



(full form)

“ASSEVERATION”

I-I/FCA/05/8

NOTICE & LAWFUL DECLARATION

In the matter of the question as to: “The obligation upon members of An Garda Síochána to act upon knowledge of a crime, or upon receipt of a report of crime?”

This matter being brought to the Integrity Ireland Findings Committee (‘I-IFC’) for consideration and assessment according to; (i) the Rule of Law; (ii) to existing positive (written) law; and (iii) as per the respective rights, authorities and jurisdiction granted under Irish & international law, as laid out in the I-IFC foundation publications quoted in I-I/FCA/001/3; the Integrity Ireland Association hereby finds and determines as follows:

1. Under the heading ‘RECORDING AND REPORTING OF CRIME AND INCIDENTS’ and the subheading ‘Duty to report crimes’ Chapter 40.1 of the **Garda Síochána Code** (the operational manual for members of An Garda Síochána) reads:

(1) “It is a basic duty of each member of the Garda Síochána to make an official report of the fact as well as the details of any *indictable* offence [serious as opposed to minor offence] or in certain cases other incidents coming to his knowledge, unless an official report of such fact or detail has already been made by another member.”

[And] “Information received from the public with regard to any other official matter will likewise be promptly reported.”

(2) “When the details of any crime, suspected crime, or incident have been obtained, the member obtaining them will, before he finishes his tour of duty, make a preliminary report in writing of such details to the member-in-charge. In no circumstances should the outcome of investigations, directions of law officers etc., be awaited before completing [the required form] where it appears from the attending circumstances that a crime has been committed. If it should subsequently be established after thorough investigation of all available evidence that a crime did not take place, or if the allegation is retracted by complainant, the record may be deleted. All copies should be legible and only the up-to-date version of forms will be used.

2. Under the heading ‘Prompt Reporting of Crime’ Chapter 40.5 further states:

“In order to ensure that crimes are reported immediately they come to notice, each divisional officer will forward monthly a certificate that all known crime in his division has been properly reported for the previous month.” [And] “Divisional officers will make whatever arrangements are necessary in their divisions to ensure the validity of their certificates.”

3. Under the heading ‘What Happens When I Make a Report - Investigation Process’ the official **Garda website 2021** states:

“Whenever you report a crime to An Garda Síochána, whether you are a victim or a witness, we will ask you to:

- Provide as much information as you can about the offence;
- Tell us if you have any concerns about your (or your family's) safety, so we can give you appropriate advice;
- Provide your full address and telephone contact details. This will allow us to update you with the progress of the investigation;
- Update us with any other changes - you may have noticed further losses or damage since you first reported the offence, or you may be suffering further effects from an injury caused by the crime.

The investigating Garda will ask you to make a statement which s/he will write down and get you to sign. The matter will then be investigated by the Garda. If you are the victim of the crime you should subsequently receive a letter in the mail from the Garda Superintendent giving you the name of the investigating Garda, the PULSE (computer) number of the crime, the telephone number of the Garda Station, and the number of Crime Victims Helpline. After reporting the crime your case will be investigated, regardless of your gender, race, religion, ethnic origin, sexual orientation, age, economic circumstances or membership of any minority group.

During the investigation stage, Gardaí will gather all available evidence, such as CCTV, fingerprints or DNA and a file will be prepared in serious cases and submitted to the Director of Public Prosecutions. If a suspect is due to appear in court, we will:

- Tell you whether the accused is in custody or on bail and the conditions attached to the bail;
- Tell you the time, date and location of the court hearings;
- Explain the prosecution process involved;
- Tell you if you are likely to be called as a witness and if so tell you about the help available from victim support organisations;
- Tell you when a judge may ask for a "victim impact statement";
- Tell you about court expenses;
- Tell you the final outcome of the trial."¹

4. Furthermore: “**The Garda Charter** ‘Working with our Communities’ outlines 10 areas where An Garda Síochána is committed to working with the community to deliver a professional service. The 10 areas are:

1. Our Values – Honesty, Accountability, Respect and Professionalism. 2. Keeping Victims Updated. 3. Arrange Public Meetings. 4. Local Priorities. 5. 999 Call Answering. 6. Response Times. 7. Community Policing. 8. Visibility. 9. Diverse Communities. 10. Customer Satisfaction.

5. Furthermore: “**An Garda Síochána’s Victims Charter** outlines what you as a victim can expect once you report a crime. An Garda Síochána will:

- Respond promptly to your call and investigate your complaint;
- Tell you the name, telephone number and station of the investigating officer and PULSE incident number;
- Explain what will happen during the investigation and keep you informed throughout the process;

¹ <https://www.garda.ie/en/services/reporting/what-happens-when-i-make-a-report-investigation-process.html>

- Tell you about the services available through the National Crime Victims Helpline (Freephone) 116006;
- Advise you about the services provided by the Tourist Victim Support Service if you are a visitor to Ireland;
- Exhibit special sensitivity in relation to sexual offences;
- Make the services of a Garda and a Doctor of the same gender (as far as possible) available to you;
- Endeavour to attend to any special needs or requirements you may have;
- Provide a free translation service if you are unable to communicate fluently in Irish or English.”

6. Under **Section 7 of the Garda Síochána Act 2005** it is stated:

- (1) “The function of the Garda Síochána 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 criminal to justice, including by detecting and investigating crime
 - (g) Regulating and controlling road traffic and improving road safety.”

7. Under **Section 16 of the Garda Síochána Act 2005** it is stated:

(1) “On being appointed, each member of the Garda Síochána shall make before a Peace Commissioner a declaration in the following form:

I hereby solemnly and sincerely declare before God that I will faithfully discharge the duties of a member of the Garda Síochána with fairness, integrity, regard for human rights, diligence and impartiality, upholding the Constitution and the laws and according equal respect to all people, [and] while I continue to be a member, I will to the best of my skill and knowledge discharge all my duties according to law.”

8. **The Garda Code of Ethics** which aligns with the ‘Policing Principles’ of the Garda Síochána 2005 Act was established in January 2017. The Code co-exists with and supports the **Garda Discipline Regulations** and the **Civil Service Code of Standards and Behaviour**. The Garda Code of Ethics requires members to adhere to the following commitments (amongst others) under pain of a ‘breach of discipline’ action.

- (a) I will uphold and obey the law and fulfil my responsibilities in a fair and impartial way.
- (b) I will always seek the truth by establishing and reporting facts in an honest and objective way.
- (c) I will act in the public interest and not allow circumstances to arise that might compromise, or appear to compromise, myself or the Garda Síochána.
- (d) I will recognise and respect the dignity and equal human rights of all people.
- (e) I will treat everyone with fairness at all times, and not discriminate wrongfully.
- (f) I will take responsibility for my actions and omissions, and I will be accountable for them.
- (g) I will respect the human rights of all people, including the right to life, to security of the person and bodily integrity; to freedom of expression; to freedom of

assembly and association; to privacy; and to be free from arbitrary arrest or detention.

- (h) Every time I make a decision as to whether or not to use police powers I will be prepared to account for my actions. Wherever possible, I will explain my decisions to individuals affected.
- (i) I will never hide, exaggerate, invent, interfere with or improperly destroy information or evidence.
- (j) I will give timely and truthful information as long as this is in accordance with the law and does not compromise an ongoing investigation. Examples of this include updating victims and witnesses about investigations.
- (k) I will keep accurate, complete records, especially of all interviews and complaints.
- (l) I will ensure that matters brought to my attention are considered, are investigated where necessary, and the appropriate action taken.

Finding / Determination:

- 1. In responding to reports of crime, members of An Garda Síochána are bound by the terms of the following Codes, Regulations, Acts and official statements which require full, consistent and thorough actions to record and investigate crime:
 - Chapter 40.1(1) & (2) and Ch. 40.5 of the Garda Síochána Code.
 - The Garda Charter 'Working With Our Communities'.
 - The 'Investigation Process' on the official Garda website 2021.
 - An Garda Síochána's Victims Charter.
 - Sections 7 & 16 of the Garda Síochána Act 2005.
 - The Garda Code of Ethics.
- 2. That it would constitute (i) a violation of the said Codes, Regulations, Acts and official statements and; (ii) a possible offence against the administration of justice if the appropriate procedures are not followed without lawful excuse.

Reg No. Pages & P	I-I/FCA/005/8/2	Committee	JH/NM/WN/KD/SM/CM/JM
Date of Approval	11.11.2021	Served by	

I hereby declare that this is a true copy of the original PDF version.

Submitted / served by.....

*The signed and sealed original of this Asseveration is on file at the Integrity Ireland Association.
For downloadable and printable versions: see the Integrity Ireland website / Home / Asseverations*

