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Policing Matters¹

Abstract: This article examines the historical origins of Garda industrial relations [IR] through the lens of the ‘thin blue line’. This concept, which equates the absence of the police with chaos, had significant implications for the IR structure of the nascent force, the manner in which discontent was expressed by Gardaí during various industrial disputes and the nature of political responses to Garda grievances. Although the thin blue line often serves as justification for the curtailment of Garda labour rights, it will be argued that both the Gardaí and the political establishment share a vested interest in its preservation. Paradoxically, until one or both parties relinquish their adherence to this concept, the thin blue line will ensure the continued stagnation of the IR capabilities of the force.

Keywords: Thin blue line; Gardaí; industrial relations; police unionism; right to strike; EuroCOP

Introduction

The concept of the thin blue line captures the idea that the absence of a police force would open a Pandora’s Box of crime and disorder.² It situates the police as guardians against chaos, and

¹ The title of this article follows in the tradition of previous publications in the *Irish Jurist* namely Ian O’Donnell, “Prison Matters” (2001) 36 *Irish Jurist* 153 and Deirdre Healy, “Probation Matters” (2009) 44 *Irish Jurist* 239. The author expresses her sincerest gratitude to Ian O’Donnell for his invaluable and insightful comments on earlier drafts of this article. Likewise the constructive comments of Anthony Kerr and Michael Coleman were enormously appreciated, while Pat Ennis and John Jacob provided valuable clarification on matters pertaining to the GRA and AGSI respectively.

² One of the earliest references to the term “thin blue line” was in an article penned by Bruce Smith in 1929 on police administration in the US; “Municipal Police Administration” (1929) 146 *The Annals of the American Academy of Political and Social Science* 1. The term became popularised following its use by a Dallas prosecutor in the trial of Randall Dale Adams who was convicted and sentenced to death in 1977 for the murder of a police officer. Filmmaker Errol Morris in 1988 created a documentary entitled *The Thin Blue Line* which argued that Adams was innocent. As a result of the documentary, the case was re-examined by a court in Texas and Adams was released; Alice Ristroph, “The Thin Blue Line From Crime to Punishment” (2018) 108 *The Journal of Criminal Law & Criminology* 305 at p. 305, fn.1. There is a strong level of attachment to this concept

emphasises their occupational uniqueness. Yet this portrayal of police as crime-fighters engaged in a relentless war against criminals does not correspond with the everyday reality,³ as police spend approximately 90 per cent of their time on non-crime related issues.⁴ To use Bittner's oft-quoted description, their role is to respond to "something-that-ought-not-to-be-happening-and-about-which-someone-had-better-do-something-now".⁵ Indeed the crime-fighting mandate of the police constitutes a "quixotic impossible dream" because they are largely limited to tackling the symptoms of crime rather than its underlying causes.⁶

Given the foregoing, it is by no means clear that a police absence would automatically result in destabilising levels of disorder and criminal behaviour. Yet this is the key justification offered for restricting the IR capabilities of police forces. The thin blue line is commonly invoked with regard to one particular form of IR activity, namely strike action. While violence and looting did emerge in the aftermath of strikes such as the Boston Police Strike of 1919,⁷ such destruction remains the exception rather than the norm with little empirical support for the idea that the right to strike will compromise social stability. In spite of this, the police remain the occupation most often constrained in terms of the ability to strike.⁸ As Robert Reiner has noted, in general limiting police rights to engage in industrial activity "stems largely from

both in Ireland and abroad; for instance, the headline of the lead editorial in *The Sunday Times* on 25 August 2019 following announcement by Commissioner Drew Harris of widespread changes to Garda management structure was "Gardai should stop holding a thin blue line against reform".

³ Ciaran McCullagh, "Police Powers and the Problem of Crime in Ireland: Some Implications of International Research" (1983) 31 *Administration* 412 at p.438.

⁴ David Bayley, "What do the Police do?" in Tim Newburn (ed), *Policing: Key Readings* (Willan Publishing, 2005), pp.141-149 at pp.141-142.

⁵ Egon Bittner, "Florence Nightingale in pursuit of Willie Sutton: A Theory of the Police" in Tim Newburn (ed) *Policing: Key Readings* (Willan Publishing, 2005), pp.150-172 at p.161.

⁶ Robert Reiner, *The Politics of the Police* (Oxford University Press, 2010), p.147.

⁷ Fn.6, p.151. For an account of the Boston Police Strike, see Hervey A. Juris and Peter Feuille, *Police Unionism: Power and Impact in Public-Sector Bargaining* (D.C. Heath and Company, 1973), pp.16-17.

⁸ Robert Reiner, *The Blue-Coated Worker: A Sociological Study of Police Unionism* (Cambridge University Press, 1978), pp.5-6.

emotional fears based on imagined scenarios that are unlikely to materialize.”⁹ The thin blue line therefore appears to rest on an emotional rather than empirical basis.

Section I: The thin blue line and its IR implications

Since the foundation of the state in 1922, Ireland has not been immune from the implications of the thin blue line for Garda IR capabilities. Even the very name of the force, An Garda Síochána, which translates into “Guardians of the Peace”, reflects the idea of the thin blue line in that the Gardaí prevent order from descending into chaos.¹⁰ This thin blue line had two main implications for the IR capabilities of An Garda Síochána. First, it led to the adoption of a militaristic policing model for the nascent force. As Reiner has argued in a UK context, different views of the police role, namely liberal, radical and conservative views, lead to different reactions to police unionism.¹¹ The liberal view seeks a democratic police service and claims the police must be properly represented while holding an ambivalent attitude regarding the extent of union power. Analogous to liberals, radicals have ambivalent attitudes about unionization, viewing the police as propertyless workers who could potentially be organised into unions while also recognising them as right-wing preservers of the status quo.¹² In contrast to the liberal and radical views, the conservative perspective favours a militaristic police model which is hierarchical and emphasises obedience and discipline. This is derived from the image of police as engaged in a war on crime and is opposed to police unionism not due to concerns

⁹ Roy J. Adams, “The human right of police to organize and bargain collectively” (2008) 9 *Police Practice and Research* 165 at pp.168-169.

¹⁰ Following the terms of the Anglo-Irish Treaty which was ratified by the Dáil in January 1922, the Royal Irish Constabulary was disbanded and recruitment commenced the following month for a new national armed police force named the Civic Guard. In the aftermath of an event known as the Kildare Mutiny, the Civic Guard was reconstituted as an unarmed force and renamed An Garda Síochána in August 1923. The Garda Síochána (Temporary Provisions) Act 1923 constituted the first legislative basis for the force, which was consolidated under the Garda Síochána Act the following year.

¹¹ Reiner, *The Blue-Coated Worker*, fn.8, p.6.

¹² Fn.11., pp.257-258.

of public safety, but because police unionism threatens industrial conflict with the state which is the antithesis of the essence of the police role.¹³

Statutory provisions which embedded a strict disciplinary regime in the force reveal that the militaristic model informed the new Free State government's understanding of the role of the Gardaí. Indeed the common description of the Gardaí as a police "force" rather than a police "service" connotes militaristic associations. The Garda Síochána (Discipline) Regulations 1926 set out twenty-nine potential breaches of discipline including the use of insulting language, gossiping on duty, uncleanliness and the catch-all offence of "attempting to evade the true spirit and meaning of the orders and regulations governing the force".¹⁴ The eight available sanctions ranged from dismissal to a caution.¹⁵ Furthermore the Garda Síochána Code compiled in 1928 was premised on old Royal Irish Constabulary [RIC] disciplinary regulations designed to foster complete obedience in members. Gardaí were obliged to work a seven-day week, could be denied leave of absence and needed permission to get married. Commissioner Michael Kinnane started revising this antiquated code and his successor Daniel Costigan continued this work.¹⁶ Despite frequent calls from the *Garda Review* in the 1950s to relegate the RIC regulations "to the antique shelf",¹⁷ Minister for Justice James Everett was reluctant to engage in a complete overhaul. This generated significant discontent in the force.¹⁸ The presence of these archaic regulations until at least the mid-twentieth century reveals the militaristic model that underlay the structure of the Gardaí.

¹³ Fn.11, p.6.

¹⁴ Garda Síochána (Discipline) Regulations 1926, art.1-2.

¹⁵ Fn.14., art.9.

¹⁶ Gregory Allen, *The Garda Síochána: Policing Independent Ireland 1922-82* (Gill & Macmillan, 1999), p.147; *Garda Review*, April 1956, 31(5), p.425.

¹⁷ *Garda Review*, April 1951, 26(5), p.423; *Garda Review*, May 1953, 28(6), p.427; *Garda Review*, March 1954, 29(4), p.287.

¹⁸ *Garda Review*, June 1956, 31(7), p.555.

Congruent with this militaristic model, the thin blue line also limited the freedom of association granted to the fledgling police force, and these limitations continue to apply. The depiction of the police as bastions of social order meant there was little room for any form of dissension with the state they were entrusted with protecting. Consequently, the role of the police was subsumed to “servants of the state” rather than state employees.¹⁹ Art.40(6)(1)(iii) of Bunreacht na hÉireann guarantees the right of citizens to form associations and unions. Yet this Article also permits the state to pass laws to prohibit this right “for the regulation and control in the public interest.” Correspondingly, under s.13(3) of the Garda Síochána Act 1924, as amended by s.18(3) of the Garda Síochána Act 2005, police unionism is curtailed. It is necessary to note that a tension exists between the positioning of the policeman as a state agent and his role as a state employee. On the one hand, the police uphold the status quo and supposedly constitute a thin blue line preventing a descent into chaos. On the other hand the policeman is also a worker and so seeks to advance labour issues such as pay and working conditions.²⁰ The imbalance of power that exists between employers and employees is even more pronounced when the state is the employer. Freedom of association helps to correct this imbalance,²¹ yet the restrictions placed on the right to freedom of association of the Gardaí reveals that under Irish law, members of the force adopt an inferior position.

This adherence to the thin blue line mentality contributed to an attitude of official antipathy to matters such as police unionism. Testament to the grip this concept has exerted, police

¹⁹ Kevin O’Higgins, Minister for Home Affairs, Dáil Debate, 3 July 1924, Vol.8 No.4 [381].

²⁰ Reiner, *The Blue-Coated Worker*, fn.8, p.4.

²¹ Bernd Waas (ed), *The Right to Strike: A Comparative View* (Kluwer Law International, 2014), p.xxxvii; Alex Gourevitch, “Quitting Work but Not the Job: Liberty and the Right to Strike” (2016) 14 *Perspectives on Politics* 307 at pp. 313-318.

unionism in Ireland is an elusive issue with only whispers of the topic surviving in primary sources. One of the few attempts to address the topic directly is to be found in an offer published in *The Irish Worker* to assist in establishing a union comprising the Dublin Metropolitan Police and the Civic Guard.²² This invitation was not accepted and it is unlikely it would have been welcomed by the Free State government. Gunn who joined the Gardaí in December 1943 and later served as Secretary of the Representative Body for Guards wrote that “official attitudes on industrial relations in the force were such that there was little encouragement for any sort of discussion on trade unionism or freedom of association...anything remotely approaching trade unionism was akin to high treason.”²³ This taboo explains the lack of political debate over the issue when the restriction on police unionism was introduced under s.13(3) of the Garda Síochána Act 1924. It appeared to be a taken for granted assumption that members of the new force would not be permitted to join a union.

While the concept of the thin blue line therefore had significant implications for the IR structures of the force, it is essential to situate this in its relevant historical context. Two main events, one external and one domestic, also exerted an important influence on the IR structure of the Gardaí, namely the London police strike (1918-19) and the Civil War (1922-23). The London police strike was organised by the National Union of Police and Prison Officers [NUPPO]. It resulted in the introduction of a prohibition on police unionism under the Police Act 1919 and the introduction of a representative body known as the Police Federation.²⁴

²² *The Irish Worker*, 25 October 1924, No.66, 2.

²³ Eamonn Gunn, *Sit Down, Guard! A memoir of growing up in a small Irish town in the 1930s and progressing down a less travelled road in the Garda Síochána* (Choice Publishing, 2013), p.120. It is important to note that Gunn published his memoir seventy years after he joined the Gardaí, so questions may arise about the reliability of his recollections. Nonetheless his book provides a valuable insider account of industrial relations as perceived by a contemporary member of the force.

²⁴ Clive Emsley, “The birth and development of the police” in Tim Newburn (ed), *Handbook of Policing* (Willan Publishing, 2003), pp.66-83 at p.78.

According to Reiner, the Federation was deliberately created to quash the NUPPO and was intended to be a “fairly ineffectual organisation” which held no powers of negotiation.²⁵ S.13 of the Garda Síochána Act 1924 concerning police unionism was almost a verbatim copy of the Constabulary and Police (Ireland) Act 1919 which in turn was modelled on the Police Act 1919. Therefore the same concerns that underlay the creation of the 1919 Act influenced the drafting of legislation for the Gardaí.

In tandem with the Police Act 1919, police unionism was curtailed and s.15(1) of the Garda Síochána Act 1924 instead established representative bodies,²⁶ which were formally introduced in 1927. Three representative bodies were formed, one for Chief Superintendents and Superintendents, one for Inspectors, Station Sergeants and Sergeants, and one for Guards,²⁷ and provision was made for the bodies to sit together as a Joint Representative Body [JRB].²⁸ Yet these provisions established a deliberately weak representative machinery. The JRB was the only channel through which grievances could be expressed, but the government was not obliged to take these representations into consideration.²⁹ Furthermore these bodies could not engage in external association³⁰ and lacked the power to raise finances.³¹ This machinery meant the ability of Gardaí to express discontent over pay and working conditions was greatly restricted, reinforcing the position of the Gardaí as state servants rather than state employees.

²⁵ Reiner, *The Blue-Coated Worker*, fn.8, pp.26-27.

²⁶ Garda Síochána Act 1924, No.25; *Garda Review*, December 1951, 27(1), p.75.

²⁷ These three bodies were respectively called the Officers' Representative Body, the Representative Body for Inspectors, Station Sergeants and Sergeants, and the Representative Body for Guards. Within the hierarchical Garda structure a 'station sergeant' ranked above a sergeant but below an inspector, and this rank was unique to the Dublin Metropolitan Division; *Garda Review*, January 1953, 28(2), p.165. Despite the introduction of the Police Forces Amalgamation Act 1925 which sought to amalgamate the Dublin Metropolitan Police and the Gardaí, different ranks continued to operate in the Dublin Metropolitan Division. In this way, amalgamation of the two forces in 1925 was “largely a cosmetic exercise”; Gunn, *Sit Down, Guard!*, fn.23, p.120.

²⁸ The Garda Síochána (Representative Body) Regulations 1927 (SI 1927/910).

²⁹ *Irish Press*, 7 November 1961, p.1; *Garda Review*, July 1950, 25(8), p.615.

³⁰ Dermot Walsh, *The Irish Police: A Legal and Constitutional Perspective* (Round Hall Sweet and Maxwell, 1998), p.33.

³¹ Gunn, *Sit Down, Guard!*, fn.23, p.142.

The Irish Civil War similarly exerted a significant influence on the structural framework of the force. It did so by creating a tension between a militaristic and civilian model of policing. Traditionally, a comparison has been drawn between the militaristic model upon which the RIC was based, and the supposedly civilian model which underlay the Gardaí. This was encapsulated in a memorandum penned by Commissioner Daniel Costigan in February 1960, in which he argued that the Gardaí and the RIC operated on completely different philosophies; the RIC was an armed, paramilitary force whereas the Gardaí were unarmed and encouraged to cooperate with the public and secure their trust and confidence.³² Yet as Vicky Conway has argued, little changed substantively after 1922 with the strict disciplinary code and old RIC system of organisation remaining.³³ Other potential structures were not considered due to the volatile Civil War background.³⁴ Indeed the Civic Guard actually originated as an armed force; its unarmed status was only introduced in January 1923 following a dispute within the force inspired by Civil War divisions.³⁵ While not directly linked to the IR capabilities of the force, this tension between militaristic and civilian models would become apparent during the first major IR crisis of the force, namely the Macushla Affair.

Section II: Challenging the thin blue line

The Macushla Affair represented the first major challenge to the thin blue line, and was catalysed by generational change within the force. Recruitment for the Gardaí was halted

³² Memorandum from Costigan to Secretary of the Department of Justice, 2 February 1960, Department of an Taoiseach [DT] S7989 C/3/94, National Archives of Ireland [NAI].

³³ Vicky Conway, *Policing Twentieth-Century Ireland: A History of An Garda Síochána* (Routledge, 2014), pp.3-6.

³⁴ *Garda Review*, April 1950, 25(5), p.375.

³⁵ Brian MacCarthy, *The Civic Guard Mutiny* (Mercier Press, 2012).

during the Second World War, but re-opened in 1952,³⁶ with 2,269 new recruits attested by 1958.³⁷ This coincided with a loss of experienced members; approximately 4,223 Gardaí were eligible for retirement between 1951 and 1961,³⁸ representing 64 per cent of the force.³⁹ This generation gap had contradictory implications, namely the creation of both resistance to and momentum for change. For Gardaí on the verge of retirement, pensions were understandably their primary concern,⁴⁰ and bringing about meaningful change to pay and working conditions was not considered a priority. Conversely, the new recruits were less likely to acquiesce to the status quo, perhaps being less deferential and obedient than their forbearers.

While limitations on IR may have been acceptable in the early decades of the state due to threats posed by subversive organisations, the Gardaí recruited in the 1950s served in an era of relative “peace and serenity”.⁴¹ Unlike the older generation, they had not served during the Civil War nor experienced the threat of IRA or Blueshirt activity, with the exception of the challenges posed by the IRA’s Border Campaign which took place between December 1956 and February 1962.⁴² These recruits had different expectations and were more inclined to express their grievances and discontent. This generation gap between younger Gardaí and senior officers was pinpointed by the political establishment as one of the major causes of discontent during this era,⁴³ and manifested itself in the form of the Macushla Affair.

³⁶ *Irish Times*, 25 October 1952, p.16.

³⁷ Liam McNiffe, *A History of the Garda Síochána: A Social History of the Force 1922-52, with an Overview for the Years 1952-97* (Wolfhound Press, 1997), p.161; *Garda Review*, December 1952, 28(1), p.31; *Irish Times*, 10 April 1959, p.9.

³⁸ Report of the Committee of Inquiry to examine duties, re-organisation and strength of the Garda Síochána, Department of Foreign Affairs 5/385/12, p.59, NAI.

³⁹ *Irish Times*, 14 October 1953, p.7.

⁴⁰ Gunn, *Sit Down, Guard!*, fn.23, pp.120-121.

⁴¹ *Garda Review*, December 1952, 28(1), p.31.

⁴² Conway, *Policing Twentieth-Century Ireland*, fn.33, pp.93-94.

⁴³ Memorandum 4/314 for Government, 7 November 1961, DT S16465 B/61, NAI.

Before discussing Macushla, it is important to note that a precedent for the challenging of the thin blue line, taken up with vigour by younger members in 1961, had been laid by the JRB. This is particularly notable with regard to the Conciliation and Arbitration [C&A] Scheme which was introduced in June 1959, and represented the first major development in the IR structure of the force in 37 years. The JRB had been seeking C&A since 1950 when this machinery was extended to lower-rank civil servants, and desired access on the same terms.⁴⁴ The campaign to acquire this scheme represented a shift towards seeking greater rights as employees in line with other public service workers, and therefore challenged the idea that Gardaí were state servants first and state employees second. In this way, through seeking parity with other public sector workers, Gardaí were undermining the idea that they constituted a unique occupation.

While the Department of Justice sought the concession of the negotiating machinery out of concern that discontent in the force was rising, the Department of Finance was opposed to the scheme and felt the Gardaí should unquestioningly submit to and obey government decisions.⁴⁵ Eventually in May 1959 a conciliation scheme for all ranks was approved by government and came into operation the following year.⁴⁶ Through the establishment of a Conciliation Council, an Arbitration Board and an Adjudicator, the C&A Scheme provided the framework for IR issues to be discussed by representatives of the Department of Justice, Department of Finance and Garda management, on the one hand, with the Garda representative associations on the other hand.⁴⁷ This provided a forum where claims regarding pay, allowances and conditions of

⁴⁴ *Garda Review*, July 1951, 99(8), p.621.

⁴⁵ Allen, *The Garda Síochána*, fn.16, p.156.

⁴⁶ *Garda Review*, December 1960, 36(1), p.31.

⁴⁷ Scheme to Provide Conciliation and Arbitration Machinery for Members of the Garda Síochána of the Ranks of Chief Superintendent, Superintendent, Inspector, Sergeant and Garda, part 2, para. 10.

service could be discussed.⁴⁸ Updated in 2004, this scheme continues to represent the fundamental IR structure that underlies the Gardaí in 2019.

The granting of C&A machinery in the early 1960s may have rendered the eruption of widespread discontent more likely by raising the expectations of Gardaí while bringing the weaknesses of the representative bodies into the spotlight. The ostensible cause of the Macushla Affair was an agreement reached by the Conciliation Council on 24 and 25 October 1961 concerning pay rates.⁴⁹ Gardaí with less than three years' service from the time of completion of training were excluded from this agreement,⁵⁰ which approximated to 1,500 members.⁵¹ The JRB chose not to take the claim to arbitration as this would have led to the delay of pensions for members of the force on the verge of retirement.⁵² Gunn was Secretary of the Representative Body for Guards [RBG] but he claims that this body was largely powerless.⁵³ The JRB meetings were dominated by the Officers' Representative Body, of which Chief Superintendent T. Collins was Chairman and Superintendent D. Corcoran was Secretary. Given his rank the chairmanship of the JRB also fell to Collins, and contesting this norm was not viewed as an option which meant the RBG possessed limited influence.⁵⁴ Given the lack of an effective, legitimate body to express grievances a power vacuum arose within the lower ranks of the Gardaí,⁵⁵ with the younger generation of recruits to the fore in demanding change.

⁴⁸ Memorandum 4/314 for Government, 7 November 1961, DT S16465 B/61, NAI.

⁴⁹ *Garda Review*, January 1962, 38(2), p.163.

⁵⁰ Memorandum 4/314 for Government, 7 November 1961, DT S16465 B/61, NAI.

⁵¹ Conway, *Policing Twentieth-Century Ireland*, fn.33, p.76.

⁵² Allen, *The Garda Síochána*, fn.16, p.168.

⁵³ Gunn, *Sit Down, Guard!*, fn.23, p.133.

⁵⁴ Fn.53, p.139.

⁵⁵ *Garda Review*, December 1995/January 1996, 24(8), p.11.

The manner in which these younger Gardaí expressed their discontent was shaped by the structural implications of the thin blue line. The presence of a militaristic model which emphasised discipline and obedience meant that any discontent had to remain shrouded in relative secrecy for fear of the imposition of sanctions. The discontent in question was led by an organisation called the Secret Committee. While this term was applied generically by newspapers to discontented Gardaí, in fact two Secret Committees existed. The first Secret Committee was really called the Dublin Metropolitan Division Committee [hereafter the DMD Committee] which had been formed as early as 1958.⁵⁶ The DMD Committee was chaired by Station Sergeant Ó Colmáin and was originally formed to recommend guards for appointment to the representative bodies.⁵⁷ It was the DMD Committee that initiated the Macushla dispute by ordering its members to adopt go-slow actions on 2 November to express discontent with the October pay agreement. The go-slow involved turning a blind-eye to parking violations, refusing to issue summonses for offences and generally carrying out duties in an inefficient manner.⁵⁸ Interestingly, the *Cork Examiner* reported that the honorary secretary of the DMD Committee that sanctioned the go-slow was the fictitious Garda Dixon,⁵⁹ ostensibly a reference to PC Dixon who was the hero of the popular BBC television series *Dixon of Dock Green* which aired between 1955 and 1976.⁶⁰ Dixon represented consensus, order and deference to authority,⁶¹ and the irony of appointing Dixon as the honorary secretary of a secret police committee navigating the limitations imposed by a weak IR framework was presumably not lost on members of the Gardaí.

⁵⁶ Allen, *The Garda Síochána*, fn.16, p.162.

⁵⁷ Fn. 56, p.163.

⁵⁸ *Irish Times*, 4 November 1961, p.1.

⁵⁹ *Cork Examiner*, 4 November 1961, p.7.

⁶⁰ While a national television service was not launched in the Republic of Ireland until New Year's Eve 1961, the population of Ireland along the east coast could receive BBC broadcasts a decade prior to this; Robert Savage, *Irish Television: The Political and Social Origins* (Praeger, 1996), p.20. The *Sunday Independent* described *Dixon of Dock Green*, which aired on Saturday evenings, as a "regular 'must'" for Irish television viewers; 22 January 1961, p.15.

⁶¹ Susan Sydney-Smith, *Beyond Dixon of Dock Green: Early British Police Series* (I.B. Tauris, 2002), p.104.

The DMD Committee was succeeded by another committee [hereafter the Macushla Committee] comprising thirty-six Gardaí elected at a protest meeting held in the Macushla Ballroom on Dublin's Amiens Street on 4 November 1961.⁶² The Macushla Committee proved to be more temperate and politically astute than its predecessor. Following its election – and indeed, the very fact a public election was held undermines the supposedly secretive nature of the committee as portrayed by contemporary newspapers – the Macushla Committee immediately ended any go-slow action, claiming that such action had been initiated spontaneously rather than as an official policy. It also emphasised that the holding of unauthorised meetings was an exercise of constitutional rights rather than an act of rebellion,⁶³ thus portraying Gardaí as citizens of the state entitled to their fundamental democratic rights. This was an attempt to secure public support in accordance with a civilian model of policing. Four resolutions were passed at the Macushla meeting, namely the expression of dissatisfaction with the October 1961 pay order, the rejection of the right of the JRB to negotiate on behalf of the lower ranks, a demand for the establishment of an independent inquiry to examine pay and working conditions and a demand for the resignations of all members of the JRB.

Despite 815 men attending the Macushla meeting, just 167 were identified in a report by Superintendent O'Brien. Moreover only one of thirty ringleaders on the platform was identified. Minister for Justice Charles Haughey expressed “serious dissatisfaction” that the Superintendent had failed to identify more of the dissenters. The unsanctioned actions undertaken by the dissenting Gardaí were met with a strong disciplinary backlash, which

⁶² *Irish Independent*, 6 November 1961, p.1. The precise degree of overlap between membership of the DMD and Macushla Committees remains unclear.

⁶³ *Irish Independent*, 8 November 1961, p.1.

exerted a ratcheting effect on tensions in the force. On Monday 6 November each of the 167 men identified who attended the meeting was charged with a disciplinary offence, and three days later Commissioner Costigan issued dismissal notices to eleven members under art.24 of the Garda Síochána (Discipline) Regulations 1926.⁶⁴ The eleven dismissed members were on the Macushla Committee⁶⁵ and all served in Dublin.⁶⁶ The Macushla Committee established a “fighting fund” in order to raise money to seek a High Court injunction against the dismissals⁶⁷ and organised a second protest meeting in the Macushla Ballroom on Sunday 12 November. But on the evening of 11 November, Helen Quinn, wife of Assistant Commissioner Quinn, was killed in a motor accident and out of respect and sympathy for the Quinn family the meeting was postponed.⁶⁸ One of the items for discussion at the second Macushla meeting was to ask Gardaí to resign en masse.⁶⁹ Had the meeting not been averted due to tragic circumstances, the 1961 dispute would have progressed down a very different pathway.

The Macushla Affair was officially resolved on 13 November 1961 following the intervention of Archbishop McQuaid. The eleven dismissed men could apply to be reinstated in the force, and Haughey pledged to examine the representative machinery,⁷⁰ though he did not consider “there were any serious defects” in it. Gardaí were democratically elected to the JRB even if members themselves “had not bothered to vote”.⁷¹ Likewise the government memorandum on the Macushla Affair regarded the problem with the representative machinery as one easily resolved by greater transparency and participation in the representative body elections.⁷² This

⁶⁴ Memorandum 4/314 for Government, 7 November 1961, DT S16465 B/61, NAI.

⁶⁵ *Irish Independent*, 10 November 1961, p.1.

⁶⁶ *Irish Times*, 10 November 1961, p.1.

⁶⁷ *Irish Independent*, 10 November 1961, p.1.

⁶⁸ *Cork Examiner*, 13 November 1961, p.1.

⁶⁹ Shane Kilcommins, Ian O'Donnell, Eoin O'Sullivan and Barry Vaughan, *Crime, Punishment and the Search for Order in Ireland* (Institute of Public Administration, 2004), p.207; *Evening Herald*, 11 November 1961, p.1.

⁷⁰ *Irish Independent*, 14 November 1961.

⁷¹ *Irish Independent*, 14 November 1961, p.1.

⁷² Memorandum 4/314 for Government, 7 November 1961, DT S16465 B/61, NAI.

is evidence of the political ignorance or unwillingness to understand the deeper structural causes of the Macushla Affair. This representative machinery, as previously discussed, limited the IR activity of members of the force based on the flawed assumption that the police constitute a bulwark against chaos. The unwillingness to question, let alone challenge, this assumption suggests that the thin blue line blindsided the government when faced with the issue of Garda IR.

Section III: The Macushla legacy

Macushla constituted the first major challenge to the thin blue line since the inception of the force, and it is worthwhile considering both the immediate and long term impact of this dispute. In December 1961, following the intervention of Archbishop McQuaid, a committee was established by the Department of Justice to draft new regulations for the representative bodies. These allowed the RBG to act independently of the JRB and appoint a full-time secretary.⁷³ This gave Gardaí greater power and resources in communicating matters affecting their welfare, which undermined the militaristic model's emphasis on unquestioning obedience. The new regulations also permitted the Gardaí to collect money from its members which meant professional advisors could be hired.⁷⁴ The RBG sought to hire Garret FitzGerald as an economic consultant but they were disappointed when FitzGerald was directed by the government to turn down the role due to a potential conflict of interest, as he also served as Chairman of the ESB General Arbitration Tribunal.⁷⁵

⁷³ Garda Síochána (Representative Bodies) Regulations 1962 (SI 1962/64).

⁷⁴ Gunn, *Sit Down, Guard!*, fn.23, p.142.

⁷⁵ Garret Fitzgerald, *Just Garret: Tales from the Political Front Line* (Liberties Press, 2015), pp.84-85.

In response Jack Marrinan, one of the eleven Gardaí dismissed in the aftermath of the Macushla meeting⁷⁶ and now General-Secretary of the RBG,⁷⁷ delivered a letter of complaint to Taoiseach Seán Lemass at the same time that Gunn delivered a letter to Commissioner Costigan. Going directly to the head of government over the head of the force was an unprecedented breach of protocol, with Gunn describing Costigan as “obviously upset” by this move.⁷⁸ The actions taken by Marrinan and Gunn demonstrate that Macushla brought about a dilution in the traditional autocratic role of the Commissioner. Costigan resigned on 5 February 1965 and within three days was appointed an Administrative Assistant in the Department of Justice.⁷⁹ This middle management role was a clear demotion considering he had served at top management level as Assistant Secretary prior to taking up the role of Commissioner.⁸⁰ And yet contrary to Gregory Allen’s assertion,⁸¹ one must exercise caution in placing sole blame for Costigan’s demise on Macushla as over three years had elapsed between the two events.

From a long-term perspective, Macushla opened the floodgates for further IR action. The period 1969-1998 was one of tumult within An Garda Síochána from an IR perspective, with members increasingly asserting their rights as employees using a variety of innovative and resourceful measures. In August 1969 a ‘blue flu’ broke out in the Dublin Metropolitan Division where Gardaí in Crumlin and Sundrive Road districts alleged sickness and did not show up for work.⁸² Such tactics were common internationally during the late 1960s⁸³ with

⁷⁶ *Síocháin: The Official Magazine of the Garda Síochána Retired Members' Association*, October 2015, 44(3), p.5.

⁷⁷ Marrinan would serve in this role for twenty seven years until he retired on 2 July 1989; *Garda Review*, July/August 1989, 17(7), p.5.

⁷⁸ Gunn, *Sit Down, Guard!*, fn.23, p.156.

⁷⁹ *Evening Herald*, 24 February 1965, p.2.

⁸⁰ Pauric Dempsey, “Costigan, Daniel,” *Dictionary of Irish Biography*.

⁸¹ Allen, *The Garda Síochána*, fn.16, p.179.

⁸² Conor Brady, *The Guarding of Ireland: The Garda Síochána and the Irish State 1960-2010* (Gill and Macmillan, 2014), p.22.

⁸³ Reiner, *The Blue-Coated Worker*, fn.8, p.34.

Juris and Feuille deeming actions such as blue flus as part of the “politics of disruption”.⁸⁴ Analogous to the go-slow tactics adopted during the Macushla Affair, the blue flu revealed increasing police recourse to low-level industrial activity to resolve grievances, suggesting that the 1961 dispute acted as a watershed in which the preceding level of discipline was never fully restored. The Crumlin/Sundrive Road dispute was resolved with the publication of the Conroy Report in January 1970, which introduced significant changes to pay and working conditions, including overtime payments, increased rent allowances and the reduction of the working week to 40 hours.⁸⁵ The Conroy Report also led to the redrawing of disciplinary regulations,⁸⁶ which further diluted the militaristic model. Indeed the changes brought about by this report were so monumental that Seamus Breathnach claims a new calendar was adopted by the Gardaí with every other date prior to 1970 deemed B.C.: “Before Conroy.”⁸⁷

The Conroy Report, however, only stemmed the tide of discontent temporarily,⁸⁸ and in October 1976 the RBG and Representative Body for Inspectors, Station Sergeants and Sergeants sent a joint deputation to meet with Minister for Justice Patrick Cooney seeking the repeal of legislation forbidding Gardaí from joining a trade union.⁸⁹ Though Cooney emphasised that “the statutory prohibition on trade union membership...would have to continue”,⁹⁰ he did agree to amend the C&A Scheme to allow the discussion of issues such as promotion, discipline and transfers by the Conciliation Council.⁹¹ He also permitted a

⁸⁴ Juris and Feuille, *Police Unionism*, fn.7, p.85.

⁸⁵ McNiffe, *A History*, fn.37, pp. 164-165; Conroy Commission, Department of Justice 2005/147/256, NAI.

⁸⁶ *Garda Review*, November 1984, 12(10), p 8.

⁸⁷ Seamus Breathnach, *The Irish Police: From the Earliest Times to the Present Day* (Anvil Books, 1974), p.148. Yet not all recommendations advocated by the report were acted upon – in particular, the need to examine the relationship between the Gardaí and Department of Justice was ignored; Walsh, *The Irish Police*, fn.30, p.xiii.

⁸⁸ *Garda Review*, October 1984, 12(9), p.17.

⁸⁹ *Garda Review*, October 1976, 4(10), p.4; *Garda Review*, November 1976, 4(11), p.4.

⁹⁰ Conroy Commission: proposed amendment on An Garda Síochána Conciliation and Arbitration Scheme, Department of Justice 2005/147/269, NAI.

⁹¹ *Garda Review*, February 1977, 5(2), p.4.

reconstitution of the representative bodies, and by 1978 they had been replaced by the Garda Representative Association [GRA] and Association for Garda Sergeants and Inspectors [AGSI].⁹² These associations gave more power to local elected representatives as opposed to the old representative bodies which operated on “the goodwill of management”,⁹³ and it meant they could now appoint civilian staff and affiliate with certain international police organisations.⁹⁴

Nearly a decade after the Conroy Report, the report of the committee of enquiry on pay chaired by Professor Loudon Ryan led to an increase of £14 million in the Garda pay packet, though younger Gardaí and those who were not in receipt of overtime or unsociable hours allowances were unhappy with the provisions.⁹⁵ The changes introduced in the late 1960s and early 1970s reveal increased confidence on behalf of the Gardaí to express their grievances, while the granting of significant pay increases indicates the increasing effectiveness of the Garda bodies and their successive associations.

Following the discontent of the 1970s, the 1980s marked a period of legal disputes and challenges to the IR structure of the force through the courts, though none of these measures proved successful. In December 1987 the GRA and AGSI took a civil case in an effort to protect the integrity of the C&A Scheme.⁹⁶ The GRA and AGSI argued that the termination of parading time and the re-rostering of juvenile liaison officers without first passing these measures

⁹² The Garda Síochána (Associations) (Superintendent and Chief Superintendent) Regulations later allowed for an Association of Superintendents and Association of Chief Superintendents to be formed; Garda Síochána (Associations) (Superintendent and Chief Superintendent) Regulations 1987 (SI 1987/200).

⁹³ *Garda Review*, October 1977, 5(10), p.1; *Garda Review*, April 1976, 4(4), p.4.

⁹⁴ McNiffe, *A History*, fn.37, p.166.

⁹⁵ *Garda Review*, April/May 1979, 7(4+5), p.1.

⁹⁶ Central Executive Committee, *10th Annual Delegate Conference Report* (GRA 1988), p.75.

through the C&A Scheme was inappropriate. But the case was dismissed in the High Court in April 1988.⁹⁷ This dismissal undermined the meaningfulness of the Scheme and made it appear that the representative associations could simply be overruled by Garda management and the government in matters concerning Garda duties and employment conditions.

This civil case was brought amidst another significant legal challenge by detectives in *Aughey and Others v Attorney General*. The plaintiffs in the *Aughey* case comprised 900 detectives who were aggrieved by the lack of representation from the two authorised representative bodies, the GRA and AGSI. They argued that detectives constituted a separate rank and should be allowed to form their own representative body, and claimed that s.13 of the Garda Síochána Act 1924 as amended by s.1 of the Garda Síochána Act 1977 violated their constitutional right under Art.40.6.1(iii) to form associations and unions. Their case was brought in 1985 but was dismissed in the High Court the following year.⁹⁸ Barrington, J. ruled that “because of their close connection with the security of the state, Gardaí may have to accept limitations on their right to form associations and unions which other citizens would not have to accept”.⁹⁹

Barrington’s finding in the *Aughey* case was made during the Troubles with the security obligations of the state increasing after the Anglo-Irish Agreement in 1985,¹⁰⁰ indicating that the bifurcated roles of law enforcement and national security adopted by the force contributes to the thin blue line. Yet this case reveals that while the judiciary and political establishment continued to view the Gardaí through the prism of the thin blue line mentality, the Gardaí were

⁹⁷ *Garda Review*, May 1988, 16(5), p.5.

⁹⁸ *Aughey and Others v Attorney General* [1986] I.L.R.M. 206.

⁹⁹ Walsh, *The Irish Police*, fn.30, pp.34-35.

¹⁰⁰ Fn.99, p.127.

reformulating themselves as state employees first and state agents second in accordance with the precedent set by *Macushla*. Barrington's ruling was appealed to the Supreme Court which issued its decision on 13 May 1988. In a unanimous judgment, the Supreme Court found that the rank of detective officer did not differ from other ranks in terms of functions, duties or operational methods and so could not be regarded as separate.¹⁰¹

A caveat must be noted, however, when attempting to situate the *Aughey* case purely as an expression of desire for increased labour rights. Internal discontent within the Garda associations must also be regarded as an underlying cause of this legal action. According to the *Garda Review*, the controversy culminating in the *Aughey* judgment arose from an agreement made by the Conciliation Council which required written exams to be undertaken in order to be considered eligible for promotion. Detectives, however, argued they were a special rank and did not need to undertake these exams,¹⁰² with the parochial interests of a small faction of the force rather than the IR capabilities of the entire force an impetus for the court case. The *Garda Review* described itself as "naturally discomforted" by the detectives' action,¹⁰³ and it sparked internal factionalism which culminated in the split of the organisation and the formation of the Garda Federation in July 1994. Another splinter group formed in November 1994 when four delegates withdrew from the Central Executive Committee of the GRA. While the proximate cause of the 1994 splits was controversy over a package on pensionable allowances which the GRA and AGSI had accepted as opposed to signing up to the Programme for Competitiveness

¹⁰¹ *Aughey and Others v Attorney General* [1989] I.L.R.M. 87 [SC 13 May 1988].

¹⁰² *Garda Review*, September 1985, 13(6), p.1; *Garda Review*, May 1988, 16(5), p.5.

¹⁰³ *Garda Review*, September 1985, 13(6), p.1. See also Central Executive Committee, *8th Annual Delegate Conference Report* (GRA 1986), pp.30-31.

and Work, the *Garda Review* identified the court action taken by detectives in 1985 as marking the start of the dispute.¹⁰⁴

This bitter and protracted dispute was finally resolved towards the end of the 1990s, with the Garda Federation dissolved by November 1997 in order to facilitate an approach to the issue of pay in a “unified and committed fashion”.¹⁰⁵ April and May 1997 witnessed lobbying by the GRA, AGSI and Association of Garda Superintendents to pressurise the government to introduce a commission on pay.¹⁰⁶ On 16 April 1997, Acting General Secretary of the GRA, PJ Stone, sent a letter to Taoiseach John Bruton criticising the fact that as “employees of the state” the Gardaí had been excluded from the previous four national wage agreements.¹⁰⁷ This system of national wage agreements had been introduced in 1987, but due to the restrictions on trade union membership under s.13 of the Garda Síochána Act, 1924, the Garda associations were not permitted to negotiate. In seeking parity with other public servants in terms of participation in these wage agreements, the Gardaí were once more positioning themselves as state employees rather than state servants.

The reunification of the GRA contributed to the magnitude of the 1997/1998 campaign for pay increases. Marches and pickets on Leinster House were organised in April 1998, and on 1 May 1998, International Labour Day, another blue flu occurred, described by the *Irish Independent* as “the first major industrial action in the force's 75 year history.”¹⁰⁸ While this view ignores the precedent set by the Macushla Affair and the blue flu in the Crumlin and Sundrive Road

¹⁰⁴ For a comprehensive overview of this dispute, see *Garda Review*, Autumn 1995, 23(9), pp.3-5.

¹⁰⁵ *Irish Times*, 12 September 1997, p.4; *Garda Review*, February 1998, 26(1), p.3.

¹⁰⁶ *Garda Review*, April 1997, 25(3), pp.5-7; *Garda Review*, May 1997, 25(4), pp.33-35.

¹⁰⁷ *Garda Review*, May 1997, 25(4), p.35.

¹⁰⁸ *Irish Independent*, 1 May 1998, p.1.

districts three decades earlier, the scale of this protest was unprecedented with around 4,586 Gardaí throughout the country phoning in sick to protest over pay.¹⁰⁹ Following a further blue flu on 13 June 1998,¹¹⁰ and faced with the threat of more during the Irish leg of the Tour de France the following month,¹¹¹ a 9 per cent pay rise backdated for two years was accepted by GRA members with a two to one majority, ending this phase of industrial action.¹¹² The twentieth century therefore ended on a buoyant note for the Gardaí from an IR perspective, with the Macushla Affair of 1961 acting as a critical juncture in enabling them to assert their entitlement to full labour rights as employees of the state using a variety of innovative, if somewhat dubious, methods.

Section IV: Occupational uniqueness?

The Macushla Affair signalled the dilution of the militaristic model of policing, and facilitated further attempts to assert the position of Gardaí as state employees rather than state servants. And yet, by the end of the twentieth century the fundamental IR structure of the Gardaí remained the same. A C&A Scheme remained the principal mechanism for the resolution of grievances surrounding working conditions and issues such as promotions, discipline and transfers. Though the Garda representative bodies evolved into Garda associations, they still lacked trade union status and were unable to negotiate at national pay agreements. As of 2019, the Garda Síochána Act 2005 underpins the force, and apart from minor adjustments,¹¹³ s.18 of this Act which outlines the formation of associations and restricts any Garda trade union activity is a mirror image of s.13 of the Garda Síochána Act 1924. Therefore, both in legislation

¹⁰⁹ *Irish Independent*, 15 May 1998, p.9. See also Conway, *Policing Twentieth-Century Ireland*, fn.33, p.161.

¹¹⁰ *Irish Times*, 15 June 1998, p.4.

¹¹¹ *Irish Independent*, 6 May 1998, p.3.

¹¹² *Irish Times*, 1 July 1998, p.5; *Irish Examiner*, 6 August 1998, p.10.

¹¹³ For instance, s.18(6) of the 2005 Act allows for Garda probationers to become members of the representative association, which was not provided for under the 1924 legislation.

and in practice, the IR mechanisms of the force have remained mostly unchanged since the foundation of the Free State. In order to understand the reasons for this stagnation, it is necessary to return once more to the concept of the thin blue line. As previously outlined, the thin blue line captures the fear that the absence of the police will lead to the chaotic explosion of criminality and collapse of the social order. But it also captures the perception of the police as a unique occupation.

This espousal of occupational uniqueness accrues benefits for the Gardaí from an IR perspective in two main ways. First, it provides justification for and bargaining power concerning pay increases. In bringing claims for pay increases before the Conciliation Council prior to the outbreak of the Macushla Affair, the JRB emphasised occupational uniqueness as the main justification. As the Gardaí had “obligations and responsibilities peculiar to their calling”, the force maintained that it was unique from other public servants and so merited differential treatment.¹¹⁴ This quote was taken from the report of the Desborough Committee of 1919 and the representative bodies enjoyed employing it to distinguish them from their public servant counterparts when seeking wage increases.¹¹⁵ Likewise both the Conroy Report (1970) and the Ryan Commission Report (1979) justified significant pay increases on the basis that the Gardaí were a unique organisation.¹¹⁶ The blue flu campaign in 1998 was viewed with alarm by the media due to the perceived uniqueness and indispensability of the Gardaí to the social order; the *Irish Examiner* for instance referred to the “chaos” and “criminal field day”

¹¹⁴ *Garda Review*, February 1958, 33(3), p.223.

¹¹⁵ Memorandum 4/314/6 for Government, 21 April 1960, DT 16841A, NAI; *Garda Review*, July 1958, 33(8), p.615. The Committee on the Police Service of England, Wales and Scotland, known as the Desborough Committee, was established to investigate the causes of the police strikes of 1918 and 1919. It led to a dramatic increase in police pay, in addition to recommending the introduction of the Police Act 1919. The Desborough Report was later adopted in Ireland; Joanne Klein, *Invisible Men: The Secret Lives of Police Constables in Liverpool, Manchester, and Birmingham, 1900-1939* (Liverpool University Press, 2010), p.9.

¹¹⁶ *Garda Review*, December 1996/January 1997, 24(8), p.3.

that would emerge if the Gardaí called in sick.¹¹⁷ While much of the media coverage was critical of the actions of the Gardaí, this sense of fatalism and alarm that accompanied coverage of the dispute arguably brought significant pressure to bear on the government to find a swift and effective resolution. In this way, the thin blue line acts as a powerful bargaining chip for the Gardaí when seeking to improve their lot, in spite of the fact that this very concept is also used by the political establishment to justify restrictions on Garda IR capabilities.

Given the preponderance of the perception of the police as a “unique” role, it is worthwhile exploring what exactly makes the Gardaí a unique occupation compared to other public sector workers. Outlined below are the four main reasons commonly offered in support of the supposed uniqueness of the Gardaí which justify restricted IR capabilities. It will be argued that only one of these four reasons may be regarded as accurate, suggesting that at best this notion of occupational uniqueness is overstated, and at worst it is misleading.

Maintenance of law and order

Commenting on the Trade Disputes (Amendment) Bill, 1982, which sought to amend the Trade Disputes Act 1906, the *Garda Review* expressed its awareness of the “vital nature” of the police role and agreed that “anarchy and breakdown of order” would occur in the event of a police strike.¹¹⁸ But there is little evidence to suggest that police industrial action heralds chaos. In Ireland, the 1998 blue flu is the closest example of actual strike action. During this blue flu, one particularly serious incident did occur, namely the attempted robbery of a Securicor cash-in-transit van by a Real IRA gang. The robbery, however, had been attempted the previous week and the gang was under the surveillance of the Emergency Response Unit prior to the

¹¹⁷ *Irish Examiner*, 1 May 1998, p.1.

¹¹⁸ *Garda Review*, June-July 1982, 10(3), p.1.

blue flu, suggesting the robbery would have occurred regardless of whether Gardaí were engaging in industrial action or not.¹¹⁹ A minimum policing service was provided during the 1998 blue flu; despite 82 per cent of the Gardaí rostered calling in sick,¹²⁰ there was a contingency plan in operation in which probationers, sergeants and inspectors took on the duties of the ordinary Gardaí. This meant around 2,500 members of the force were working, the same as on any given working day.¹²¹ This indicates that delivery of essential services as a prerequisite of the taking of front line industrial action can permit an effective expression of discontent without compromising the maintenance of law and order or the safety of the public.

Non-political role

A second reason proffered for the occupational uniqueness of the Gardaí is their apparent non-political role. The Working Group on Industrial Relations Structures argued against Garda associations becoming trade unions affiliated to the ICTU as Gardaí may be drawn into industrial action started by another association “as part of a united ICTU campaign”. Gardaí have a non-political role and possessing full IR capabilities such as strike action could violate it, especially if the ICTU decides to “engage in political campaigns in support of improving social condition and social justice”.¹²² Yet the extent to which the role of the Gardaí is truly non-political is unclear. The centralised nature of the force and its direct accountability to the Minister for Justice renders political involvement in policing matters inevitable, as revealed through the policing of the IRA in the 1930s, the tapping of journalists’ telephones in the 1980s and the manner in which the Corrib gas project was policed in the 2000s.¹²³ More recently, the

¹¹⁹ *Irish Independent*, 2 May 1998, p.1. For further details on this case see *Grainne Nic Gibb v Commission of Investigation into the Fatal Shooting by An Garda Síochána of Ronan MacLochlainn on the 1st May 1998*, in *Ashford, Co. Wicklow* [2018] IEHC 89, unreported judgement.

¹²⁰ *Irish Independent*, 15 May 1998, p.9.

¹²¹ *Irish Independent*, 2 May 1998, p.11.

¹²² The Working Group on Industrial Relations Structures for An Garda Síochána, *First Report* (Department of Justice and Equality 2017), para. 6.2.3.

¹²³ Conway, *Policing Twentieth-Century Ireland*, fn.33, p.210.

manner in which the allegations made by Garda whistleblower Maurice McCabe were handled by the Department of Justice and Equality and Garda Headquarters raised questions over the supposedly non-political role of the force.¹²⁴ Claims of political policing tend to be viewed unfavourably - Deputy Finian McGrath's accusations of political policing regarding breathalyser tests in March 2019 led to calls for his immediate resignation¹²⁵ – but nonetheless the idea that Gardaí operate in a neutral and non-politicised vacuum is difficult to accept uncritically.

Dangerous nature of the profession

Neither can the dangerous nature of the profession be regarded as a fully convincing explanation of occupational uniqueness. According to the Horgan Review of 2016, “members of An Garda Síochána perform a difficult and often dangerous job that is unique in Irish society”,¹²⁶ while during the 1998 GRA annual conference Commissioner Pat Byrne told delegates that the Gardaí were a unique profession as its members could be “confronted at any time by the bullet, knife or syringe each day they go on duty.”¹²⁷ While not intending to deny that membership of the Gardaí constitutes a challenging and dangerous occupation, other front line public sector workers also face significant dangers in their everyday roles. For example, nurses face various hazards on the job, including significant levels of workplace violence from patients.¹²⁸ Indeed in 2018 in Cork University Hospital alone, there were approximately 40 attacks on staff in the hospital, while between 2008 and 2018 over 10,000 assaults on staff in hospitals throughout the Republic of Ireland took place, with nurses the victims of 70 per cent

¹²⁴ *Irish Times*, 9 January 2018, p.1.

¹²⁵ *Irish Times*, 1 April 2019, p.6.

¹²⁶ John Horgan, *Haddington Road Agreement: Review of An Garda Síochána* (Department of Justice and Equality, 2016), p.9.

¹²⁷ *Irish Independent*, 13 May 1998, p.14.

¹²⁸ International Council of Nurses, “Position statement: Prevention and management of workplace violence” (2017) <https://www.icn.ch/sites/default/files/inline-files/ICN_PS_Prevention_and_management_of_workplace_violence.pdf> accessed 1 April 2019.

of these assaults.¹²⁹ Members of the Gardaí certainly occupy a potentially dangerous profession but they are not unique in this.

Tripartite responsibility for immigration, state security and law enforcement

The tripartite responsibility of the Gardaí for immigration, state security and law enforcement has been pinpointed as evidence of their unique occupational status.¹³⁰ However, since 2016 this position in relation to immigration has been somewhat undermined. In 2016 the registration of non-EEA nationals in the Dublin area was transferred from the Gardaí to the Department of Justice and Equality's Irish Naturalisation and Immigration Service [INIS], and the recent report of the Commission on the Future of Policing in Ireland recommended that all remaining immigration duties of the Gardaí should also be transferred to the INIS.¹³¹ Whether or not this recommendation will be acted upon remains unclear, but it appears that the responsibility of the Gardaí for state security will remain unchanged.¹³² This responsibility for state security is highly unusual, as in most other European countries policing and state security are kept separate. The closest example to Ireland is Norway, though the Norwegian Police Security Service reports to the Ministry of Justice and Police rather than to the Commissioner.¹³³ While this responsibility for state security of the Gardaí renders it a unique occupation particularly when compared to other European police forces, it is not clear that this directly translates into justification for a widespread prohibition of IR activity. Rather, it is perhaps best viewed as justification for limits on industrial action to ensure a minimum service is provided, as during the 1998 blue flu. Nonetheless, while the role of the Gardaí in carrying out immigration duties

¹²⁹ Irish Examiner, "40 attacks on staff per year in Cork University Hospital" (19 July 2018) <<https://www.irishexaminer.com/breakingnews/ireland/40-attacks-on-staff-per-year-in-cork-university-hospital-856402.html>> accessed 21 April 2019.

¹³⁰ See for example Dáil Debate, 18 October 2018, Vol.973 No.7.

¹³¹ Commission on the Future of Policing in Ireland, *The Future of Policing in Ireland* (Department of Justice, 2018), p.34.

¹³² Fn. 131, p.35.

¹³³ Conor Brady, *The Guarding of Ireland: The Garda Síochána and the Irish State, 1960-2014* (Gill and Macmillan, 2014), p.3.

has been undermined in recent years, the responsibility for state security in addition to law enforcement supports the idea of the Gardaí as a unique occupation.

In light of the foregoing, the theoretical justifications offered for the supposed uniqueness of the police role are not fully convincing. The main bastion which supports the occupational uniqueness of the police is their role in maintaining the security of the state as well as law enforcement. This section has also revealed that there is a shared participation by the political establishment and Gardaí in upholding the concept of the thin blue line. Paradoxically, the idea of the Gardaí as a unique occupation preventing the emergence of anarchy has been used by the state to justify restricted IR capabilities, while the Gardaí similarly draw on this concept in order to justify their claim for pay increases. Blue or not, Gardaí walk a thin line in attempting to balance these dual benefits and frustrations that accompany their claim to occupational uniqueness within the sphere of IR. This shared participation in the concept of the thin blue line explains the stagnation of Garda IR structures, as the discussion below of the EuroCOP case most potently reveals.

Section V: EuroCOP and the thin blue line

The EuroCOP decision provides key insight into the continuing grip exerted by the thin blue line mentality over Garda IR. The European Confederation of Police [EuroCOP] is a non-governmental organisation based in Luxembourg which represents approximately half a million police officers across 27 European countries, including members of the AGSI.¹³⁴

¹³⁴ Complaint No.83/2012, *European Confederation of Police [EuroCOP] v Ireland*, Case Document No.1 (European Committee of Social Rights [ECSR], 21 June 2012), p.2. The AGSI has been a full member of EuroCOP since 2002, whereas the GRA are not currently members of this confederation. Nevertheless, the EuroCOP decision has implications for all four Garda associations; EuroCOP, “EuroCOP Members” <<https://www.eurocop.org/members/>> accessed 5 April 2019.

EuroCOP has the power to consult with the Council of Europe and also to lodge collective complaints under the Additional Protocol of the European Social Charter [ESC], which was ratified by Ireland on 4 November 2000.¹³⁵ On 7 June 2012 EuroCOP registered a complaint on behalf of the AGSI with the European Committee on Social Rights [ECSR], claiming that the restriction on trade union rights of the Gardaí violated the ESC; particularly Art.5 concerning the right to organise, Art.6 regarding the right to bargain collectively and Art.21 which addresses the right to information and consultation.¹³⁶ While the Committee found that Art.21 of the Charter did not apply because Ireland chose not to ratify this in 2000, it considered the implications of Art.5 and Art.6 of the Charter.¹³⁷ There were four main elements to its decision, concerning trade union status, affiliation to the ICTU, access to national pay negotiations and the right to strike.

Regarding the first element of the EuroCOP submission, namely trade union status, the ECSR found by ten votes to one that no violation of Art.5 had occurred. Art.5 of the ESC guarantees to protect the right of workers to form and join “local, national or international organisations for the protection of their economic and social interests”, but the AGSI claimed that s.18(3) of the Garda Síochána Act 2005 which restricts Gardaí from joining a trade union “any object of which is to control or influence the pay, pensions or conditions of service of the Garda Síochána” violated this provision. The ECSR found, however, that no violation had occurred

¹³⁵ Complaint No.83/2012, *EuroCOP v Ireland*, Case Document No.1 (ECSR, 21 June 2012), p.2. See also Additional Protocol to the European Social Charter Providing for a System of Collective Complaints Strasbourg [1995], ETS No.158.

¹³⁶ *EuroCOP v Ireland* (2014) 59 EHRR SE10.

¹³⁷ Complaint No.83/2012, *EuroCOP v Ireland*, Report to the Committee of Ministers (ECSR, 2 December 2013), p.12. States can opt to accept only certain provisions of the Charter; this is provided for by Art.20 of the ESC and Art.A of the Revised ESC; Holly Cullen, “The Collective Complaints System of the European Social Charter: Interpretative Methods of the European Committee of Social Rights” (2009) 9(1) *Human Rights Law Review* 61 at 62. Ireland accepted 92 of 98 paragraphs when it ratified the Revised ESC on 4 November 2000; Council of Europe, “Country Factsheet: Ireland” <<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806449ac>> accessed 8 March 2019.

for two main reasons. First, in *European Council of Police Trade Unions (CESP) v Portugal*,¹³⁸ the ECSR emphasised that Art.5 clearly allowed a restriction though not a total denial of the police right to organise; Ireland complied with this as s.18(1) of the 2005 Act permitted the establishment of representative associations. Secondly, the ECSR found that these associations possessed the same basic rights as a trade union;¹³⁹ indeed, this finding was somewhat inevitable as the AGSI clearly acknowledged in its submission that the Gardaí did not want to form a trade union, because the representative associations already served this purpose.¹⁴⁰ From a surface level the AGSI appeared to be undermining its own case, but its acknowledgement suggests that trade union status was sought not as an end in itself. Rather, it was sought for instrumental purposes in order to permit industrial action such as the right to strike.

In contrast, the ECSR unanimously found a violation of Art.5 concerning the right to affiliate with the ICTU. The ECSR reasoned that since representative associations were denied trade union status and the right to strike, a justification for restriction from joining a national organisation of trade unions such as the ICTU was needed. There were three grounds on which the ECSR ruled a sufficient justification was absent. First, it found that joining a national organisation of trade unions would not inhibit public safety or the public interest. Second, it found the restriction was arbitrary as both EuroCOP and the ICTU were members of the European Trade Union Confederation, yet the AGSI was not allowed to affiliate with the ICTU at national level.¹⁴¹ Third, it also claimed that the existing restriction was disproportionate as it “has the factual effect of depriving the representative associations of the most effective means

¹³⁸ Complaint No.11/2001, *European Council of Police Trade Unions v Portugal*, Decision on the Merits (ECSR, 22 May 2002).

¹³⁹ Complaint No.83/2012, *EuroCOP v Ireland*, Report to the Committee of Ministers (ECSR, 2 December 2013), p.38.

¹⁴⁰ Complaint No.83/2012, *EuroCOP v Ireland*, Case Document No.1 (ECSR, 21 June 2012), p.4.

¹⁴¹ Complaint No.83/2012, *EuroCOP v Ireland*, Report to the Committee of Ministers (ECSR, 2 December 2013), p.20.

of negotiating the conditions of employment on behalf of their members”.¹⁴² This point alluded to the role of the ICTU in national pay negotiations and indeed the third element of the EuroCOP decision regarding access to pay negotiations may be viewed as a corollary of ICTU affiliation.

From the commencement of national pay negotiations in 1970,¹⁴³ Garda associations were excluded as they did not constitute a trade union and were not affiliated to the ICTU. Instead, the ICTU negotiated on behalf of public servants and the Garda associations were simply informed of these changes to pay. Though the Gardaí had participated in negotiations for the Public Service Agreement 2010-2014 [Croke Park Agreement] and the Public Service Stability Agreement 2013-2016 [Haddington Road Agreement],¹⁴⁴ they claimed that in these and the subsequent Lansdowne Road Agreement they had been side-lined from negotiations due to lack of trade union status and ICTU affiliation.¹⁴⁵ Art.6(2) of the ESC obliged the state to promote machinery for “voluntary negotiations between employers or employers’ organisations and workers’ organisations” that could facilitate the emergence of collective agreements, and this machinery also had to ensure the “effective exercise” of the right to bargain collectively.¹⁴⁶ While the ECSR found the presence of a C&A Scheme, introduced in 1959, met this requirement on a superficial level, it deemed the Scheme ineffective as it was time consuming and sometimes left disputes unresolved.¹⁴⁷ Given this, the C&A Scheme did

¹⁴² Fn.141, p.24.

¹⁴³ Though a system of decentralised collective bargaining existed prior to this date; see James F. O’Brien, A Study of National Wage Agreements in Ireland (ESRI, 1981), Paper No.104.

¹⁴⁴ Complaint No.83/2012, *EuroCOP v Ireland*, Case Document No.4 (ECSR, 21 June 2012).

¹⁴⁵ Martin Wall, “Gardaí say they will continue cuts protests” (20 March 2013)

<<https://www.irishtimes.com/news/crime-and-law/garda%C3%AD-say-they-will-continue-cuts-protests-1.1332404>> accessed 22 April 2019; *Garda Review*, March 2013, 41(2), p.3.

¹⁴⁶ European Social Charter (Revised) [1996] ETS No.163.

¹⁴⁷ Complaint No.83/2012, *EuroCOP v Ireland*, Report to the Committee of Ministers (ECSR, 2 December 2013), pp.29-33.

not constitute an effective alternative to national pay negotiations, and accordingly the ECSR unanimously found a violation of Art.6.2 of the Charter.¹⁴⁸

The final element of the EuroCOP decision regarding the right to strike was passed by a far narrower margin, with the ECSR voting by 6 to 5 votes that Art.6.4 of the Charter was violated. There is no enshrined right to strike in Ireland.¹⁴⁹ Art.40(6)(1)(iii) of the Constitution guarantees the right of citizens to form associations and unions but this does not guarantee a right to strike. Rather, in Ireland workers are offered protection from civil and criminal liabilities arising from strike action.¹⁵⁰ Yet this Article of the Constitution also permits the state to pass laws to prohibit this right “for the regulation and control of the public interest”.¹⁵¹ Correspondingly part II s.8 of the Industrial Relations Act 1990 excludes Gardaí and members of the Defence Forces from the definition of a “worker”,¹⁵² and in addition to the relevant provisions of the Garda Síochána Act 1924 as previously outlined, members of these occupations are prohibited from engaging in strike action and are excluded from immunity if such action is engaged in.

¹⁴⁸ Complaint No.83/2012, *EuroCOP v Ireland*, Report to the Committee of Ministers (ECSR, 2 December 2013), pp.29-33, p.38.

¹⁴⁹ The only hint of a right to strike protected by the Constitution was in the case of *Educational Company of Ireland v Fitzpatrick (No.2)* in which Kingsmill Moore J. asserted that a “right to dispose of one’s labour and to withdraw it” is present. But this is merely identified as an individual right which is not linked to the freedom of association. As von Prondzynski notes, the right to freedom of association does not necessarily entail a right to strike; Ferdinand von Prondzynski, *Freedom of Association and Industrial Relations: A Comparative Study* (Mansell Publishing Ltd, 1987), pp.103-110; *Educational Company of Ireland v Fitzpatrick (No.2)* [1961] I.R. 345, at p.397.

¹⁵⁰ Anthony Kerr, “The Right to Strike” in Bernd Waas (ed), *The Right to Strike: A Comparative View* (Kluwer Law International, 2014), pp.303-316 at p.305. See also Wiebke Warneck, *Strike Rules in the EU27 and Beyond* (European Trade Union Institute for Research, Education and Health and Safety, 2007), p.40.

¹⁵¹ von Prondzynski, *Freedom of Association*, fn.149, p.7.

¹⁵² Industrial Relations Act 1990, No.19.

Despite these constitutional and legislative provisions, the ECSR noted that “at present many European countries permit their Police organisations to have trade union rights including the right to strike. This has been shown not to cause any adverse effects on the public including public safety.”¹⁵³ In doing so, the ECSR essentially drew attention to the flawed basis of the thin blue line for IR activity. It found a violation of Art.6.4 of the Charter on the grounds that the Irish government failed to demonstrate that it is a pressing social need to have a prohibition, rather than restrictions regarding the mode and form, on the right to strike.¹⁵⁴ This finding proved particularly controversial, as the ability to engage in strike action, the ultimate form of expression of labour rights, has the potential to well and truly shatter the concept of the thin blue line.¹⁵⁵

The EuroCOP decision therefore encompasses a lot of the key issues that have plagued the force since its inception and certainly since the time of the Macushla Affair. While this decision was a landmark one, particularly regarding its finding that police forces had the right to strike, it is important to note that the ECSR lacks any power to enforce its decision in domestic law. The ECSR’s lack of teeth undoubtedly contributed to the stagnation which greeted its findings, but as the remainder of this article will argue, both government and Garda responses to the

¹⁵³ Complaint No.83/2012, *EuroCOP v Ireland*, Case Document No.1 (ECSR, 21 June 2012), p.5.

¹⁵⁴ Complaint No.83/2012, *EuroCOP v Ireland*, Report to the Committee of Ministers (ECSR, 2 December 2013), p.36, p.38.

¹⁵⁵ Indeed, there was a strong dissenting opinion on the EuroCOP decision regarding Art.6.4 issued by Monika Schlachter and joined by Birgitta Nystrom and Marcin Wujczyk. The dissent emphasised the importance of the Gardaí in the maintenance of public order, crime prevention and national security, and claimed that in order to maintain public authority, a prohibition on the right to strike was justified to ensure the service remained fully operational at all times; *EuroCOP v Ireland* (2014) 59 EHRR SE10. It is interesting to note that in the case of *EuroMIL v Ireland*, which raised similar issues to the EuroCOP case concerning the trade union rights of the Irish Defence Forces, the ECSR found by nine votes to four that there was no violation of Art.6.4 of the Charter on the basis that “the margin of appreciation is greater than that afforded to states in respect of the police”; *European Organisation of Military Associations [EuroMIL] v Ireland* (2018) 66 EHRR SE12.

EuroCOP decision were framed by the thin blue line which guaranteed an IR stalemate. Indeed, post-EuroCOP, the response has been one of confusion, contradiction and piecemeal reform, which characterises much of the history of Garda IR since 1922.

The immediate government response to the EuroCOP decision was to establish two reviews of existing Garda IR machinery. These reviews were established in quick succession and for the most part served to contradict one another. The first was the Horgan Review, undertaken by former Chairman of the Labour Court, John Horgan, as part of the Haddington Road Agreement 2013-2016, and the second was the Report of the Working Group [WG] on Industrial Relations established in the aftermath of threatened industrial action in November 2016. There were three main areas in which the Horgan and WG reviews differed. First, the Horgan Review recommended that Gardaí should be allowed to join independent trade unions which have the right to bargain collectively. This was the one element of the EuroCOP decision in which the ECSR found no violation of the ESC and the AGSI admitted that it did not want.¹⁵⁶ Indeed the GRA later criticised the report on the basis that its provision for police unionism “goes too far and is impractical”.¹⁵⁷ The WG, in contrast, did not support the notion of Gardaí joining a trade union due to the supposedly unique role played by the force.¹⁵⁸ Secondly, Horgan was critical of the existing C&A Scheme, deeming it “redundant and irrelevant” and in violation of the EuroCOP decision.¹⁵⁹ The WG, however, found that as the C&A scheme constituted the existing dispute resolution mechanism, it should continue as such.¹⁶⁰ Thirdly, the Horgan Review recommended that Gardaí who engaged in industrial activity should not be

¹⁵⁶ Horgan, *Haddington Road Agreement: Review*, p.63.

¹⁵⁷ The Working Group, *First Report*, Appendix F.

¹⁵⁸ Fn.157, para 6.2.3.

¹⁵⁹ Horgan, *Haddington Road Agreement: Review*, pp.55-56.

¹⁶⁰ The Working Group, *First Report*, para. 6.1.4.

allowed to accrue pension rights for five years.¹⁶¹ The WG rebutted this recommendation as it found the idea of loss of pension accrual as a sanction too difficult to implement as pension rights are viewed as property rights under both Irish and EU law.¹⁶²

Despite these contradictions, there was one key element that both the Horgan and WG reviews agreed on, namely a prohibition on the right to strike, despite the fact that such a prohibition directly violated the findings of the ECSR. Horgan justified this with reference to the unique role of the Gardaí as protectors of the public, a unitary force and bearing responsibility for national security,¹⁶³ while the WG claimed that the right to strike would have “a profound impact on the mission of any police service in terms of maintaining public order and combatting crime”.¹⁶⁴ In other words, the thin blue line informed the recommendations of both reviews, despite the unstable foundations upon which this concept rested. While some commentators have advocated that the government should “grasp the nettle” and legislate for industrial action for Gardaí,¹⁶⁵ the Horgan and WG reviews suggest that any such action is unlikely to occur.

Analogous to the Horgan and WG reviews, in the aftermath of the EuroCOP decision the thin blue line continued to exert a strong hold on the Gardaí. The *Garda Review* wrote in April 2016 that “Gardaí serve the public but are not like other public servants. It’s not so much a vocation as a way of life for those attested to the force...we face unknowable danger daily on behalf of others”.¹⁶⁶ The response of the GRA to the EuroCOP decision is particularly telling. While the

¹⁶¹ Horgan, *Haddington Road Agreement: Review*, p.71.

¹⁶² The Working Group, *First Report*, para. 5.1.5.2.

¹⁶³ Horgan, *Haddington Road Agreement: Review*, pp.67-68.

¹⁶⁴ The Working Group, *First Report*, para. 5.5.2.

¹⁶⁵ Jeffrey Greene, “The Garda Dispute: What might possible legislation look like?” (5 December 2016)

<<https://www.williamfry.com/newsandinsights/news-article/2016/12/05/the-garda-dispute---what-might-possible-legislation-look-like>> accessed 22 April 2019.

¹⁶⁶ *Garda Review*, April 2016, 44(3), p.3.

AGSI gave an enthusiastic welcome to the findings of the ECSR, seeking for Gardaí to be treated the same as all other public sector workers in terms of the right to take industrial action,¹⁶⁷ the GRA adopted a more cautious response. It stressed that at all times the “special and unique nature of police work” must be taken into account,¹⁶⁸ and sought normalisation of industrial relations, including the right to strike, but then envisaged voluntary limitations on strike action alongside “robust dispute resolution mechanisms”.¹⁶⁹ This nuanced GRA response signals greater cognisance of their vested interest in maintaining the thin blue line. The more the Gardaí gain labour rights on par with other public workers, the greater the banalisation of their role, and the subsequent dilution of the thin blue line.

The GRA position reveals that seeking to preserve uniqueness as well as advancing IR capabilities are not easily reconcilable goals considering the thin blue line is used as justification for both. Given the slow government response to the EuroCOP decision, and drawing on the precedent of the 1998 blue flu, in November 2016 the GRA and AGSI threatened withdrawal of labour if their pay demands were not met. In doing so, they were invoking the thin blue line as a bargaining chip to secure pay increases. This gamble proved highly effective and at the eleventh hour in order to avoid this supposedly “historic strike action”,¹⁷⁰ the government agreed to a €50 million pay deal.¹⁷¹ Demonstrating a laudable sense of historicity, the precise date for which the Garda associations planned their strike action was 4 November; the anniversary of the Macushla Affair.

¹⁶⁷ The Working Group, *First Report*, para. 5.5.8.

¹⁶⁸ Fn.167., Appendix F.

¹⁶⁹ Fn.167, para. 5.5.8.

¹⁷⁰ *Garda Review*, November 2016, 44(9), p.3.

¹⁷¹ *Irish Times*, 28 March 2018, p.13.

Conclusion

As of September 2019, two main reforms to Garda IR machinery have been introduced in the wake of the EuroCOP decision. Both of these pertain to the findings of the ECSR regarding the right to bargain collectively as enshrined under Art.6 of the ESC, though they can only be viewed as piecemeal reforms. First, the Garda associations and other non-ICTU affiliated organisations were given full parity of esteem in the most recent Public Service Stability Agreement 2018-2020.¹⁷² But the Gardaí already had a role, albeit a side-lined one, in national pay negotiations since the Croke Park Agreement, and meaningful engagement through full parity of access was the next logical stepping stone. The government simply rubberstamped and expanded an existing provision.

Secondly, and more significantly, the representative associations were given access to the Workplace Relations Commission [WRC] and Labour Court [LC]. The Gardaí had been permitted access to the WRC on an individual though not a collective basis prior to the EuroCOP decision.¹⁷³ On the surface, this measure, therefore, appears a significant and positive development. Confusingly, however, access to the LC and WRC was not an issue the ECSR ruled in favour of. The ECSR actually claimed that access to a “particular dispute resolution mechanism” did not compensate for the absence of effective negotiating machinery, and, hence, being granted access to the LC and WRC was not sufficient to meet the requirements of Art.6.¹⁷⁴ Indeed, access to the WRC and LC was only negotiated in response to threatened industrial action in November 2016 by the Gardaí. The legislation for access to these bodies

¹⁷² The Working Group, *First Report*, para. 2.2.4.

¹⁷³ Complaint No.83/2012, *EuroCOP v Ireland*, Case Document No.2 (ECSR, 2 December 2013), p.21. The legislation under which access was permitted included the Terms of Employment (Information) Act 1994; Parental Leave Acts 1998-2006; the Safety, Health and Welfare at Work Act 2005.

¹⁷⁴ Complaint No.83/2012, *EuroCOP v Ireland*, Report to the Committee of Ministers (ECSR, 2 December 2013), p.32.

was enacted just as recently as July 2019.¹⁷⁵ It follows, then, that one of the main reforms to Garda IR structures in the past five years was actually a measure which was rejected by the ECSR, was only indirectly related to the EuroCOP decision and was implemented following protracted delay. This truly represents an Irish solution to an Irish problem.

Overall, what does a historical examination of government and Garda responses to various IR disputes over the past century reveal about the dynamics of the thin blue line? Three key insights may be extracted. First, it reaffirms the shared participation of the government and Gardaí in the maintenance of the thin blue line which consequently leads to an inevitable stalemate regarding IR capabilities. Both the political establishment and the Gardaí, from the inception of the force to the present day, emphasise members of the force as occupying a unique profession, though the former employ this concept to justify restrictions on IR capabilities, the latter in attempt to advance such capabilities. Secondly, it indicates the thin blue line is a finite bargaining chip, and extensive usage of it by the Gardaí risks their bluff being called. When it is used selectively, as in 1961, 1969, 1998 and 2016, it effectively secures pay increases and leverages pressure on governments; promiscuous usage, however, would risk devaluation of this bargaining chip. Thirdly, it suggests the sustainability of the thin blue line is becoming increasingly questionable. This particularly applies in light of full parity of esteem granted during the most recent national pay negotiation, the effect of which is to place the Gardaí on a par with other public sector workers, and, as a consequence, undermine the notion of uniqueness which is the essence of their bargaining position.

¹⁷⁵ Industrial Relations (Amendment) Act 2019, No.21.

Reflecting the paradoxical nature of the thin blue line, the above insights offer a contradictory platform for predicting the future directions which Garda IR could potentially take. On the one hand, this article has demonstrated that the thin blue line, ingrained in the very structure of the Gardaí since its inception, has propagated an IR framework resistant to change. This stagnation has been aided by the continued adherence of both the Gardaí and political establishment to this concept. Such an interpretation lends itself to a prediction of continued inertia given the reluctance of both parties to relinquish the thin blue line concept. On the other hand, the thin blue line has become thinner and thinner over the past century, a trend initiated by the watershed Macushla Affair and emphasised most recently by the November 2016 episode. This gradual translucence of the thin blue line may be expedited by monumental changes to Garda structures. In August 2019 Garda Commissioner Drew Harris announced the introduction of an ambitious new operating model for the force which is designed to enlarge Garda divisions, reduce administrative structures, enhance policing capabilities at local level and deploy more Gardaí to the front lines.¹⁷⁶ This model, due to be implemented by 2022, represents the largest restructuring to the force since 1922. Adherence to the thin blue line may remain, but the structures in which this concept was embedded are on the verge of drastic change. Viewed from this perspective, the thin blue line may become a metaphorical castle in the air which lacks a solid structural grounding. Any significant additional pressure placed on the concept might well cause it to crumble.

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¹⁷⁶ Assistant Commissioner Michael Finn, “An Garda Síochána: A Policing Service for the Future” (22 August 2019) <<https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2019/august/garda-op-model-august-2019.pdf>> accessed 10 September 2019.