

An Garda Síochána

Oifig Saorála Faisnéise
An Garda Síochána
Teach áth Luimnigh
Lárionad Gnó Udáras Forbartha Tionscail
Baile Sheáin
An Uaimh
Contae na Mí
C15 DR90



Freedom of Information Office
An Garda Síochána
Athlumney House
IDA Business Park
Johnstown
Navan
Co Meath
C15 DR90

Teileafón/Tel: (046) 9036350

Láithreán Gréasain/Website: www.garda.ie

Bí linn/Join us  

Ríomh-phoist:/Email: foi@garda.ie

Re: Freedom of Information Request 000073-2017 Partially Granted

I refer to your request, dated 23rd February 2017 and received on the 24th February 2017, which you have made under the Freedom of Information Act 2014 (FOI Act) for records held by An Garda Síochána.

Part 1(n) of Schedule 1 of the Freedom of Information Act 2014 states that An Garda Síochána is listed as a partially included agency “*insofar as it relates to administrative records relating to human resources or finance or procurement matters*”. Therefore, only administrative records that relate to human resources, finance or procurement shall be considered.

Your request is shown below:

I would like copies of the following records.

The review audit of pay and pensions overpayments, May 2016.

The review examination of SCRT by GPU and Garda Internal Audit, January 2017.

Both the Review audit and second review audit of DMR South Central, April 2016 and January 2017.

I wish to inform you that I have decided to partially grant your request on the 21st March, 2017.

The purpose of this letter is to explain that decision.

1. Findings, particulars and reasons for decisions to deny access

On receipt of your request, the Garda Internal Audit Section was contacted and requested to provide the Internal Audits as listed above. This letter refers specially to

- Review Examination of Systems of Controls, Processes and Procedures of the Serious Crime Review Team, NBCI by the Garda Professional Standards Unit and Garda Internal Audit Section.

Part 1(n) of Schedule 1

In reviewing the records for both of these Audits, consideration has been given to Part 1(n) of Schedule 1 of the FOI Act which states that An Garda Síochána is listed as a partially included agency *"insofar as it relates to administrative records relating to human resources, or finance, or procurement matters"*. Therefore the only Garda records falling within the scope of the provisions of the FOI Act are administrative records relating to human resources, finance or procurement. In this regard, specific records which do not relate to human resources, finance or procurement such as Garda operational matters are not provided as per the relevant Schedule of Records for the audit report.

Therefore I am refusing the release of the operational policing activities under Part 1(n) of Schedule 1 of the FOI Act as these records relate to the core functions of An Garda Síochána which are excluded from the ambit of the Act. The redactions are set out in the attached Schedule of Records.

Law Enforcement and Public Safety – Section 32

In addition to the above, sections 32(1)(a)(i) and 32(1)(a)(iv) are applicable to the review audit. .

The release of this record can, in my opinion, reasonably be expected to detrimentally influence the public opinion with regards to the individuals involved and a trial by public opinion will ensue. This review audit refers in sections to the findings of the original audit which is the subject of a file to the Director of Public Prosecutions (DPP). The decision not to release the original audit findings was affirmed by the Office of the Information Commissioner on the 13th January 2017 (OIC Reference Number 160257). It would be reckless to release certain findings of evidential value contained in the review audit into the public domain prior to the decision of the DPP. It will inevitably impair the ability of the DPP to prosecute the related offences in a fair manner.

I am of the opinion that the release of this record will impair both the ability to prosecute the alleged offences and conduct any future disciplinary investigations.

In accordance with current investigative practices nothing of possible evidential value is released into the public domain prior to a court hearing. This is to ensure that evidence is not debated in the public domain which inevitably results in the impact of the evidence being devalued and detrimentally influencing the possibility of the individual's right to a fair trial as set out in the European Convention of Human Rights (Article 6) which the European Convention of Human Rights Act 2003 gives effect to in Irish law. While the person(s) involved may be aware that the SCRT report exists they are not aware of the content or the findings and if the findings support the allegations of criminality and disciplinary issues. It would be prejudicial to the prosecution to provide such information. OIC Case number 98086 is similar in nature.

Conversely consideration must also be given to the persons involved who, through the administration of the Law, have the right to a fair trial that should not be prejudiced in anyway.

I am of the opinion that there is a reasonable expectation that releasing certain sections of the review audit in any form prior to the decision of the DPP will impair and prejudice the administration of law and potential for prosecuting offenders in a fair manner. It is not in the interest of the public to release evidence or potential evidence that could injure the chances of a successful prosecution which ultimately is taken in the interest of the public by the Office of the DPP.

Section 32 – Law enforcement and public safety

32. (1) *A head may refuse to grant an FOI request if access to the record concerned could, in the opinion of the head, reasonably be expected to –*

(a) prejudice or impair –

(i) the prevention, detection or investigation of offences, the apprehension or prosecution of offenders or the effectiveness of lawful methods, systems, plans or procedures employed for the purposes of the matters aforesaid,

(iv) the fairness of criminal proceedings in a court or of civil proceedings in a court or other tribunal,

Section 32 is subject to a limited public interest balancing test, set out in subsection 3. As the record is concerned with the performance of the functions of an FOI body whose functions relate to public safety and law enforcement such public interest test applies. However I am of the view that, on balance, the public interest is best served by ensuring that any potential criminal prosecution is not prejudiced at this point in time. The public interest in Garda subsistence expenses claims, annual leave or travel expenses is far outweighed by the public interest in seeking out justice in a fair and impartial manner.

Harm Test

As detailed in the preceding paragraphs the harm that is envisaged relates to the rights of an individual to a fair trial (*administration of any law*) and the prejudicing of documents that have evidential value in both criminal and disciplinary investigations.

I am therefore applying section 32 (1)(a)(i) and 32(1)(a)(iv) to specific sections of the review audit as per the attached schedule of records.

2. Right of Appeal

In the event that you are not happy with this decision you may seek an Internal Review of the matter by writing to the address below and quoting reference number **FOI-000073-2017**.

Freedom of Information Office,
An Garda Síochána,
Athlumney House,
IDA Business Park,
Johnstown,

Seirbhísí gairmiúla póilneachta agus slándála a sholáthar le hiontaoibh, muinín agus tacaíocht na ndaoine ar a bhfreastalaímid
To deliver professional policing and security services with the trust, confidence and support of the people we serve

Navan,
Co. Meath
C15 DR90

Please note that a fee applies. This fee has been set at €30 (€10 for a Medical Card holder). Payment should be made by way of bank draft, money order, postal order or Personal cheque, and made payable to Accountant, Garda Finance Directorate, Garda Headquarters, Phoenix Park, Dublin 8.

Payment can be made by electronic means, using the following details:

Account Name: Garda Síochána Finance Section Public Bank Account

Account Number: 10026896

Sort Code: 900017

IBAN: IE86B0F190001710026896

BIC: BOFIE2D

You must ensure that your FOI reference number FOI-000073-2017 is included in the payment details.

You should submit your request for an Internal Review within 4 weeks from the date of this notification. The review will involve a complete reconsideration of the matter by a more senior member of An Garda Síochána and the decision will be communicated to you within 3 weeks. The making of a late appeal may be permitted in appropriate circumstances.

Please be advised that An Garda Síochána replies under Freedom of Information may be released in to the public domain via our website at www.garda.ie.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

Should you have any questions or concerns regarding the above, please contact me by telephone at (046) 9036350.

Yours sincerely,

 **SUPERINTENDENT**
HELEN DEELY
FREEDOM OF INFORMATION OFFICER

24TH MARCH 2017

Requester Name: Mark Tighe Review Examination of SCRT - January 2017 File Re: FOI-000073-2017						
Page No	Description of document	Deletions	Relevant Section of FOI Acts	Reason for decision	Decision Maker's decision	
1 to 2	Cover Sheet & Blank Sheet	Nil	N/A	N/A	Granted	
3	Internal Audit Note	All	Part 1(n) Schedule 1	Out of Scope	Refused	
4	Blank Sheet	Nil	N/A	N/A	Granted	
5 to 6	Executive Summary	2	Part 1(n) Schedule 1 7 Section 32	Out of Scope & Law Enforcement and Public Safety	Partially Granted	
7	Table of Contents	1	Part 1(n) Schedule 1	Out of Scope	Partially Granted	
8	Introduction	1	Part 1(n) Schedule 1	Out of Scope	Partially Granted	
9 to 11	Initial Examination/Examination Report/Improvement Plan	6	Part 1(n) Schedule 1	Out of Scope	Partially Granted	
12 to 13	Review Examination/Methodology	4	Part 1(n) Schedule 1	Out of Scope	Partially Granted	
14 to 18	Finance/Overtime/Travel & Subsistence/Annual Leave/Absence Management and Inspections	Nil	N/A	N/A	Granted	
19	Review Examination	4	Part 1(n) Schedule 1	Out of Scope	Partially Granted	
20 to 21	Conclusion	2	Part 1(n) Schedule 1 7 Section 32	Out of Scope & Law Enforcement and Public Safety	Partially Granted	
			Total number of pages			21
			Total number of pages for full release			8
			Total number of pages for partial release			10
			Total number of pages being withheld			3

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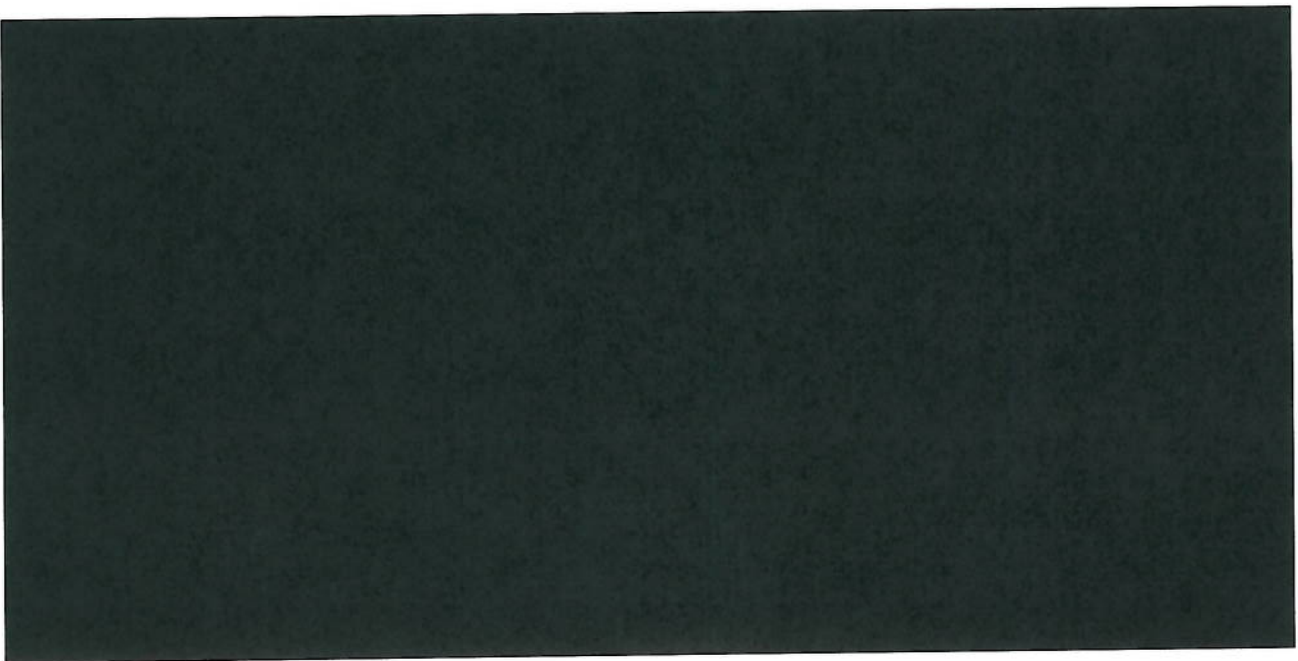


**Review Examination of Systems of Controls,
Processes and Procedures of the
Serious Crime Review Team, NBCI
by the
Garda Professional Standards Unit
and Garda Internal Audit Section**



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EXECUTIVE SUMMARY

In November 2014 an Examination Report issued detailing the findings of an Examination of the Serious Crime Review Team (SCRT) carried out jointly by the Garda Professional Standards Unit (GPSU) and the Garda Internal Audit Section (GIAS) during the period December 2013 to July 2014.

The Terms of Reference for this joint Examination, agreed with Detective Chief Superintendent NBCI, set out the following objectives;

- To ensure compliance with the Department of Finance / Department of Public Expenditure and Reform (DPER) circulars, directives and guidelines, Garda Code Regulations and HQ Directives relevant to the processing of claims and leave.
- To ensure that robust controls are in place and complied with regarding Financial and Leave Management.
- To identify potential risks to the Garda Vote.
- To consider reputational risks to the Garda Organisation

The Review Examination was conducted at the offices of SCRT and focused on the following documentation for 2015:



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- SCRT Form A85's (Claims for Allowances and Overtime)
 - SCRT Form FMS2 (Claims for Subsistence and Travel)
 - SCRT Form D9 (Annual Leave Applications)
 - SCRT Form D5 (Sickness Records (SR1), including all sickness absence records)
 - Financial Corepay Records for each Roster Period

The Divisional Officer, the SCRT District Officer and the staff of the NBCI Division and SCRT Section engaged with and supported the Review process, the Improvement Plan and were positive in terms of its focus and overall objectives.

With regard to the Terms of Reference the joint Review found the following:

- Specific recommendations detailed in the SCRT Improvement Plan have been addressed and actioned by local management.

-
- There was limited risk to the Garda Vote.
 - Given the specific specialist nature of the SCRT, the combined effect was an overall reduced risk to the reputation of An Garda Síochána.

This Review Report concludes the GPSU and GIAS Examination of SCRT as part of this directed process.

Niall Kelly

JOHN NOLAN
CHIEF SUPERINTENDENT

NIALL KELLY
HEAD OF INTERNAL AUDIT



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1 INTRODUCTION

The Terms of Reference for this joint Examination, agreed with Detective Chief Superintendent NBCI, set out the following objectives;

- To ensure compliance with the Department of Finance / Department of Public Expenditure and Reform (DPER) circulars, directives and guidelines, Garda Code Regulations and HQ Directives relevant to the processing of claims and leave.
- To ensure that robust controls are in place and complied with regarding Financial and Leave Management.
- To identify potential risks to the Garda Vote.
- To consider reputational risks to the Garda Organisation.

1.1 Initial Examination

In order to establish the systems of control and management within SCRT and to enable the Examination Team to carry out an Examination of all systems of control, including adherence to Organisational policies, processes and procedures and

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associated roles and responsibilities within SCRT, it was decided that systems audit techniques based on a risk analysis would be used.

[REDACTED]

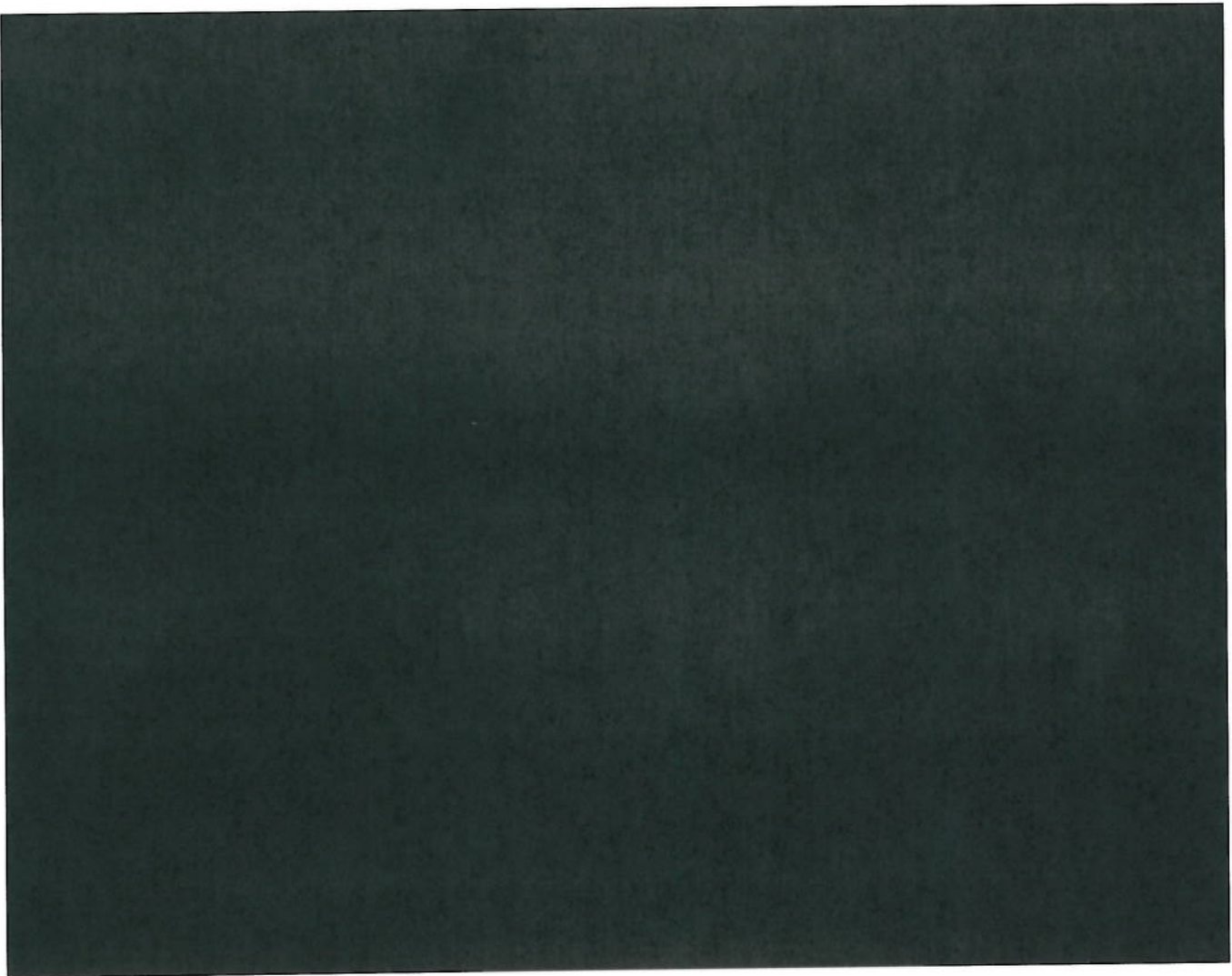
The Examination focused on Forms A85, Travel and Subsistence Claims, Leave Forms, personnel records and other records including financial records (paper and electronic). The Examination Team also consulted minutes of meetings, roster information, e-mails, local management audits and other associated documentation and files.

[REDACTED]

1.2 Examination Report

[REDACTED]

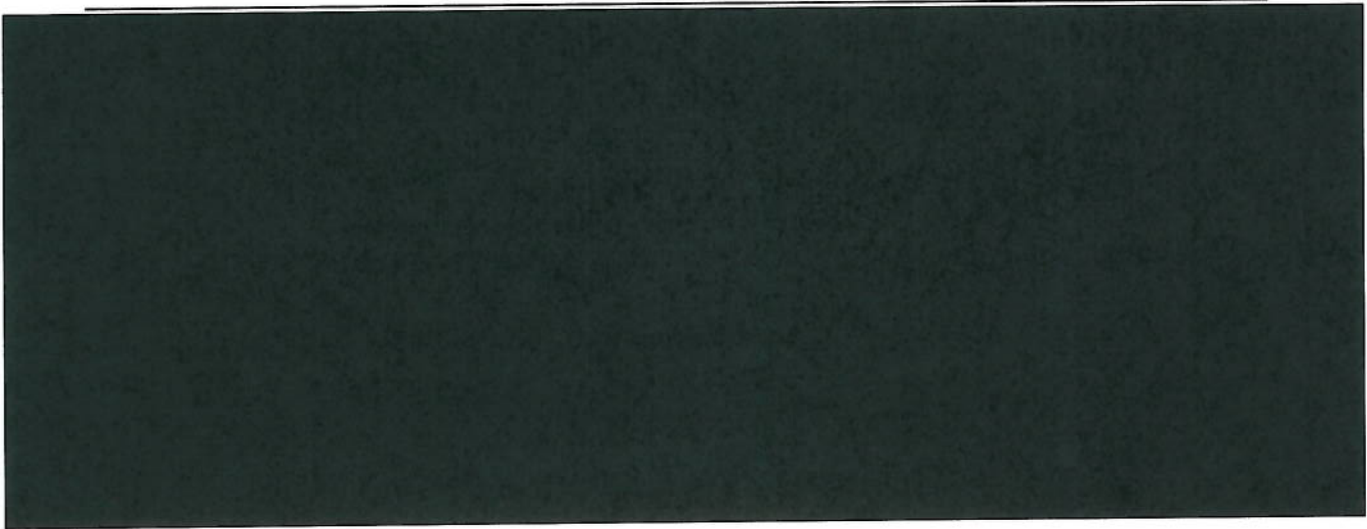
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1.3 Improvement Plan



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2 REVIEW EXAMINATION

[REDACTED]

At the start of the Review GPSU and GIAS met with the Detective Superintendent and Detective Inspector from SCRT where the following was discussed:

[REDACTED]

- Staffing levels
- Financial Controls within SCRT
- Budgets
- Performance and Accountability
- Monitoring of Leave.

The Review Examination was conducted at the offices of SCRT and focused on the following documentation for 2015:

- SCRT Form A85's (Claims for Allowances and Overtime)
- SCRT Form FMS2 (Claims for Subsistence and Travel)
- SCRT Form D9 (Annual Leave Applications)
- SCRT Form D5 (Sickness Records (SR1), including all sickness absence records)
- Financial Corepay Records for each Roster Period

2.1 Review Methodology and Scope

[REDACTED]

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The Review focused on Forms A85, Travel and Subsistence Claims, Leave Forms, personnel records and other records including financial records (paper and electronic). The Review Team took a sample of 50% of SCRT personnel per roster for the 12 month period of 2015 and also included Locomotion Claims for the Detective Superintendent and Detective Inspector in SCRT.

2.2 Finance

Detective Chief Superintendent NBCI has appointed a Detective Superintendent as the Financial Approver for NBCI, including SCRT.

Detective Superintendent SCRT outlined to the Review Team that a budget is allocated by Detective Chief Superintendent NBCI as a Divisional allocation and not to each Section. The budget is closely monitored on a weekly basis by each Detective Superintendent and Detective Chief Superintendent NBCI. Detective Superintendent SCRT also outlined that overtime is expended only in cases when the case justifies incurring additional hours. The Review Team examined the process where overtime is claimed and comments in respect of the review of claims for overtime and allowances are set out below.

The Review Team found that the expenditure of the SCRT, for the period of Review, was well within budget allocations.

Detective Superintendent SCRT provided detailed financial procedures introduced since the initial joint Examination within the Section to the Review Team. New procedures in respect of the use of Overtime sanction forms, Court attendance forms (Form CA1) and the use of Route Sheets, Training Course(s) attendance certificates, Promotion Interview attendance certificates, etc to support claims (Subsistence and Travel Claims) were provided. The



Review Team also viewed a comprehensive direction issued by Detective Chief Superintendent NBCI to all Divisional staff and Finance Officers.

The Review Team were also provided with a financial audit check list conducted each roster by the Detective Inspector for each Form A85 submitted by SCRT staff members. The Review Team found that this was a welcomed control measure where Form A85 errors were identified and returned for attention as highlighted.

2.2.1 Overtime and Allowances (Form A85)

The regulations concerning the preparation and submission of claims (Form A85) in respect of Overtime, Night Duty, Weekend and Public Holiday Allowances are set out in Chapter (F) 10, Sections 10.1, 10.5, 10.6, 10.9, 10.12, 10.13, 10.14 and 10.15 of the Garda Síochána Code, Volume II (5th Edition).

The Review Team examined 50% of all Forms A85 (claim for Overtime, Night Duty, Weekend and Public Holiday Allowances) for Garda staff allocated to SCRT for 2015. The following is a summary of the main findings in respect of the claim forms examined:

- Advance applications for overtime were evident on claims although;
 - Not all claims had advance overtime sanctions attached.
 - It was noted that sanction for extra hours were present when it involved the payment of overtime. In situations where Time off in Lieu (TOIL) was availed of there were no sanctions for extra hours attached.
 - Some advance applications were not dated making it difficult to determine when they had been submitted
- Form A85's were signed by the applicants.
- Form A85's were counter signed by Sergeants.
- Form A85's were not self signed by Sergeants.
- Form A85's were authorised by the District Officer (D/Superintendent) or by the Acting District Officer (D/Inspector).

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- Most Form A85's were completed to a satisfactory standard; however some minor errors were found on the completion of some claims (Totals, Completion of TOIL / Haddington Road Hours).
- Corepay Records were inspected and signed each month by the nominated Detective Superintendent (appointed by Detective Chief Superintendent NBCI).
- Evidence was found where claims were returned to members for clarifications prior to payments.

All Form A85's sampled were cross referenced against the following records:

- Form D9 (Annual Leave)
- Form D5 (Record of Absence from Duty)
- Form SR1 (Sickness Absence Reporting Form)
- Form FMS2 (Claims for Subsistence and Travel)
- Financial Corepay Records

The Review Team were satisfied that the completion of Form A85 recommendations outlined in the SCRT Implementation Plan were adhered to by Gardaí, Sergeants, the District Officer / Acting District Officer, the Finance Officer and the Divisional Officer.

2.2.2 Travel and Subsistence Claims (Form FMS2)

The regulations concerning the preparation and submission of claims in respect of subsistence Allowances are governed by Chapter 1, Section 1.6 (2) & (4) and Chapter 4, Section 4.4 (1) to (17), 4.10 (1) to (7) of the Garda Síochána Code, Volume II (5th Edition) and HQ Directive 1/2008 (Advance of Subsistence Allowance).

The Review Team examined 50% of all Forms FMS2 (claim for Travel and Subsistence Allowances) for Garda staff allocated to SCRT for 2015. The following is a summary of the main findings in respect of the claim forms examined:

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- Subsistence Claims (Forms FMS2) were completed to a good standard and in accordance with Garda Code, Garda Regulations and HQ Directives.
 - Supporting documentation (Form A85, Route Sheets, Duty Reports etc) was evident on claims.
 - Claims sampled had the correct rates of subsistence / travel applied to each claim.
 - Form FMS2 was signed by the applicants.
 - Form FMS2 was countersigned by Sergeants.
 - Form FMS2 was not self signed by Sergeants.
 - Forms FMS2 were authorised by the District Officer (D/Superintendent) or by the Acting District Officer (D/Inspector).

All Form FMS2 sampled were cross referenced against the following records:

- Form A85 (Claims for Overtime, Night Duty, Weekend and Public Holiday)
- Form D9 (Annual Leave)
- Form D5 (Record of Absence from Duty)
- Form SR1 (Sickness Absence Reporting Form)
- Financial Confirmation Sheet Records

The Review Team were satisfied that the completion of Form FMS2 recommendations outlined in the SCRT Implementation Plan were adhered to by Garda staff, Sergeants, The District Officer / Acting District Officer, The Finance Officer and the Divisional Officer.

2.2.3 Annual Leave (Form D9)

The regulations concerning Annual Leave and Absences from Duty are governed by Chapter 11, Sections 11.2, 11.3, 11.8, 11.10, 11.19, 11.29, 11.31, 11.32, 11.33, 11.34, of the Garda Síochána Code, Volume I (5th Edition).

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The Management of Departmental Records in An Garda Síochána is set out in HQ Directive 11/2009. This outlines that certain listed departmental documents, including Annual Leave Records, must be retained for a period of 10 years.

The Review Team examined 50% of all claims for Garda staff allocated to SCRT for 2015. Each claim was cross referenced against each members respective Form D9 (Leave Application Form) and the centrally maintained record of Annual Leave within NBCI. Not all claim forms involved Annual Leave days availed of by individual members.

The Review Team found that in the majority of cases the Form A85 and Form D9 records corresponded. However in one Form A85 a day's Annual Leave was recorded which was not reflected in the member's Form D9. This was reported to local management by the Review Team at the time of the examination.

The following is a summary of the main findings in respect of the forms examined:

- Annual Leave, including carryover of Leave, was managed in accordance with Garda Code Chapter 11 and HQ Directive 11/2009 (Management of Departmental Records), since the completion of the previous joint examination.
- Applications for Annual leave were submitted for approval in accordance with Garda Code and related HQ Directives.
- Applications for Annual Leave were forwarded to the District (Divisional) Office to be recorded.
- Annual Leave checks were conducted by supervisors and management within SCRT.
- There was, at the time of Review, a system in place for the monitoring of Annual Leave or the carryover of Annual Leave within NBCI in accordance with organisational guidelines.

All Form D9's were cross referenced against the following records:

- Form A85 (Claims for Overtime, Night Duty, Weekend and Public Holiday)

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- Form FMS2 (Claims for Subsistence and Travel)
 - Form D5 (Record of Absence from Duty)
 - Form SR1 (Sickness Absence Reporting Form)

The Review Team were satisfied that the completion of Form D9 Recommendations outlined in the SCRT Implementation Plan was adhered to by Garda staff and by SCRT Supervisors and Management.

2.2.4 Absence Management (Form D5 - Record of Absence from Duty)

The level of sickness absence in SCRT was very low for the period under Review. The Form D5 for all members was cross referenced against all other records as part of this Review. The Review Team were very satisfied with the recording and management of Absence Records within SCRT.

2.3 Inspection and Reviews (HQ Directive 59/2014)

The Review Team examined the Inspection and Review documentation from SCRT for 2015. It was found that Detective Superintendent, SCRT completed all Inspection and Review reports for each quarter within 2015, in line with Garda Policy and Directives.

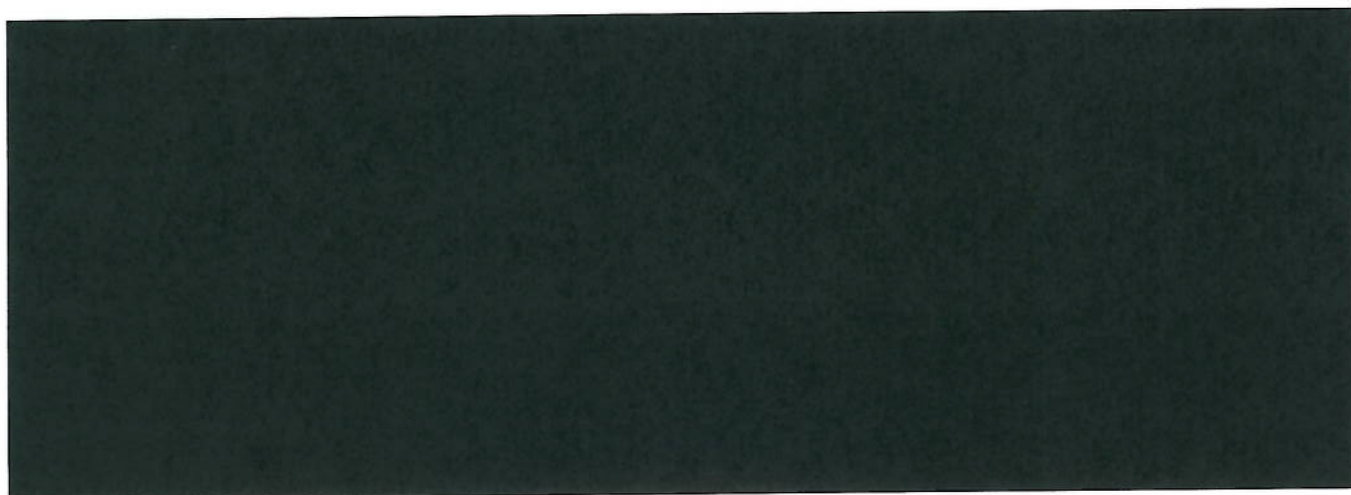
It was found that the Inspection and Review reports were completed to a very good standard, were robust and in line with High Risk Areas identified by SCRT management. Each area was the subject of comment by Detective Chief Superintendent NBCI, in line with HQ 59/2014.

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The Reviews completed covered the following areas of inspection:

Quarter	Inspection and Review Function
1	
2	Overtime and Review of Form A85
3 & 4	Financial Management
	Form A85's – Quarter 3
	Form FMS2 – Quarter 4
	SCRT Case Management

The various controls introduced by SCRT management were evident in the areas inspected throughout 2015. Each of the inspection areas in respective quarterly reports were supported by local inspection records and inspection documentation.



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3 CONCLUSION

- There was limited risk to the Garda Vote.
- Given the specific specialist nature of the SCRT, the combined effect was an overall reduced risk to the reputation of An Garda Síochána.

The Review identified the following in relation to standard, quality and completeness of documentation:

- Satisfactory completion and accuracy of Forms A85 and Form FMS2.
- Regular and detailed inspection of Forms A85 and Form FMS2 by supervisors/approvers with irregularities highlighted and returned to claimants.
- Improved cross referencing of claims and other control documents.
- Improved controls in the certification of Forms A85 by management.
- Improved evidence of advance approvals for paid overtime.
- Periodic local financial directions were issued by the Detective Chief Superintendent and Detective Superintendent and/or Detective Inspector which were complied with by SCRT staff.
- Inspections and Reviews are conducted and reviewed by local management.

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