

Submissions on the Future of Policing in Ireland

The writer has acted as a legal representative [REDACTED] on behalf of clients detained involuntarily under the *Mental Health Act (MHA) 2001* in psychiatric hospitals. One of the core provisions of the legislation is to establish Mental Health Tribunals to primarily review the involuntary commitment of a patient on a periodical basis.

This legislation came fully into operation in tandem with the *Vision for Change* strategy in 2006. The latter document is often cited by stakeholders as the benchmark to gauge how far Ireland has progressed.

A disconcerting aspect of my experience has been the mixed feedback from service users of their interaction with An Garda Síochána. The Gardaí are often first responders to an emergency crisis where it can be a highly charged atmosphere. The police force has saved lives of some individuals with suicidal ideation through prompt intervention and protected the public at large. It has even been reported that The Gardaí have had to fill the void in mental health services in Wexford after the closure of St Senan's Psychiatric Hospital.

I have however interviewed some clients who've complained of being subjected to excessive force, unlawful arrest and false imprisonment.

Amnesty International noted feedback (further to their review of the MHA Act 2001) from service users and relatives who had voiced concern at excessive use of force by Gardaí in some circumstances.

Commentators *Lamb & Ors* have noted that the responsibility thrusts the police into *the role of primary gatekeepers who determine whether the mental health or the criminal justice system can best meet the needs of the individual with acute psychiatric problems... A major problem with having to fill this role is that the police have little training in performing this kind of triage...*

Reform could entail putting in place more rigorous safeguards to protect in my opinion the most vulnerable group in Irish Society who often fear authority.

Legislative Reform:

The Gardaí are entitled to take a person into custody under *Section 12* of the *MHA 2001*:

Powers of Garda Síochána to take person believed to be suffering from mental disorder into custody. **12—(1)** *Where a member of the Garda Síochána has reasonable grounds for believing that a person is suffering from a mental disorder and that because of the mental disorder there is a serious likelihood of the person causing immediate and serious harm to himself or herself or to other persons, the member may either alone or with any other members of the Garda Síochána—*

(a) take the person into custody, and

(b) enter if need be by force any dwelling or other premises or any place if he or she has reasonable grounds for believing that the person is to be found there.

Amnesty International and the *National Disability Authority* both recommended that *Section 12* be amended so that the Gardaí should be obliged to bring the person to an approved centre (hospital or inpatient facility) for assessment and only where that is not possible/in exceptional circumstances should the person be kept in Garda custody and then only for the minimum time it would take for an assessment by a medical practitioner to take place.

Police stations/cells are not the appropriate environment to be detaining a person with mental health issues which can exasperate such conditions [as noted by the Association of Chief Police Officers of England in the *Guidance on Safer Detention and Handling of Persons in Police Custody*]. (See also case *MS v UK*). It further has the effect of criminalising people who are in need of medical attention.

Operational Reform:

The Memphis Crisis Intervention Team (CIT) is an innovative first responder program that has become nationally known in the USA as the “*Memphis model*” of pre-arrest and jail diversion. This program provides law enforcement based crisis intervention training for helping those individuals with mental illness. Officers volunteer to receive 40 hours of training provided by mental health clinicians, service users, family advocates and police trainers. Training includes information on signs and symptoms of mental illnesses; mental health treatment; co-occurring disorders; legal issues and de-escalation techniques. CIT curriculums may also include content on developmental disabilities, older adult issues, trauma and excited delirium. Information is presented in didactic, experiential and practical skills/scenario based training formats. (*Compton*).

One of the recommendations on *The Report of Joint Working Group on Mental Health Services and the Police 2009* was that a feasibility study on the appointment of Crisis Intervention Teams jointly staffed by members of An Garda Síochána and mental health personnel should be undertaken and published.

There have been classes recently introduced for Garda Diversity Liaison Officers including modules on mental health issues and intellectual disabilities. I would advocate a more ambitious target including that the Memphis CIT model be fully implemented across Ireland with drop off medical centres operating a no refusal policy.

A working group has also been established to examine the cost of fitting members of An Garda Síochána with body cameras for general policing purposes. The writer would concur with the

The Garda Representative Association's recent position that this would be mutually beneficial for all.

Administrative Reform:

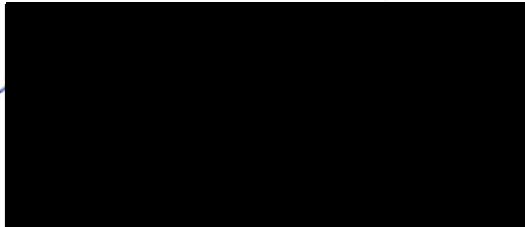
The Criminal Justice Act 1984 (Treatment of Persons in Custody) Regulations provides in particular that if a person in custody appears to a member in charge to be suffering from a mental illness.... the member in charge shall summon a doctor.... unless the person's condition appears to the member in charge to be such as to necessitate immediate removal to a hospital or other suitable place.

The Garda Síochána Custody Record does however not explicitly screen for mental illness and needs to be modernised (particularly when account is taken of the relatively high proportion of prisoners in Ireland with psychiatric illness).

These 1980s regulations use the words "*mentally handicapped*" which is now considered to have negative connotations (even a derogatory term) and should be avoided.

References:

Amnesty International Ireland (2011): *Mental Health Act 2001: A Review*
Lamb, Weinberger & de Cuir, *The Police and Mental Health* Psychiatr Serv 53: 1266-1271, October 2002, American Psychiatric Association
National Disability Authority's Submission (2011) to the review of *Mental Health Act 2001*
Compton MT, Broussard B & Ors, *The Crisis Intervention Team (CIT) Model of collaboration between law enforcement and mental health*. Hauppauge, NY: Nova Science Publishers, Inc; 2011.
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