

# AN GARDA SÍOCHÁNA



## GUIDANCE ON THE RECORDING INVESTIGATION AND MANAGEMENT OF MISSING PERSONS



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# **SECTION 1: AN GARDA SÍOCHÁNA'S GUIDANCE ON THE RECORDING, INVESTIGATION AND MANAGEMENT OF MISSING PERSONS.**

## **1 GUIDANCE RATIONALE**

This guidance document sets out the structure and mechanism for the investigation and management of missing person incidents. These incidents may relate to serious offences such as abduction and / or a risk to life. The guidance is a collection of information relating to policies, international best practices and operational procedures. The document should be considered as live and subject to review and change as requirements determine. The document will be updated by the Missing Persons Bureau under the authority of the Garda Commissioner.

An Garda Síochána is the National Police Service of Ireland. An Garda Síochána's functions are set out in the Garda Síochána Act 2005.

It is the aim of An Garda Síochána to uphold and protect the human and constitutional rights of everyone by providing a high quality, effective policing service in partnership with the community and in co-operation with other agencies.

This Policy is deemed to be in accordance with the European Convention on Human Rights Act 2003.



## 2 GUIDANCE AIMS

This document provides guidance for members of An Garda Síochána on the Recording Investigation and Management of Missing Persons. It has been formulated from research, experience and training in the management of missing person investigations.

The aim of this guidance is to provide an overview to members of An Garda Síochána on all aspects and categories of missing persons, the services available both within and without An Garda Síochána which can or should be called upon, specific requirements in respect of certain categories of missing persons and the steps to be followed in all cases where a person is reported missing to An Garda Síochána.



## 3 TERMS AND DEFINITIONS

### 3.1 MISSING PERSONS

A missing person is defined as:

***‘Anyone whose whereabouts are unknown and the circumstances of the disappearance presents a risk of harm to the missing person or any other person’.***

### 3.2 ABDUCTION AND FALSE IMPRISONMENT

When investigating a report of a missing person, members of An Garda Síochána should always examine the likelihood of abduction. The offences committed are outlined in the Non-Fatal Offences Against the Person Act, 1997, (the 1997 Act). Section 15 of the 1997 Act (False imprisonment) provides that a person shall be guilty of the offence of false imprisonment who intentionally or recklessly -

- (a) takes or detains, or
- (b) causes to be taken or detained, or
- (c) otherwise restricts the personal liberty of, another without that other’s consent

Section 16 of the 1997 Act (Abduction of a Child by a Parent etc) provides that a parent, guardian or a person to whom custody of the child has been granted by a court shall be guilty of an offence, who takes, sends or keeps a child under the age of 16 years out of the State or causes a child under that age to be so taken, sent or kept -

- (a) in defiance of a court order, or
- (b) without the consent of each person who is a parent, or guardian or person to whom custody of the child has been granted by a court unless the consent of a court was obtained.



Section 17 of the 1997 Act (Abduction of Child by Other Persons) provides that a person, other than a person to whom *section 16* applies, shall be guilty of an offence who, without lawful authority or reasonable excuse, intentionally takes or detains a child under the age of 16 years or causes a child under that age to be so taken or detained

- (a) so as to remove the child from the lawful control of any person having lawful control of the child; or
- (b) so as to keep him or her out of the lawful control of any person entitled to lawful control of the child.

In cases of child abductions, the investigation should commence immediately. This type of investigation may necessitate the issuing of an ‘All Ports Warning’.

### 3.3 CHILD ABUSE

Where children are reported missing, investigations should be undertaken to determine the reasons for children going missing and the circumstances of the case should be closely examined. Investigating Gardaí need to be aware that children may go missing to avoid physical, emotional, and sexual abuse, as well as neglect. A return interview should be conducted for all children that are reported missing. All concerns disclosed should be addressed in accordance with the Children First National Guidelines.

### 3.4 HONOUR BASED VIOLENCE AND MURDERS

Honour Based Violence and murders are generally murders of women for actual or perceived immoral behaviour, which has breached the honour code of a family, or community, causing shame. Honour Based Violence (HBV) exists across all cultures and communities; for example Turkish, Kurdish, Afghani, South Asian, African, Middle Eastern, South and Eastern European. Where a culture is heavily male dominated, HBV may exist.



In HBV cases the reporting of the incident can place the missing person and the reporting person at further risk. In some cases the missing person may have left the family setting to avoid HBV. Some victims may be persuaded to return to their country of origin under false pretences, in order that they may be killed.

### 3.5 FORCED MARRIAGES

A Forced Marriage is one where a person is forced into a marriage against their will as opposed to an arranged marriage, which normally has the consent of both parties. The victim may be forced to marry through abuse. Forced marriage is generally regarded as a form of domestic violence and / or child abuse.

In cases involving HBV or forced marriages, positive action should be taken to deal with any offences disclosed and protect the individual concerned.

### 3.6 THE CENTRAL AUTHORITY

The term Central Authority refers to the Department of Justice and Law Reform. An Garda Síochána assists the Central Authority, by carrying out the following tasks:

- All Ports Warnings
- Discreet enquires on behalf of the Central Authority.

Where An Garda Síochána is requested to carry out discreet enquiries, direct contact should not be made with the persons concerned in the enquiry without prior authority or sanction from the Central Authority. The relevant authority will be obtained by Assistant





Commissioner, Crime and Security. The extent of the enquiries is to ascertain if the named person on the application is residing at a named location.

### 3.7 INVOLUNTARY PATIENTS ABSENT WITHOUT LEAVE

The Mental Health Act, 2001 provides for involuntary detention of patients for the purposes of treatment or assessment. Reports of an absence of such a patient must be recorded as a missing person. An investigation of this type of missing person should be carried out following the procedures set out in this guidance document.

Section 27 of the Mental Health Act 2001, applies to patients, including children who leave an approved centre without permission or who fail to comply with the conditions of a temporary permission to leave a centre, a clinical director or consultant psychiatrist can request the assistance of An Garda Síochána, if he/she is of the opinion that there is a serious likelihood of the person causing immediate and serious harm to himself/herself or to other persons.

Section 27 of the Mental Health Act 2001, empowers members of An Garda Síochána to enter, if need be by force, any dwelling or other premises where he/she has reasonable cause to believe that the patient may be and take all reasonable measures necessary for the return of the patient to an approved centre. In this section “patient” includes a child in respect of whom an order under Section 25 of the Mental Health Act, 2001 is in force.

*“Members of An Garda Síochána should only use physical restraint with a patient when it is necessary to prevent physical injury to the patient or other people (including themselves)*



*or to prevent damage to any property or to prevent the patient from committing a criminal offence. Only restraint that is strictly proportionate and no more than is absolutely necessary will be compatible with the European Convention on human Rights.*

*Members of An Garda Síochána carrying out their functions shall at all times respect a person's personal rights and his / her dignity as a human being and shall not subject any person to ill-treatment of any kind."*

### 3.8 ASYLUM SEEKERS AND REFUGEES

The Garda National Immigration Bureau (GNIB) may provide advice and assistance with regard to missing person cases involving asylum seekers and refugees.

### 3.9 PERSONS UNLAWFULLY AT LARGE

Reports of persons who have escaped from lawful custody do not automatically fall within the definition of missing persons, unless the circumstances of the disappearance present a risk of harm to the missing person or any other person.

### 3.10 HUMAN TRAFFICKING

Human trafficking is generally under the control of organised criminal networks that will employ severe violence to obtain compliance. The Criminal Law (Human Trafficking) Act, 2008 creates offences of trafficking in persons for specific purposes, such as sexual or labour exploitation, or the removal of their organs. It also criminalises the selling or purchasing of human beings.



## 4 POLICY STATEMENT

### 4.1 DUTY OF POSITIVE ACTION

The Garda Síochána Act, 2005 outlines the functions of An Garda Síochána. The functions relevant to missing persons include protecting life and property and vindicating the Human Rights of each individual. Failure to thoroughly investigate a report of a missing person incident may leave the missing person concerned at additional risk which is highlighted by both Irish and European case-law.

An Garda Síochána must always make a serious attempt to find out what happened and should not rely on hasty or ill founded conclusions to close their investigation or as the basis of their decisions. They must take all reasonable steps available to them to secure the evidence concerning the incident. Any deficiency in the investigation which undermines its ability to establish the facts will risk falling foul of this standard.



## 5 LEGAL BASIS

### 5.1 OVERVIEW

This section is designed to provide a summary of the legal rules governing missing person investigations. It is designed to provide practical guidance to members, so that they are aware of their powers and responsibilities in relation to missing person investigations. It will set out the main legal (including human rights) provisions, and give some practical examples, referring to relevant legislation, leading cases and other sources of law, as necessary.

### 5.2 HUMAN RIGHTS

When carrying out their functions in accordance with this Policy Document members of An Garda Síochána shall act with due respect for the personal rights of persons and their dignity as a human being and shall not subject any person to ill-treatment of any kind. The Human Rights as outlined in this Policy Document should be considered and applied in all Garda interactions with persons.

Members of An Garda Síochána should only use physical restraint with a child when it is necessary to prevent physical injury to the child or other people (including themselves) or to prevent damage to any property or to prevent the child from committing a criminal offence. Only restraint that is strictly proportionate and no more than is absolutely necessary will be compatible with the European Convention on Human Rights.

### 5.3 THE EUROPEAN CONVENTION ON HUMAN RIGHTS

Article 2 and 3 of the ECHR sets out the right to life and the right not to be subjected to inhuman or degrading treatment respectively.



## Article 2 – Right to Life

Article 2 bans unlawful killing by the agents of the State, including Gardaí. The exceptions set out in Article 2 (2) (a) to (c) only apply if the State can show that the force which caused death was “*no more than absolutely necessary*”. The onus is on the State, not the victim / victim’s next-of-kin to demonstrate that this was the case.

The 2003 Act, in relation to Article 2, incorporates three separate duties on an organ of the State:

- (a) a duty to refrain from intentional taking of life (with very narrow defined exceptions)
- (b) a duty to protect life; and
- (c) a duty to investigate suspicious deaths.

The duty to protect life is often referred to as the “*positive obligation*” or the “*Osman ruling*”. In *Osman v United Kingdom* (judgment of ECHR of 28 October 1998, **29 EHRR 245**), the European Court of Human Rights stated that there is a specific obligation on the authorities to take feasible operational steps within their powers to avert a real and immediate threat to the life of any individual or individuals of which they are, or should be, aware. This is in addition to the general duty to have in place criminal law provisions and law enforcement mechanism to deter the commission of crime. The Court pointed out that due to the unpredictability of human conduct, the difficulty of policing modern societies and resource issues, the duty must be interpreted in a manner which does not impose an impossible or disproportionate burden on the authorities.



Accordingly, Gardaí may be under an obligation to take operational measures to protect a person's life in certain situations. The main issues for Gardaí are:

- (a) establishing what is a real and immediate threat; and
- (b) if such a threat is established, what steps must be taken to seek to avert it?

This legal guidance seeks to set out some general advice on these issues.

### Real and Immediate

Guidance can be gleaned from the leading case in the United Kingdom concerning a “*real and immediate*” threat which is *In re. Officer L* [2006] UKHL 36. In this case, the House of Lords said that a real and immediate threat is one that is:

- (a) objectively verified; and
- (b) present and continuing. The threshold is a high one. In making this assessment, police officers should consider all the relevant sources of information and ensure that all decisions are justified and recorded.

### Feasible Operational Steps

In the event that it is established that a real and immediate threat exists the next issue is what, if anything, Gardaí are required to do. The legal requirement is for Gardaí to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid the risk to life. Accurate and detailed recording of relevant decisions and decision-making processes can assist in this regard.



### Article 3 Prohibition on Torture

Article 3 of the ECHR sets an absolute prohibition on torture, inhumane and degrading treatment or punishment. There are no stated exceptions to this rule. The test established by the European Court of Human Rights is that of attaining a certain minimum level of severity. The basic approach is:

*“... ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum is, in the nature of things, relative; it depends on all the circumstances of the case, such as the duration or the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim.”*

(Ireland v U.K. January 18, 1978, Series A, No. 25; 2 EHRR 25 para. 167).

The Court in *Ireland v United Kingdom* held that torture involves suffering of a particular intensity and cruelty, attaching a “*special stigma to deliberate inhuman treatment causing very serious and cruel suffering*”. Inhuman treatment covers at least such treatment as deliberately causes severe mental and physical suffering.

Degrading treatment or punishment consists of treatment or punishment which grossly humiliates a person or drives him to act against his will or conscience. (*The Greek Case*, 3321-3/67 and 3344/67, 11 YBK of the ECHR (Rep.) November 5, 1969, (1969), 501).

### Article 5 Right to Liberty and Security

**Article 5 (1)** provides that everyone has the right to liberty and security of the person and that no one is to be deprived of their liberty save in the circumstances prescribed in Article 5 (1) (a) to (f). The list of exceptions set out in Article 5 (1) thus provides an exhaustive definition of the circumstances in which a person may be lawfully deprived of his / her



liberty, and is to be given a narrow construction. In addition to falling within subparagraphs (a) – (f), any detention must be (i) “*lawful*” and (ii) carried out “*in accordance with a procedure prescribed by law*”. These terms refer to conformity with domestic law and procedures (e.g. **Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Stations) Regulations, 1987**).

#### Article 6 Right to a Fair Trial

Article 6 guarantees procedural fairness in the course of civil and criminal proceedings. Article 6 applies from the moment the defendant becomes aware that he is being seriously investigated and that immediate consideration is being given to the possibility of a prosecution or the date of initial arrest (*X v United Kingdom*, App. No.6728/74). Equality of arms between the parties or a ‘fair balance’ must be achieved. In the case of *Dombo Beheer v Netherlands*, October 27, 1993, Series A, No. 274, paragraph 33 it was held that this means that each party must be afforded a “reasonable opportunity to present his case – including the evidence – under conditions which do not place him at a substantial disadvantage vis-à-vis his opponent.

#### 5.4 EUROPEAN CONVENTION ON HUMAN RIGHTS ACT 2003

In addition to the obligations contained in section 7 (1) of the 2005 Act the **European Convention on Human Rights act 2003 (the 2003 Act)**, which came into force on 31 December 2003 and which incorporated the **European Convention on Human Rights (ECHR)** into Irish law, provides that “*every organ of the State shall perform its functions in a manner compatible with the State’s obligations under the Convention provisions.*” An Garda Síochána is an “*organ of the State*” for the purposes of the 2003 Act.





Section 3 of the 2003 Act obliges An Garda Síochána, as an organ of the State, to perform its functions in a manner compatible with the State's obligations under the Convention provisions. In this regard there are a number of seminal judgements of the European Court of Human Rights which outline clearly the duty placed on the member States. This duty is commonly known as "*the positive obligation*" and once a positive obligation on a member state exists, an "*omission*" by a public authority, or the absence of a legal remedy against another individual, may constitute a violation under the **ECHR**.

In the judgement of **Barabanshchikov –v- Russia app. No. 36220/02, Judgement delivered on 8 January 2009**, the court outlined its views on the obligation to investigate and stated as follows:

*".... the State's general duty under Article 1 of the Convention to 'secure to everyone within their jurisdiction the rights and freedoms defined in ...[the] Convention', requires by implication that there should be an effective official investigation. An obligation to investigate is not an obligation of result, but of means. Not every investigation should necessarily be successful or come to a conclusion which coincides with the claimant's account of events, however, it should in principle be capable of leading to the establishment of the facts of the case and, if the allegations prove to be true, the identification and punishment of those responsible. That means that the authorities must always make a serious attempt to find out what happened and should not rely on hasty or ill founded conclusions to close their investigation or as the basis of their decisions. They must take all reasonable steps available to them to secure the evidence concerning the incident. Any deficiency in the investigation which undermines its ability to establish the facts will risk falling foul of his standard ... "*



Members carrying out their functions must do so in accordance with the Constitution of Ireland, 1937 and the ECHR.

## 5.5 CONSTITUTION OF IRELAND 1937 – FUNDAMENTAL RIGHTS

### Article 40.1 Personal Rights

Article 40.1 provides that “*All citizens shall, as human persons, be held equal before the law*”. Article 40.3.1 provides that “*The State guarantees in its laws to respect, and as far as practicable, by its laws defend and vindicate the personal rights of the citizen*”

The right to bodily integrity was upheld by the Supreme Court in **Ryan v A.G. [1965] IR294** as being one of the unenumerated rights protected by Article 40.3. However, the Supreme Court also stated that the State had the duty of protecting the citizens from dangers to health in a manner not incompatible or inconsistent with the rights of these citizens.

In the **State (c) v Frawley [1976] IR 365** the High Court held that the right to bodily integrity did not just apply to legislation (Ryan v A.G.), but also operated to prevent acts or omissions of the executive which, without justification, would expose the health of a person to risk or danger including persons in prison / custody.

### Article 40.4.1 Personal Liberty

Article 40.4.1 provides that “*No person shall be deprived of his liberty save in accordance with law*”. In the case of King v Attorney General [1981] **IR 233** Henchy J stated that this means “*without stooping to methods which ignore the fundamental norms of the legal*



*order postulated by the constitution*". In the case of "The State (McDonagh) v Frawley [1978] IR 131 O'Higgins J stated that the phrase means "*there must be such a default of fundamental requirements that the detention may be said to be wanting in due process of law*".

#### Article 40.5 Inviolability of the Dwelling

Article 40.5 provides that "*The dwelling of every citizen is inviolable and shall not be entered save in accordance with law*". In the case of The People (Attorney General) v O'Brien [1965] IR 142 Walsh J stated that the meaning of Article 40.5 was as follows: "*[these words do] not mean that the guarantee is against forcible entry only. In my view, the reference to forcible entry is intimidation that forcible entry may be permitted by law but that in any event the dwelling of every citizen is inviolable save where entry is permitted by law and that, if necessary, such law may permit forcible entry.*" Clearly where an express permission to enter a dwelling is given, there can be no breach of Article 40.5.

There may be circumstances where Gardaí may have to balance these constitutional rights. In the case of **DPP v Delaney [1997] 3 I.R. 453** O'Flaherty J. ruled that, where entry to a dwelling was gained in the absence of a warrant in an 'extremely fraught situation', Gardaí were fulfilling the requirements of the Constitution when they chose to act in defence of the life and limb of others and to subordinate the right of another to inviolability of the dwelling. There was a necessity for Gardaí in the circumstances to balance these constitutional rights. Therefore, the justification for entering a dwelling without a warrant is in defence of the life and limb of others.



In relation to areas outside the house there will be a need for express statutory authorisation (Director of Public Prosecution v McCreesh [1992] 2 IR 239).

## 5.6 THE GARDA SÍOCHÁNA ACT, 2005

The function of An Garda Síochána is set out in section 7(1) of the **Garda Síochána Act, 2005** which is to provide policing and security services for the State with the objective of –

- (a) preserving peace and public order,
- (b) protecting life and property,
- (c) vindicating the human rights of each individual,
- (d) protecting the security of the State,
- (e) preventing crime,
- (f) bringing criminals to justice, including by detecting and investigating crime,  
and
- (g) regulating and controlling road traffic and improving road safety

Section 7 sets out a general duty to protect life. Section 7 (1) (d) places an obligation on An Garda Síochána to vindicate the human rights of each individual. While there is no jurisprudence regarding section 7 of the 2005 Act it is worth highlighting the views of the High Court on the duties of An Garda Síochána which were outlined by Carney J. in D.P.P. –v- Bartley, unreported, High Court, June 13, 1997 when he remarked on passing sentence:

*“Where a credible complaint is made to a policeman, he has no discretion under the Common Law not to investigate it and apprehend a named offender. A failure to carry out this duty vigorously constitutes an illegality on the policeman’s part and renders him liable to prosecution on indictment...”*



## 5.7 USE OF FORCE

Members of An Garda Síochána are frequently required to deal with situations of conflict. The careful use of well chosen and appropriate words and the management of human interaction will resolve many situations. Others will necessarily involve the application of varying degrees of physical force.

Gardaí have the power under statute and common law to take action to defend themselves and others. If Gardaí do not take appropriate and proportionate action to protect others from such harm they may be violating the human rights of those others. Therefore, it is important that Gardaí give due regard to the rights of individuals in how they exercise their discretion.

In making these important decisions, Gardaí are reminded that they are accountable through the law for their actions. Apart from the criminal law, there may follow a civil suit, complaints may be made against individual members, and in cases where death has resulted, a public inquest or other inquiry will be held by the coroner or other statutory bodies at which members may be called to testify.

Every effort should be made to resolve conflict without resorting to the use of force.

Whenever it is necessary for Gardaí to resort to the lawful use of force they shall:

- Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved;
- Minimise damage and injury, and respect and preserve human life;



- Ensure that assistance and medical aid are secured to any injured person at the earliest opportunity;
- Ensure that the relatives or close friends of the injured or affected person are notified at the earliest opportunity;
- Report the incident promptly to their supervisors;

The primary responsibility for using force rests with the individual member who is answerable ultimately to the law. Individual members are accountable and responsible for whatever force they use and must be in a position to justify their actions in the light of their legal responsibilities and powers.

When Gardaí are required to use force to achieve a lawful objective (such as to use force against a person to gain entry to a persons property to search for a missing person, making a lawful arrest, acting in self-defence or protecting others or property or the prevention of crime or a breach of the peace) the legal basis is to be found in sections 18 and 19 of the **Non Fatal Offences Against the Person Act, 1997**.

All force used must be “reasonable in the circumstances” as the member believes them to be. Section 1 (2) provides that having regard to the belief of the person using force “it is immaterial whether a belief is justified or not if it is honestly held but the presence or absence of reasonable grounds for the belief is a matter to which the court or jury is to have regard, in conjunction with any other relevant matters, in considering whether the person honestly held the belief. The use of force must be proportionate to the objective that is sought to be achieved. Factors which may assist in establishing whether or not the use of force was reasonable in the circumstances are:



- Was the use of force lawful – e.g. is the aim one of those outlined in section 18 or 19 of the Non Fatal Offences Against the Person Act, 1997?
- Was the degree of force used proportionate in the circumstances?
- What other options were considered? If so, what were they? Why were those options discounted? Has an adequate record of all relevant decisions been made?
- Was the method of applying force in accordance with training instructions?

Any force used must not be greater than what was reasonable in the circumstances. If force used is not reasonable it may leave the member open to criminal or disciplinary proceedings. Excessive use of force by Gardaí can engage Article 3 and therefore it may constitute a violation of the human rights of the person against whom the force was used.

In *Timurtas v Turkey* [(2001) 33 EHRR 121] the European Court of Human Rights stated; “... where an individual is taken into custody in good health but is found to be injured at the time of release, it is incumbent on the State to provide a plausible explanation of how those injuries were caused, failing which an issue arises under Article 3 of the Convention.” In *Ribitsch v Austria* [(1996) 21 EHRR 573] the Court held that: “... In respect of a person deprived of his liberty, any recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention.”

The use of force by members of An Garda Síochána may be necessary in some circumstances. It is essential that any use of force is only resorted to and applied in accordance with the law.



## 6 INITIAL MISSING PERSON REPORT AND GARDA RESPONSE

### 6.1 OVERVIEW

A missing person investigation commences when the incident is reported to An Garda Síochána. It is essential that detailed reports are taken and each case is assessed to establish the level of risk. Investigating members should ask all of the relevant questions, which will allow for an appropriate response, based on the potential risk to the missing person. Risk assessing is a continuous process that provides the basis for continuous decision making. Investigating members should ensure that the reporting party is made aware of the duty and role of An Garda Síochána with regard to missing persons.

Ethnic and cultural issues may be presented at the initial stages of the investigation and local Ethnic Liaison Officers may provide valuable assistance to the investigation. If language barriers are encountered, these difficulties should be addressed and the services of an interpreter should be engaged at the initial stages.

### 6.2 PROBLEM SOLVING APPROACH

It is essential that An Garda Síochána implements a problem solving approach when addressing missing person reports. The procedures that amount to an effective problem solving approach include:

- A multi-agency approach with all of the relevant partners carrying out their relevant duties of care and roles, e.g. Health Service Executive, Mountain Rescue Teams and Civil Defence.





- Identification of persons within organisations and agencies addressing problems on a partnership basis.
- Management of the return of missing persons, developing profiles on their activities and associates, appropriate interventions to reduce incidence of missing behaviour.

### 6.3 INITIAL REPORTING & CALL TAKING RESPONSIBILITIES

Reports of missing persons may be among the most difficult, challenging and emotionally charged calls for a person to take. The attitude and approach taken by the call taker may determine whether the person is recovered promptly and safely or remains missing. The call taker's role is to establish all of the relevant information in respect of a missing person and the reporting party. At the time of reporting, all steps must be taken to assess the level of risk and determine the appropriate course of action. Furthermore, the call taker should be aware that they may encounter several types of missing person's cases, each with their own unique requirements for example abduction cases, runaway cases or lost/injured cases.

It is of paramount importance that the call taker realises the importance of that initial call and understands that each call has the capability of becoming a major investigation. Therefore the call taker must gather enough information to determine an appropriate response. The call taker must be:

- Professional
- Compassionate
- Respectful
- Patient



The call taker should obtain and verify incident location along with callback/ contact information. The call taker should maintain control of the call.

#### 6.4 INFORMATION REQUIRED AT THE TIME OF THE INITIAL REPORT

The required information is as follows:

1. Name, address and telephone number of person reporting and relationship to the missing person.
2. Name and age of missing person.
3. Description of all clothing including underwear and footwear.
4. Home address.
5. Details of any vehicle or other transport used.
6. Description of person.
7. Availability of a recent photograph (if possible in an electronic format).
8. The location the person is missing from (Place last seen) bearing in mind if specifics are not known a request for landmarks or estimated proximity to landmarks.
9. Circumstances of going missing.
10. Poses a threat to others.
11. Believed to be in the company of person who may harm him/her.
12. Is this behaviour out of character?
13. Assessment of the person reporting.
14. Is person in possession of a mobile phone and its number if applicable?
15. Details of social networking sites, chatrooms or blogs e.g. Facebook, Bebo, My space, Kidzworld.



16. Details of any known medical condition, physical or mental disability.
17. Details of what medication, if any they may have in their possession.
18. Indications of suicide.

The information will assist in assessing the risk and determine the appropriate course of action. No assumptions should be made about the priority of Garda action until all of the facts and relevant information has been ascertained.

If the call taker ascertains that the report is a possible abduction, the following information should be obtained:

1. When did this happen? (is abduction in progress)
2. Where was the child last seen?
3. Who was the child last seen with?
4. Who last saw the child?
5. Descriptions and names, if known, of child and suspect – to include: name, sex, race, age, primary language, height, weight, hair, eyes, complexion, physical attributes, clothing from head to foot.
6. Vehicle descriptions – colour, year, make, model, registration number
7. Direction of travel?
8. Relationship between the child, suspect and caller?
9. Is the child familiar with the suspect – relative, custody?
10. Weapons involved/possessed?
11. History of violence/mental illness?
12. Does the suspect have a mobile phone?
13. If in progress broadcast immediately.



14. Maintain telephone contact with caller until Gardaí arrive at scene.

If the missing person is lost/injured in unknown circumstances or a runaway the following information is necessary to ascertain:

1. When and where was person last seen?
2. Any special considerations – weather, wilderness?
3. Who was person last seen with?
4. Who last saw the person?
5. Was the person on a mode of transport – bike/car?
6. If the person was in a car, obtain the vehicle descriptions – colour, year, make, model, registration number.
7. What was the direction of travel?
8. Has this ever happened before?
9. What is the caller's relationship to the missing person?
10. Did the person have a pet with them?

## 6.5 FIRST GARDA ATTENDING A REPORT OF A MISSING PERSON

The investigation into a missing person begins at the point of first notification to An Garda Síochána. The first Garda investigating the report has to make several decisions based on applying experience, discretion and judgement, in order to recognise vulnerable or suspicious cases.

Gardaí must appreciate that an investigation is being undertaken, as opposed to merely taking a report of an incident. It is easier to rein back from the early stages of a major investigation, than recover missed opportunities. A supervisor should be engaged at the initial reporting stage of the investigation, as the incident may escalate into a serious criminal investigation.



## 6.6 DISSEMINATION OF INCIDENTS AND ALL PORTS ALERTS

In some cases, especially in child abductions, it may be necessary to issue an 'All Ports Alerts'. The D.M.R. Communications Centre is responsible for issuing all ports alerts throughout the country. Investigating members should ensure that the incident is disseminated to the Communication Centre prior to making a request. The incident is subsequently disseminated to all airports, ports and all operational Garda Stations.

All ports alerts may also be issued as the result of a court order issued in accordance with the Child Abduction and Enforcement of Custody Orders Act, 1991. Section 37 of this act, outlines the powers of An Garda Síochána to detain children and the matters to be addressed, when a child is detained for the purpose of complying with a court order.

## 6.7 PRESS RELEASES

The Garda Press Office will arrange for the issue of press releases to assist investigating members in locating missing persons. The following information is outlined in order to assist members with regard to press releases:

- Permission to issue a Press Release and a photograph must be provided in writing from the parent / guardian or next of kin to the investigating Garda.
- Press Releases will only issue in respect of a missing person, if requested by the District Officer.
- A detailed description, gender, age, height in centimetres, description of clothing when last seen and where missing from.
- Photograph available of suitable quality is available and or, no photograph is available. (Preferably in electronic format).



- Circumstances of the incident, including details in relation to the persons concerned being under medical supervision, access to money, access to transport and description of transport.
- Provide any additional information e.g. “Gardaí are extremely anxious to locate this person” or “may be disorientated”.
- The Child Care Act, 1991 prohibits publicity which would indicate any minor is in the care of the Health Service Executive. This also relates to minors that may be accompanying the missing person.

#### Re-Issuing Of Missing Person Appeals

The Press Office in consultation with investigating members and in reference to original material provided to the Press Office will arrange for the re-issue of press releases. Additional information should be provided, if appropriate.

#### Missing Person Located

In cases where a person is located, investigating members should inform the Press Office, in order that the Press Office will issue a press release informing that the concerned person has been located.

#### 6.8 MISSING PERSON BUREAU

The Garda Missing Persons Bureau administers photographs of missing persons on [www.garda.ie](http://www.garda.ie) and [www.missingkids.ie](http://www.missingkids.ie) websites. Photographs for inclusion on either of these websites should be forwarded to the Garda Missing Persons Bureau at Crime Policy & Administration, Garda Headquarters, Phoenix Park, Dublin 8 along with a copy of the Internet Consent Form (Appendix B) or alternatively email at [missing\\_persons@garda.ie](mailto:missing_persons@garda.ie).



## 7 INTERNATIONAL INVESTIGATION AND COOPERATION

### 7.1 INTERPOL AND MISSING PERSONS INVESTIGATIONS

Interpol is the international criminal police organisation which promotes mutual assistance between police authorities within legal limits and in the spirit of the Universal Declaration of Human Rights. This includes dealing with cross border cases and liaison with the Police Service of Northern Ireland (PSNI). Where there is an international dimension to any investigation, Interpol should be contacted immediately.

Interpol will provide assistance with:

- Irish persons reported missing outside the jurisdiction.
- Person's who have been reported missing and that may have left this jurisdiction.
- Any other enquiries that may have to be undertaken outside the jurisdiction.

#### Missing Persons from Other Jurisdictions

Enquiries relating to missing person from outside the jurisdiction will be processed through Interpol. Interpol will forward the enquiries to relevant District Officers.

Investigating Gardaí should be aware that consent is required of the missing adult before his/her whereabouts can be transmitted back to the requesting party.



## 7.2 PERSON LOST AT SEA

The first priority in these cases is Search and Rescue. These cases are high risk and a Patrol Officer, or District Officer must be assigned to the incident as soon as the matter is reported to An Garda Síochána. This member must coordinate all Garda activities and liaise with the various external agencies involved in the search and rescue operation.

The Merchant Shipping (Investigation of Marine Casualties) Act, 2000 should be referred to by the Patrol Officer. It outlines the various powers and functions of the Marine Survey Office (MSO) and the Marine Casualty Investigation Bureau (MCIB). It also outlines statutory requirements for An Garda Síochána to assist these agencies.

Cases involving persons lost at sea have resulted in manslaughter charges being preferred. At the initial stages the incident should be treated as a serious investigation. All witnesses and evidence must be handled similarly to any serious criminal investigation e.g. a murder investigation. This will ensure that any subsequent criminal investigation is not compromised.

An Garda Síochána must always make a serious attempt to find out what happened and should not rely on hasty or ill founded conclusions to close their investigation or as the basis of their decisions. They must take all reasonable steps available to them to secure the evidence concerning the incident. Any deficiency in the investigation which undermines its ability to establish the facts will risk falling foul of this standard. An Garda Síochána will treat loved ones of missing persons and witnesses according to their particular needs both as victims and witnesses and as individuals. Members should be fully aware of the dignity and expectations of loved ones of missing persons and witnesses and should treat individuals with courtesy, compassion and respect. An Garda Síochána will update and





liaise with loved ones of missing persons by keeping them informed of the progress and status of their particular investigation.

### Recording Lost Person at Sea Incidents on PULSE

A missing person incident should be created in respect of every person lost at sea. These incidents may be associated to each other, by other incidents for example Major Emergency – Major Emergency at Sea. The Patrol Officer or District Officer where the incident is reported should ensure incidents are recorded on PULSE. In cases where there is ambiguity of the Classification or location of an incident, classification will be sought from the Missing Person Bureau. This should not inhibit the initial recording of incidents on PULSE.

Incidents in respect of missing persons ‘lost at sea’ can only be closed in the following circumstances:

- Where the person, body and or body part are found and are positively identified.
- Where a coroners court has issued a death certificate in respect of the missing person concerned. In cases where an incident is closed as the result of a death certificate being issued in the absence of body or body parts been located. The Missing Person’s Bureau maintains a register of all outstanding missing persons.

## 7.3 THE IRISH COAST GUARD

### Marine Search and Rescue

If a person is lost at sea in Irish territorial waters, the Irish Coast Guard will coordinate and control all search and rescue activities. If on shore search and rescue activities are



required, the Irish Coast Guard will contact An Garda Síochána to coordinate these activities.

### Inland Search and Rescue

If a person goes missing on inland waterways or shores An Garda Síochána will control and coordinate the search and rescue activities. If necessary An Garda Síochána can initiate the support of The Irish Coast Guard. Garda Communication Centres can activate the callout of the Irish Coast Guard if necessary.

## 7.4 SCHENGEN INFORMATION SYSTEM (SIS)

Ireland is a member of the Schengen Agreement and Convention which provides for a framework of law enforcement measures within the Schengen area and includes all 27 EU Member States, along with Iceland, Norway and Switzerland.

The Schengen Agreement established an information system known as the Schengen information system (SIS) to support the police and judicial cooperation elements of the Schengen Convention. It works by holding a number of specific alerts on people, vehicles and property from participating member States, operating on a hit – no hit basis.

In accordance with Article 32 provision is made for member States to issue alerts on missing persons under the following categories:

- (a) missing persons who need to be placed under protection;
  - (i) for their own protection.
  - (ii) in order to prevent threats.
- (b) missing persons who do not need to be placed under protection.



Operating through the Sirene Bureau, each member State is directly linked to the Schengen Information System, which allows for the searching of missing person information entered on SIS by each Member State on a 24/7 basis.

An Garda Síochána has yet to connect to the Schengen Information System, however, all matters relating to Ireland's membership of Schengen are managed at the Sirene Bureau/Schengen Project Office, Liaison Section Garda Headquarters.



: " DISCLAIMER

*“This document is not intended to, and does not represent, legal advice to be relied on by members of the public on the subject matter contained herein. This publication should not be used by members of the public as a substitute for professional legal advice.”*