absolutely vital for public interest, for public legitimacy and credibility. We started out by saying we are on a journey and police reform is a journey, and that's absolutely true. But I think it's worth repeating what Patricia from INAR said, which is when is it going to happen? Because Donncha O'Connell repeated it as well, we've had recommendations for reform for a very long time - not to take away from the fact that we have very significant progress made in the last couple of years, but I would just say we have to remember that there are humans that we're actually talking about here today. It's humans who are being arrested, stopped and searched, put in prison, potentially mistreated and we need to remember that it's urgent that we ensure that all people are treated with respect and with dignity whenever they interact with our police services.



Liam Herrick

It falls to me finally to invite to address us, Denise Charlton. Denise is the Chief Executive of the Community Foundation for Ireland. The Community Foundation for Ireland, through its All Island Grant programme, has made possible both this event and the earlier seminar in Queens, as part of a joint initiative of ICCL and CAJ. The idea of the grant programme, as we understand it, is to foster cross border discourse and discussion on important human rights issues and social issues. Without that support and funding, this whole initiative and project wouldn't have been possible. Prior to her time in the Community Foundation, Denise was the CEO of both the Immigrant Council of Ireland and Women's Aid, and I think it's fair to say she's probably the most prominent and well known campaigner for social justice and human rights in Ireland, over many years across a wide range of issues - including equality, immigration rights, and children's rights. I'm delighted to hand over to Denise to have the final word for today.

Final keynote

Denise Charlton Chief Executive of the Community Foundation for Ireland



I'm only going to make a very few quick observations. Thank you to ICCL and CAJ for the wonderful discussions today. For those of you that don't know us, Community Foundation for Ireland is really a proven philanthropic model of giving. We have about 100 donors and we work with about 5,000 organisations across Ireland, and our mission is equality for all in thriving communities and communities of interest, or geographical communities. As Liam said, post-Brexit, the pandemic really hit - Brexit and its impact, it was obviously very evident here today and our donors came together. We need to think about how they could support the implications of it, and the vision was to look back at learning from the past and also to think about the future. We're very cognisant of the fact that there is such a thriving civil society in both the North and the South, and we want it as a Foundation with our donors to see if there's anything we could do to support that thriving civil society to work across the border. We spoke earlier about policing being borderless, however, borders are now incurring implications for individuals, and we wanted to see what we could do to support civil society across that. We were delighted that ICCL and CAJ are beneficiaries, and that's no surprise because of the work that they do. Again, we would be cognisant as a foundation of the importance of philanthropy in the progression and the protection of rights, and the importance of philanthropy to support organisations like ICCL and CAJ because of the amazing work that they do, and the fact that they need independent funding which is crucial in order for them to be able to have the impact that they have. Today is only another indication of the work that they do in protecting and progressing rights. They're never afraid, they never dodge the big or the

complex or the entrenched questions and that's why they're so worthy of philanthropic investment, and our role is to try and bring more of that to the table by highlighting the important work they do and the importance of human rights. So I'll just conclude with that. The All Ireland Fund has funded 33 partnerships, and they vary from the example of today to human trafficking across the island, and climate action and biodiversity are just some of the examples. We will have a big convening in September. We hope that ICCL and CAJ will be part of that, and that will look and inform where the funding will go in the future and as I said, we hope to bring more donors to the table. So thank you for the invitation to address you. It's been a fantastic conference and well done on all the work that you do.

Liam Herrick

Thanks to Denise. We really appreciate you joining us today. Just to say that this is not the end of the process. Obviously, policing has always been central to the work of both ICCL and CAJ. It will always continue to be so, but there is a particular dynamic in terms of this North/South conversation that we both, speaking on behalf of Brian and myself, are very firmly committed to. We always have been, and I think today certainly, reconfirms to us the value and the potency of the dynamic between the two police conversations. There's a lot that can be learned in both directions, and I think we're really hopeful that the report from today's proceedings will have an influence and an impact on the work that John and his colleagues in the North and in London are doing on these issues. Thank you very much.



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