

Introduction

An Garda Síochána is committed to the maintenance of working practices which observe our obligations under the European Convention on Human Rights and achieving our vision of “*A Safer Ireland through Policing Excellence*”

These working practices seek to achieve a balance between the requirement to work within a defined framework for the safeguarding of civil liberties and the maintenance of a robust approach to the tackling of crime, criminality and terrorism.

The terms ‘informant’, ‘informer’ or ‘source’ are ones that are widely understood both within policing circles and the wider public. A more common term now in usage in many jurisdictions is ‘Covert Human Intelligence Source’. This term or its acronym, CHIS, is also frequently used throughout this document and is sufficiently all embracing to incorporate three distinctly separate but related categories of person who provide information to police, ie – casual contacts, informants and agents.

The Mission Statement of An Garda Síochána for the management of CHIS is;

“the assessment, recruitment and use of Covert Human Intelligence Sources (CHIS) is a skilled Police function, demanding the highest standards of integrity and shall be conducted by experienced personnel, working in a secure environment to the clear requirements of an informed and supportive management”.

This document sets out in general terms:

Part 1 The case for the proper management and use of Covert Human Intelligence Sources in the light of the threat from serious crime, criminality and terrorism;

Part 2 The ethical and Human Rights standards to which An Garda Síochána subscribes in the management and use of Covert Human Intelligence Sources;

Part 3 The commitment of An Garda Síochána to recognised standards of integrity in the collection, storage and use of intelligence and sensitive intelligence material;

Part 4 The commitment of An Garda Síochána to the auditing of standards and systems in place for the management and use of Covert Human Intelligence Sources.

1. The case for the proper management and use of Covert Human Intelligence Sources.

One of the primary functions of any police service is the prevention and detection of serious crime and offences. An efficient intelligence gathering system is essential in this regard and information properly gathered, analysed and disseminated provides invaluable assistance in the investigation of crime and, in many cases, will enable action to be taken to prevent crimes occurring.

An Garda Síochána has a duty to gather information and generate intelligence about crime and criminals. The ability to infiltrate criminal and terrorist organisations is key to understanding the way in which individual and organised criminal enterprises work and to formulate strategies to thwart and frustrate criminal and terrorist activity and bring those responsible to justice. A well tried and tested method of gathering intelligence is through the use of CHIS, who can provide specific information about individuals or groups involved in crime.

The use of CHIS by Law Enforcement Agencies is crucial in any intelligence gathering system. The informant stands at the starting phase of criminal intelligence gathering. The use of properly managed CHIS can offer significant access to the thinking and planning of criminals and criminal organisations and enables investigators to focus their efforts on lines of inquiry which are likely to produce the best possible evidence. The use of CHIS makes sense from the perspective of

intelligence dividend, cost effectiveness and resource management. This point is best illustrated when one considers that a well-placed CHIS can identify key members of a criminal gang, without the need to deploy surveillance resources over a protracted period to achieve the same result.

An Garda Síochána seeks to tackle the consequence of crime, criminal and terrorist activity at several levels simultaneously;

- To reduce, through intelligence led policing and international cooperation, the threat by groups involved in subversive and terrorist activity who seek to undermine democracy at national and international level
- To reduce, in partnership with the community, the incidence and fear of organised, drug related and serious crime and of criminal behaviour
- To ensure public safety by reducing the incidence of public disorder and anti-social behaviour with a view to making public places safe and enjoyable for all
- To improve confidence in An Garda Síochána and in the criminal justice system by building a service that is deserving of the trust of the people of Ireland, by tackling those who intimidate witnesses, who promote the corruption of police officers, who exploit weaknesses in national and international jurisdictions and who seek to discover and disable advances in investigative techniques.

The challenge to An Garda Síochána is to design and sustain, within the rule of law, preventative and investigative techniques that meet the requirements of each of the above levels. The key to effective law enforcement strategy is the ability to describe and analyse the nature of the criminal and subversive problem. Such a description and analysis are products of the effective collection of intelligence. The tackling of serious crime, organised criminality and terrorism requires:

- that criminal motivation be understood

- that the extent of networking, organisation and interdependence of individual criminals and criminal and terrorist groups be capable of description and their strengths and weaknesses be understood
- that the methods of criminal and terrorist businesses and their market positions be similarly described and understood
- That members of An Garda Síochána stay abreast of developing criminal tactics in both the commission of crime and attempts to frustrate investigators and the courts, and that reasons why individuals, groups and business are targeted as victims of crime be equally well understood.

In the face of criminals' determination to protect their criminal activity from exposure, the collection of intelligence demands the application of both overt and covert investigative techniques.

Notwithstanding the essential nature of intelligence work, the primary responsibility of An Garda Síochána remains to collect evidence to the standard that will help ensure the conviction of offenders before the courts. The effective collection of intelligence on criminals and their organisations enables investigation to be accurately targeted with minimum interference to the lives and liberties of individual citizens.

In the face of sophisticated attempts by determined criminals and those bent on violent disorder to disable investigation, An Garda Síochána considers it essential to be able to continue to collect intelligence through the use of CHIS. The use of CHIS will assist in the targeting of criminals at all levels and failure to maintain an effective capability in this area would fatally undermine the national and international law enforcement effort.

2. Standards and Human Rights.

An Garda Síochána is committed to standards of conduct in the management and use of CHIS. The targeting of individual offenders and criminal organisations requires an ability to deploy securely a range of intelligence and investigative resources. CHIS, properly managed, offers unrivalled access to criminals and criminal enterprises and enable investigators to focus their efforts on lines of enquiry

which will produce the best possible evidence, the greatest chance of frustrating criminal activity and the greatest likelihood of securing and maintaining public safety.

Such a facility needs to be safeguarded and it is inevitable that it will be subject to scrutiny in the courts and can only be maintained by an insistence on the very highest standards of professional integrity on the part of all members of An Garda Síochána who come into contact with CHIS either directly or otherwise as part of their policing functions.

An Garda Síochána has produced a Code of Practice for the Management and Use of Covert Human Intelligence Sources. This document is available to all members of An Garda Síochána and is the basis of the professional standards required to maintain the confidence of the public and the courts in the continuing use of CHIS. The Code of Practice brings together current established best practice and recent recommendations made by Mr. Justice Frederick Morris in his reports from the Tribunal of Inquiry into the activities of certain Gardaí in the Donegal Division. This Code of Practice will become the organisational policy of An Garda Síochána from 3rd April, 2006.

3 The commitment to recognised standards of integrity in the collection, storage and use of intelligence and sensitive intelligence material

In order to effectively tackle crime and criminality and achieve our aim of making our environment safer, it is sometimes necessary to employ covert methods of intelligence gathering. This is particularly so in relation to the management and handling of Covert Human Intelligence Sources. These activities will be conducted with high standards of integrity, ethically, and in a secure and professional manner.

Authority to recruit, handle and manage these CHIS will only be given by the Assistant Commissioner at Crime and Security. These CHIS will be strictly managed in accordance with our Code of Practice.

An Garda Síochána has a duty to protect the identity of a CHIS and as such we have a duty of care to these individuals. This duty will necessitate that a risk assessment is conducted in respect of each CHIS. The risk assessment procedures governed by

the Code of Practice help manage the risks to CHIS, members of An Garda Síochána, and third parties.

CHIS Handlers and Controllers will be trained to approved standards.

Where authority is given to use a CHIS the use will be subject to appropriate reviews. An Garda Síochána is committed to scrutiny of adherence to the declared standards. An Garda Síochána will also maintain records of our activities in the management and handling of CHIS. These records will remain confidential in nature and access to them will be strictly controlled. All records will be stored in a secure environment.

4 The commitment of An Garda Síochána to the auditing of standards and systems in place for the management and use of Covert Human Intelligence Sources.

The Code of Practice for the Management and Use of Covert Human Intelligence Sources outlines the procedures and processes for the administration of the system.

The responsibility for the operation of the system rests with the Assistant Commissioner, Crime & Security. He/she will ensure that all reviews take place in accordance with the Code of Practice.

The administration of the system is monitored on his/her behalf by the National Source Management Unit. The National Source Management Unit has responsibility for maintaining best practice standards.

The system will be subject to both internal audit and independent external audit, on an annual basis.