

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 23 Eanáir 2014

Thursday, 23 January 2014

The Committee met at 10 a.m.

MEMBERS PRESENT:

Deputy Áine Collins,	Deputy Eoghan Murphy,
Deputy Paul J. Connaughton,	Deputy Gerald Nash,
Deputy John Deasy,	Deputy Derek Nolan,
Deputy Sean Fleming,	Deputy Kieran O'Donnell,
Deputy Simon Harris,	Deputy Shane Ross.
Deputy Mary Lou McDonald,	

DEPUTY JOHN MCGUINNESS IN THE CHAIR.

BUSINESS OF COMMITTEE

Mr. Seamus McCarthy (*An tArd Reachtaire Cuntas agus Ciste*) called and examined.

Business of Committee

Chairman: Turning to No. 1, are the minutes of the meetings of 15 and 16 January 2014 agreed?

Deputy Eoghan Murphy: I wish to raise a matter relating to correspondence at a previous meeting. For the record, it is No. 3A.4 from Mr. Paul Maloney on the Dublin Docklands Development Authority, DDDA. When it attended our hearings, one of the issues that we considered related to the credit card. It is paragraph 8 in the documentation. However, it now appears that he did not have a credit card. He did not have access to the records for almost five years. If we wished to send them to him for comment, he would be pleased to reply. We should follow up this matter of credit card expenses with correspondence.

Chairman: That is fine. Does any matter arise from the minutes of the meetings on 15 and 16 January? No.

No. 2 relates to the note the clerk issued to members yesterday regarding the National Gallery. I invite him to outline the issues involved.

Clerk to the Committee: In a nutshell, when we examined the Chapter on the National Gallery, it included a payment of €40,000 in removal expenses to the gallery's director. Following the meeting, we sought papers from the three bodies concerned. The key points are that, in August, the Department of Public Expenditure and Reform approved €15,000 as an appropriate amount for removal expenses. In November, the Department of Arts, Heritage and the Gaeltacht wrote to the gallery agreeing to sanction €20,000. By the time the National Gallery wrote to the individual concerned with the offer, the amount had increased to €40,000. There is a conflict in the papers. I suggest that we refer this note to the three bodies and ask them for a comment for next week. After that, we can include the matter in a report.

Chairman: We were to get further information from the National Gallery.

Clerk to the Committee: We got it from all three.

Chairman: Did we get all of the information?

Clerk to the Committee: Yes. They sent us their papers.

Chairman: Is that agreed? Agreed.

Turning to correspondence received since our meeting on 16 January 2014, No. 3A covers correspondence from Accounting Officers and Ministers. No. 3A.1 is correspondence dated 15 January 2014 from Ms Deirdre McDonnell, principal officer at the Department of Education and Skills, in response to an issue of public procurement contracts by the small to medium-sized enterprise, SME, sector raised by Deputy McDonald in correspondence dated 20 November 2013. This is to be noted. We will ask for a note on the issue raised from the Accounting Officer of the Department of Public Expenditure and Reform. He will be before us on 3 April. Is that okay?

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Deputy Mary Lou McDonald: Yes.

Chairman: No. 3A.2 is dated 23 December 2013 from Dr. Ambrose McLoughlin, Secretary General of the Department of Health re further information requested at our meeting of 19 December. This is to be noted and published. Some of the issues relate to the CRC and will be considered when we receive the special report.

No. 3B covers individual correspondence. No. 3B.1 is dated 10 January 2014 from Mr. Jackie Dunne, 59 Glenview Park, Tallaght re misappropriation of public funds by the National Transport Authority, NTA. This is to be noted and a copy forwarded to the Department of Transport, Tourism and Sport for a note on the issues raised.

No. 3B.2 relates to correspondence received on 15, 16, 17 and 19 January 2014 from Mr. Robert Tonney re a public meeting in Westport, County Mayo. This is to be noted. Mr. Tonney has invited members to attend a meeting he is organising in Westport on 3 March. Members can make direct contact with him if they wish to attend.

No. 3B.3 is dated 10 and 17 January 2014 from Mr. William Treacy re lack of transparency in the Committee of Public Accounts and Horse Racing Ireland. This is to be noted.

No. 3B.4 was received on 6 January 2014 from Mr. Edward Stevenson re the hepatitis C tribunal. This is to be noted. The clerk will write a note on the issues involved and circulate it to members.

No. 3B.5 is dated 20 January 2014 from Mr. Bernard Purcell, editor of the *Irish World* re our audit of Irish charities in the UK. This is to be noted. A reply will issue to Mr. Purcell setting out the position of the committee.

No. 3B.6 is dated 14 January 2014 from the Department of Jobs, Enterprise and Innovation re a reply to correspondence from Mr. Frank Russell. This is to be noted and forwarded to Mr. Russell.

No. 3C covers documents relating to today's meeting. No. 3C.1 is correspondence received on 16 January 2014 from Mr. Martin Callinan, Commissioner of An Garda Síochána, re briefing papers for matters to be considered today. This is to be noted and published.

No. 3C.2 is correspondence received 17 January 2014 from Mr. Maurice McCabe re penalty point hearings. This is to be noted.

No. 3C.3 was received on 22 January 2014 from Mr. Martin Callinan, Commissioner of An Garda Síochána, re his opening statement.

No. 3C.4 was received on 22 January 2014 from the Joint Committee on Justice, Defence and Equality re documentation received from Mr. John Wilson on the termination of penalty points. This is to be noted. The information relates to the issues before us today and the previous documentation from Mr. Wilson and Mr. McCabe. Mr. McCabe has been notified of the decision of our meeting last night and has been asked to take legal advice and decide whether he wants to appear before us next Thursday, which will be a matter for the committee. He has indicated that he will write to the clerk in that regard.

No. 4 covers reports, statements and accounts received since our meeting of 16 January. They are listed from Nos. 4.1 to 4.6. Regarding No. 4.5 on the 2012 annual report and accounts of the environment fund, there is a clear audit opinion, but attention is drawn to note No. 1,

which discloses that a private sector operator of landfill sites went into receivership in 2012 owing landfill levies of €4.6 million to the fund. We will examine this matter under the Vote of the Department of the Environment, Community and Local Government. Is that agreed? Agreed.

Our work programme is on screen. Arising from decisions made at last night's meeting, it will be amended to facilitate the hearing with the Garda whistleblower.

Does any other business arise? Can we agree Thursday's meeting? Pending final arrangements with the whistleblower, the committee will deal with the 2012 annual report and appropriation accounts of the Comptroller and Auditor General on Vote 13: Office of Public Works, Chapter 6 - land swap arrangements in the provision of affordable houses. Is that agreed? Agreed.

2012 Report of the Comptroller and Auditor General

Chapter 7 - Management of Fixed Charge Notice System

Mr. Martin Callinan (*Commissioner, An Garda Síochána*) called and examined.

Chairman: We will deal now with No. 7, 2012 Annual Report of the Comptroller and Auditor General, Chapter 7 - Management of the Fixed Charge Notice system. I remind members, witnesses and visitors in the Public Gallery to ensure their mobile phones are switched off. A number of complaints were made to the committee following its previous and other meetings in relation to interference from mobile phones with the sound quality of the transmission of those meetings. The clerk has also received complaints from the public on the issue. I ask members and witnesses to remove their phones from the desks and to ensure they are switched off.

Before we begin, I advise witnesses that they are protected by absolute privilege in respect of their evidence to the committee. If witnesses are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against a Member of either House, a person outside the Houses or an official by name or in such a way as to make him or her identifiable. I remind members of the provisions within Standing Order 163 that the committee shall also refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government, or the merits of the objectives of such policies.

I welcome the Garda Commissioner, Mr. Martin Callinan, and invite him to introduce his officials.

Mr. Martin Callinan: Good morning, Chairman and members of the committee. I am accompanied by the director of finance for An Garda Síochána, Mr. Michael Culhane; Assistant Commissioner Mr. John O'Mahoney, from the crime and security branch; Deputy Commissioner Ms Noirin O'Sullivan; Assistant Commissioner Mr. John Twomey, who is charge of the Dublin metropolitan region; and our head of legal affairs, Mr. Kenneth Ruane. I understand the other two witnesses are from the Departments of Justice and Equality and Public Expenditure

and Reform.

Chairman: Yes Mr. Kevin Clarke and Mr. Ronan Gallagher, respectively, both of whom I welcome to the meeting. I now invite Mr. Seamus McCarthy, Comptroller and Auditor General, to make his opening statement.

Mr. Seamus McCarthy: As members of the committee will be aware members of An Garda Síochána may issue a fixed charged notice to the drivers or owners of vehicles for certain road traffic offences. These include offences committed while driving, such as speeding or driving while using a mobile phone and compliance offences such as illegal parking and failure to display an up-to-date motor tax disc. The penalty associated with a fixed charge notice is a fine or, for most offences committed while driving, a fine and the attachment of penalty points to the driver's licence.

One of the key objectives of the fixed charge notice system is to contribute to safer driving and reduced road accident casualties. Most drivers and vehicle owners usually comply voluntarily with the relevant laws. Unfortunately, some drivers may only act in a compliant manner if they perceive that there is a reasonable probability that they will be detected if they commit an offence and that such detections will result in the imposition and enforcement of significant penalties. A perceived low probability of detection or perceived widespread failure to impose penalties following detection could result in increased frequency of commission of offences. Any widespread perception of arbitrary or partial application of enforcement of the law by An Garda Síochána could undermine the deterrent effect and public acceptance of the system.

My office has previously examined and reported on three occasions on the system of control applied by An Garda Síochána in relation to the fixed charge notice system or its predecessor, the OA-the-spot fine system. In July 2012, a member of An Garda Síochána contacted my office seeking a meeting to discuss concerns he had about the current operation of the fixed charge notice system. The individual alleged that in many cases fixed charge notices had been cancelled corruptly and illegally. It was also alleged that a number of persons who had benefited from one or more cancellations of fixed charge notices for speeding or dangerous driving had subsequently committed similar offences or resulting in some cases in deaths or injury to themselves or third parties.

The information presented to us appeared to indicate that matters reported in previous reports had not resulted in improved or sufficiently improved control systems within An Garda Síochána. For this reason, I initiated an examination by staff of my office of the fixed charge notice system. Examinations by my office generally focus on the adequacy of systems, procedures and practices implemented by the bodies audited by me. Other than to record relevant facts about the actions of individuals, I do not have the remit to investigate or report on the behaviour or motivation of individuals. Accordingly, the examination undertaken by my office did not seek to address the allegations of corruption and illegality on the part of members of An Garda Síochána or of alleged offences committed by members of the public. That is the background to the examination.

I will now deal with the report findings. I draw the committee's attention to paragraph 7.11 of the report which summarises the results of our analysis of the fixed charge notice data for 2011 and 2012. The results are expressed in terms of the percentage of detected cases where a decision was made to initiate a fixed charge notice. The available evidence indicates that where a notice was initiated two out of every three drivers paid their fine within the specified time. Where relevant, penalty points were added to their licence record. In a further 10% of

cases, the fine was not paid in a timely manner and the recipients of the notices had their cases determined in court. I should point out that the examination did not include a review of those cases that are determined in court.

An Garda Síochána has adopted a clearly stated policy in relation to the termination or cancellation of fixed charge notice cases. This is set out in the force's manual for the system. The policy requires termination in certain cases where statutory exemptions are provided for subject to specified conditions being satisfied. This includes, for example, emergency response vehicles detected speeding by speed cameras. The policy also specifies a number of exceptional situations where relevant Garda district officers may use their discretion and terminate a case if relevant facts are established. While the policy is clear, we found that the operation of the fixed charge processing system did not accord with the termination policy in certain key respects. In particular, the system allowed cases to be terminated on additional unspecified discretionary grounds over and above the exceptional circumstances specified in the policy statement. Also, senior officers who had the facility to terminate cases on the processing system were not restricted to doing so only for cases within their district or unit.

There is also evidence that the policy on termination of cases is not being applied consistently. The rates of termination in many districts appeared too high to be considered reflective of exceptional circumstances ranging, for example, from 0.1% of cases initiated in Birr district to over 5% in Ennis, Roscommon and Sligo districts. That is more than 50 times higher than in Birr. In the samples reviewed for this examination, a significant proportion of cases appear to have been terminated in circumstances that do not satisfy the stated policy. Absent and inadequate records and the recorded facts of many cases give rise to concerns that many cases have been terminated without due cause. Furthermore, there are grounds for concern that certain outside district cases may have been terminated without appropriate authority.

Almost one-third of fixed charge notice cases are initiated by gardaí who intercept motorists and record details of offences on notepad forms. The design of the control system for the notepads potentially allows for effective control of the forms, but this was not achieved in a significant proportion of cases because over 7% of the notepad forms are not accounted for. As notepad users were not required in practice to account for every form, this created scope for effective cancellation of fixed charge notices subsequent to initiation outside of the formal notice cancellation procedure and without the appropriate controls. A related issue is that a significant number of the 3,000 cases which became statute barred in 2011 and 2012 was due to late entry of data from notepads and hand-held devices onto the processing system.

Over 21% of fixed charge notices in 2011 and 2012 did not result in timely payment and resulted in the issuing of a summons for service by An Garda Síochána. We found that more than half of the summonses issued in 2011 cases were not served, leading to the cases being struck out in court. As a result, one in nine detected fixed charge notice offences was unpaid but did not result in a court hearing.

Members may also wish to note that in a previous report in 2003 we reported that there was an impediment in the fixed charge processing system that resulted in an inability to take appropriate action against drivers of company cars. In this report, we note that 1.2% of 2011 and 2012 cases were not pursued because the notice was issued to a company and the company did not identify the driver. We also found that approximately 600 vehicles had three or more terminations of notices in the two years examined.

Overall, the examination concluded that, because of significant weaknesses in aspects of the

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operation of the fixed charge notice system, a substantial proportion of detected offenders, up to one in five, did not pay their fines and did not end up in court. In my view, those operational weaknesses must be addressed urgently by An Garda Síochána and other relevant agencies to underpin the effectiveness of the system and ensure fairness and continued public confidence in, and acceptance of, the fixed charge notice system. I have made a number of recommendations in my report aimed at addressing the key control weaknesses identified in this examination. The Garda Commissioner has indicated that he accepts those recommendations and I understand he has provided the committee with an update on progress in their implementation.

Chairman: Thank you, Mr. McCarthy. I invite you, Mr. Callinan, to give your opening statement. I wish to make you aware that before you came to this morning's meeting we received further correspondence relating to this matter from Mr. Wilson and a Mr. McCabe and further documentation was given by the justice committee to the clerk to the committee yesterday.

Mr. Martin Callinan: I thank you, Chairman, and the members of the committee for the opportunity to address the committee on the Comptroller and Auditor General's annual report for 2012 and, in particular, Chapter 7 concerning the management of the fixed charge notice system.

In welcoming the Comptroller and Auditor General's report and accepting that the report was a different form of examination of this matter and related to a different timeframe from the examination conducted by Assistant Commissioner John O'Mahoney, it should be noted that on the specific issue of terminations of fixed charge penalty notices, FCPNs, by members of An Garda Síochána both reports found that the level of terminations during the periods under examination were very similar. The Comptroller and Auditor General found that the termination rate was approximately 5% and the O'Mahoney report found that it was 4.55%. Both reports have identified issues within the fixed charge processing system that require corrective action and I fully accept and am fully committed to the implementation of the recommendations of the Comptroller and Auditor General's report on improving the system and how it interacts with the Courts Service and the driver licensing system.

In the last number of months, An Garda Síochána has implemented a significant number of measures relating to the fixed charge processing system, which I will outline below and in more detail in the briefing document provided to the committee. With reference to the findings of the O'Mahoney report, disciplinary action has been taken against a small number of personnel and written advices have been issued to a further number as to the necessity to conduct matters within policies and procedures. On 30 August 2013, I issued a new directive to all members of the force in respect of the cancellation of fixed charge notices. This new directive will, I believe, provide greater clarity on the role of the cancelling authority and thereby enhance the procedures for cancellation. The new directive, which was issued prior to the publication of the Comptroller and Auditor General's report, reflects recommendations contained in the Comptroller and Auditor General's report, the report from the Garda professional standards unit and the report from Assistant Commissioner O'Mahoney.

In addition, all policies and procedures associated with the general management of the fixed charge penalty system, FCPS, have been revised through an updated FCPS user manual. This manual has been forwarded to the Garda Inspectorate and the Director of Public Prosecutions, DPP, for their observations. When this review has been completed, a summary of the policies relevant to the general public will be made available via our website www.garda.ie and our social media channels.

Before dealing with specifics, it might be useful to give a broad overview of the fixed charge processing system which may help to contextualise the relevant issues. It is important to state at the outset that fixed charge penalty notices, FCPNs, were introduced in legislation to provide An Garda Síochána with one of a range of measures to tackle and reduce poor and dangerous driver behaviour, not as a revenue generation measure. FCPNs play an important role in reducing road fatalities and that is their primary objective, not providing revenue to the State. The fixed charge processing system was introduced in 2002. The legislation provides that where a person is believed to have committed a fixed charge offence, the person may be served with a fixed charge notice and if the fixed charge is paid in accordance with the provisions of the legislation, proceedings will not be instituted.

Prosecution follows non-payment of the fixed charge. A prosecution in respect of an alleged fixed charge offence will not be instituted if a payment is made during the appropriate period so specified in regard to the payment; in effect, a motorist issued with a FCPN is being put on notice that he or she may be prosecuted. However, the motorist may avoid prosecution by electing to pay a fixed charge. Therefore, the FCPS provides a motorist with an alternative to prosecution. While the issuing of a fixed charge notice does not constitute commencement of legal proceedings, the issuing of a notice can, in effect, lead to a prosecution if the fixed charge is not paid.

The only other mechanism for the prevention of a prosecution when a fixed charge notice is not paid is to have the FCPN terminated. Every fixed charge notice carries contact information for the fixed charge processing office should an offending motorist wish to raise any queries or need help understanding the notice or with the detection or circumstances surrounding it.

For the committee's information, 91,838 items of correspondence were processed at the national fixed charge processing office in 2012 from recipients of fixed charged notices. In addition, 59,570 telephone inquiries were received and processed. A further 65,000 payment-related calls were dealt with by fixed-charge processing system payment agents - that is, An Post.

In the normal course prosecution follows non-payment of a fixed charge. A review of the issuing of any fixed charge notice may result in termination or cancellation and no proceedings being instituted. Termination or cancellation occurs when it is believed the evidence would not sustain a prosecution or a prosecution would not be appropriate, fair, proportionate or in the public interest. Decisions on termination or cancellation are governed by Garda policy and procedures which complement the discretion vested in an authorised officer to so terminate or cancel, and are framed around legislative exemptions and in the guidelines for prosecutors as published by the Director of Public Prosecutions.

The guidelines for prosecutors issued by the Director of Public Prosecutions state that "a prosecution should not be brought where the likelihood of a conviction is effectively non-existent," and goes on to state: "In assessing the evidence, the prosecutor should also have regard to any defences which are plainly open to, or have been indicated by, the accused." The DPP has further advised, in relation to the prosecution of driving offences, that particular acts, such as exceeding a speed limit or crossing a continuous white line, can warrant any one of a variety of responses ranging from no prosecutorial action through to a caution or a charge under the relevant legislation or regulation.

I have received legal advice that it is clear that when a fixed charge notice penalty is issued it is not mandatory that the payment must be made or a prosecution must follow. In general terms, it is a well-established fact that the use of discretionary powers has served An Garda

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Síochána well since the foundation of the State. The discretion is exercised by members of An Garda Síochána at every level in the exercise of their daily duties and responsibilities. It is an intrinsic feature of good policing, the application of which continues to assist in maintaining the positive relationship the organisation has developed with the general citizenry over its history. In that regard, I welcome the notice yesterday evening and the comments from the Chairman.

Where a possible defect is identified which emanates from the detection of the offence or the administration of the system and which cannot be rectified, the advantage is always afforded to the driver or owner of the fixed-charge notice and it is cancelled. This is reflected in the well-established jurisprudence in the Irish legal system whereby the benefit of any doubt lies with an accused person.

During the relevant period under examination in the O'Mahoney report, from 1 January 2009 to 30 June 2012, a total of 66,407 fixed charge notices were terminated, equivalent to 4.55% of the 1.46 million tickets that were issued. When legal and technical reasons for the termination of notices were accounted for, there remained 2.57% of the 1.46 million fixed charge penalty notices issued in the review period that were terminated by authorised officers exercising discretionary powers, which equates to an average of 10,701 terminations of this nature per year nationally. To put the figure in context, it equates to less than two cancellation notices per week per Garda district. As the committee will be aware, Garda districts can range from between one and six stations.

As well as fulfilling its primary purpose of increasing road safety, as evidenced by the significant fall in road fatalities since the introduction in 2002, it should be noted that the fixed charge processing system also provides an efficient and cost-effective alternative for citizens and the State to hundreds of thousands of road traffic prosecutions being dealt with by the courts each year, with all the associated costs of same.

In closing, and as outlined further in a briefing document that I furnished to him and his committee recently on his request, on foot of the O'Mahoney and Comptroller and Auditor General reports, An Garda Síochána has introduced a number of measures that have strengthened the procedures around the cancellation of fixed charge penalty notices, as well as greater oversight and auditing of the system. The impact of these measures has already been seen with internal audits on the fixed charge penalty notice cancellations in November and December showing that 100% of these cancellations were carried out within policy.

On the matter of summons and non-payment, there are long-standing issues in this area outside our direct control such as drivers being from other jurisdictions, foreign nationals leaving the country before they can be served or people paying. However, on matters within our control, we will continue to work with the relevant State bodies such as the Comptroller and Auditor General, the Courts Service and the Department of Transport, Tourism and Sport, as well as making internal changes, to address the points raised in the Comptroller and Auditor General's report.

In conclusion, as I think we have shown with our swift action in relation to the findings of the O'Mahoney and the Comptroller and Auditor General reports, we are committed to ensuring that the fixed charge notice system is operated in an effective and efficient manner - fairly and consistently - so as to ensure it has the confidence of the public and, most importantly, that it continues to play an important role in improving road safety by reducing poor driver behaviour. I thank the Chairman.

Chairman: I thank the Commissioner for his presentation. May we publish the statement?

Mr. Martin Callinan: Yes.

Chairman: I call Deputy Nolan.

Deputy Derek Nolan: I welcome the Commissioner and his officials. I wish to point out that I am related to Mr. Ruane, who is seated at the top table. This issue has continued for a long time. Part of the reason it has received public attention and why the public and ourselves are so interested in the matter is that the perception has been created that if one knows someone in the Garda, or knows a garda who works in a station, and one receives penalty points one can get them cancelled. There is a perception that there is a way to usurp the law and get penalty points or a fixed charge notice cancelled.

Today we are discussing a very detailed and good report prepared by the Comptroller and Auditor General. He examined the procedures and processes that were in place. The report uses a number of samples of discretionary cancellations. It portrayed the system as not working, one where accurate reasons did not have to be given and in many cases reasons were not given and a space left blank, and supporting documentation was not supplied to back up assertions that were made. In many instances - in the district offices - the only documentation available was merely letters from people seeking to have the document put out. I have not found anything to rebut the assertion that this was not the case. With regard to the two reports prepared by the Garda, I have also not seen anything to rebut the assumption or assertion of flexibility, ability and culture concerning a large number of cases - 10,000 cases - that if one knew a garda one could get off and get one's penalty points cancelled. Given one's inability to go through all of the 40,000 cancelled notices, how does the Commissioner satisfy himself that this was not the case?

Mr. Martin Callinan: I thank the Deputy. Can I first of all say to the Chairman that the system itself, as a system, is working very well when one considers that 95.45% of fixed charge notices issued go through to payment stage without any issue. The issues that the Deputy has highlighted speak to the 4.55% that is highlighted in the O'Mahoney report. As indicated in my opening remarks, when one breaks the figure down one is dealing with 2.57% of the entirety of the tickets that were cancelled during the period that was looked at. That period substantially covered all of the allegations that were made. It is very clear that, holistically, the system itself is working very well. It is the case - I have adverted to the figures, as has the Deputy - that 10,700 cancellations on a national basis looks to be a very strong headline figure but when one distils it down, one is talking about fewer than two tickets per week per Garda district. I accept, and the Comptroller and Auditor General has already highlighted to us, the variations within districts, so one factors that in as well.

I suppose my initial observation in regard to the Deputy's question is that there are two elements to that 2.57%, about which we are speaking. First, one is looking at the system and the process and, second, one is looking at the information that grounds the decision-making process. The system and the process have been found to be weak in a number of areas and the information I have provided to the committee clearly speaks to rectifying those issues. As I indicated again in my opening remarks, the inspectorate and the Director of Public Prosecutions have been provided with a copy of the new draft guidelines we propose to shore up the weaknesses that have been found within the system. It is appropriate that both of those agencies have the opportunity to view them because if we are charged with responsibility for enforcing, then clearly there is a discretionary aspect to that enforcement. We are, in a sense, agents of the Director of Public Prosecution, so it is appropriate that office looks to see if there are any other

fault-lines before we proceed to finally issuing guidelines.

Turning our attention to the second element of that process as I see it, the decision-making process, I cannot say I am happy with some of the issues that have been highlighted, in particular some of the issues highlighted in the public domain - again, resulting from a lot of the information provided in the O'Mahoney report. It is very clearly the case that anyone who goes into the PULSE system and is brought to the fixed charge processing system will have a very limited view of the cancellations in terms of what he or she sees. It is the case that record-keeping has been poor. There is no doubt about that. In some cases, the free text box had not been populated. We will have seen, for example, excuses such as bees worrying livestock, or words to that effect. At first glance, one could almost be entertained by it but I looked at the letter and the documentation behind that particular notice and the petition the relevant superintendent had in regard to that case.

I do not want to get involved with individual cases, as it would not be appropriate. In fact, I am seeking to protect individuals' information. However, by way of highlighting it as an example of what I am talking about, this person was engaged in very substantial voluntary work on behalf of the community and he happened to be a beekeeper. His wife telephoned him when he was out attending to that voluntary work to tell him the bees were, in her view, out of control, so there was a need to get back to the house quickly to bring matters under control as there were livestock and people in close proximity. He was caught speeding somewhere in the region of 9 km over the speed limit. He was a man who had been driving for many years and who had never transgressed. All of these things were taken into consideration when that decision was made by the officer who took the view it merited cancellation. A person going into the fixed charge penalty notice screen will not see the documentation behind the individual case. I do not want to go any further, otherwise I might identify that individual who is absolutely entitled to privacy. That is the type of thing I am talking about.

I do not subscribe to the view somebody in the Garda Síochána who has the opportunity and authorisation to cancel a ticket will do so because of who someone is in society. I have an opinion in regard to some of the decisions I saw but I think no matter who one is, whether one is a politician, a sports personality, a dignitary or a VIP of whatever description, if one is a citizen of this country and one feels one has a genuine entitlement to petition an authorised officer involved in the decision-making process, the right to do that is open to one as an individual. Indeed, one can carry that process through to the court stage. If one is not satisfied and a ticket does not get the reception one thinks it might, there is absolutely no reason one cannot go into the District Court and make the same pleas.

Deputy Derek Nolan: I refer to two things the Commissioner said. He said the system or the process was weak and that there were flaws in it and that the decision-making based on it was often not transparent, that no reason was given in some instances or that there was no back-up documentation. There is a bad system and decisions which cannot be backed up.

Mr. Martin Callinan: With respect, I did not say we had a bad system. I said weaknesses were exposed within the system. I said very clearly at the start of our discussion, 95.45% of tickets issued go through from A to Z without any recourse to cancellation.

Deputy Derek Nolan: Some 5%-----

Mr. Martin Callinan: The Deputy is right in that I indicated there are particular weaknesses in the system.

Deputy Derek Nolan: Some 95% of them go through the right process, but 5% are cancelled and there are reasons for half of those. They either go through Thurles, or we have back-up to go with them. Approximately, half go down to discretionary grounds, usually through district offices. This is the place where this accusation and the concerns expressed by the Comptroller and Auditor General in his report and by members of the public are raised. We will agree that the system is weak. If the system is weak and decisions are made which are not backed up - there is no reason or documentation - would the Commissioner accept that, at the very least, the system in place could credibly give rise to the possibility that there was this kind of attitude and favour system in place?

Mr. Martin Callinan: In a number of these cases, the particular officers could account for the reasons tickets were cancelled, even though documentation was not available. When one looks at the totality of the very serious allegations made of corruption and malpractice - very serious criminal charges - no thread of evidence has been found to date and nobody has come forward to provide that type of evidence. Many allegations are being made but nobody has provided any evidence of corruption or malpractice. There is certainly evidence found in Assistant Commissioner O'Mahoney's report of people acting outside the process. As the Deputy knows, in three particular cases, 661 notices, the Assistant Commissioner had sufficient concerns to alert the Assistant Commissioner in charge of internal affairs that these matters needed to be inquired into through a disciplinary investigation. He was laying bare the facts as he saw them but he very clearly said he did not come across criminality, which is a very serious issue for us as everybody will appreciate.

Deputy Derek Nolan: If I, as a member of the force, am being questioned by Mr. O'Mahoney on the penalty points I cancelled for my friend or a relative such as a brother or sister, does that come under the Commissioner's definition of corruption?

Mr. Martin Callinan: I would expect that each individual case would be examined on its merits. If it is the case that there is justification for a cancellation, that would be accepted. I do not expect a member of An Garda Síochána to get involved in doing favours for their friends, family or anybody else. I would expect that all decisions would be based on a solid foundation.

Deputy Derek Nolan: Mr. Callinan has referenced the report, saying there was no evidence of criminality or corruption. I am trying to arrive at a meaning for "corruption". To be pedantic, does the fact that I cancel penalty points for a friend as a favour, for which I get no benefit, mean that it is not corruption, while if somebody paid me to cancel the fine it would be a case of corruption? I am trying to find out if this level of activity - informal, doing somebody a favour - qualifies in the report as corruption.

Mr. Martin Callinan: All I can point out, Deputy, with the greatest of respect, is that I expect everybody who makes those decisions to make them for the right reasons - in the first instance, that the person making the petition has a bona fide reason and that the professional judgment of the officer making the decision is balanced and fair. That is all I can ask of the members of the force.

Whether the petitioner is a brother, sister, mother or father of the member of the force should not really come into it. It is either right or wrong.

Deputy Derek Nolan: I understand and accept that point, but my point is that the internal investigation into the matter took a sample of cancelled fixed charge notices and went through them. I understand there was a random selection of 672 fixed charge notices and the examina-

tion found no evidence of any act of criminality or corruption. I am trying to tease out what this statement means. Does “corruption” mean that I must take money to cancel a fixed charge notice? Does corruption mean I was doing a favour for a friend? Perhaps the person who wrote the report can tell me what that means.

Mr. Martin Callinan: The person who wrote the report is present. That is the reason he is here. Corruption does not appear to be defined in law, but in my view it would have the ordinary meaning applied to it. The corruption of public officials is catered for. When one is talking about that type of corruption, one is talking about somebody who has received money, a favour or remuneration, but as far as I am concerned, that is where it lies.

I can do no more than say in response to the questions put by the Deputy that I would expect all of my officers to act fairly and appropriately, and in circumstances in which they found that there was justification for cancelling the ticket, that they would do that; otherwise, that they would reject the petition and send the ticket forward for summons. All I can do is provide guidelines and there is a reasonable expectation that people follow those guidelines.

Deputy Derek Nolan: I accept that. I have seen the report that has been updated from the office of the Comptroller and Auditor General and how the new processes will be put in place to ensure that this will not happen again.

This issue has come to the fore because people agitated to make an issue of it and demanded that it be made public, saying that if one knew a garda - for example, a family friend - or somebody who worked with gardaí, one could get the penalty points cancelled. It was not the case that money was exchanged or that favours were being done in return; it was simply because of the personal relationship that a liberty existed. We have identified that the system in place was weak and there was very little back-up information. The Comptroller and Auditor General has expressed his concerns about the system.

When the allegations were investigated 672 fixed charged notices were examined, but the conclusion was reached that there was no evidence of criminality or corruption. What I am trying to rule out is whether there was evidence that if one knew some gardaí one would get one’s penalty points cancelled or that there was a lax attitude or a disregard for the process.

Mr. Martin Callinan: With the greatest of respect, Deputy, I have read and seen all the allegations, as the Deputy has done. It is the case - I am sorry for the repetition - that I expect members of An Garda Síochána who are charged with this responsibility to act fairly and impartially, regardless of who these people are. Of course I am alive to the allegations and of course I am reading about them. Let us be clear. I am not saying the system is weak - as the Deputy mentioned a few times, there have been weaknesses identified within the system, but the overall process is quite substantial in terms of success.

Deputy Derek Nolan: In fairness, I am asking questions about your own report. I am not asking you about allegations. I am asking you to comment on what is in the report.

Mr. Martin Callinan: With the greatest respect, I have answered the question a couple of times. I have clearly indicated to the Deputy that if he is suggesting that a family member or somebody close to the superintendent or the inspector after him can somehow or other influence a garda to look after the ticket, that is not conduct I would accept as being a valid reason for the cancellation, nor could I ever stand over that.

Deputy Derek Nolan: Did the investigation that took place uncover such actions as I have

outlined?

Mr. Martin Callinan: If the Deputy looks at Mr. O'Mahoney's report he will see that the report lays out the percentage of cases within the band of allegations. In his investigation Mr. O'Mahoney looked at a set of 189 different allegations that refer to 2,198 separate cancellations. That is a very targeted exercise and it sets out the percentage of members of An Garda Síochána who have had fixed charge notices cancelled, which is in the region of 8% of that particular cohort of cancellations, for reasons of being on or off duty.

Deputy Derek Nolan: The Comptroller and Auditor General's report of 2000, 14 years ago, stated that there was a practice of allowing fine notices to be cancelled on the instructions of Garda superintendents without recording the reasons and that this may have led to different criteria for cancellations being applied in different areas and may also have created a perception that certain kinds of fine could be fixed. That was from the Comptroller and Auditor General's special report in 2000. Those concerns were repeated in 2003 and again in 2007. Yet it took allegations, whistleblowing and a serious media storm in 2012 to have the system updated and put in place new procedures and investigations. Why did it have to become a national scandal causing national uproar for recommendations that were made 13 or 14 years ago to be implemented?

Mr. Martin Callinan: The Deputy is discussing a national scandal. Can he point his finger toward where the national scandal is? A series of very serious allegations were made about certain cancellations and about the members who cancelled those fixed charge notices. They have been examined in very great detail by the assistant commissioner and we have already discussed the cases that have gone to a disciplinary process. If the Deputy is saying that is a national scandal and that these three individuals, out of somewhere in the region of 500 officers who had the opportunity to cancel notices, is a national scandal, that is fine.

Deputy Derek Nolan: Let us change it to "national concern".

Mr. Martin Callinan: Okay. Thank you. A variety of changes have taken place since 2000. I have a list of them here. The change from the on-the-spot fines system to the fixed-charge penalty process took place in 2002. Various speeding charges that needed to be implemented were designated in primary legislation in the Road Traffic Act of October 2002. Section 19 of the Road Traffic Act 2004 was introduced in an effort to address the issue of company-registered vehicles. This legislation was found to be inoperable in practice, however. That is a particular difficulty even today. In 2006, the transition to the fixed-charge notice system was completed with the introduction of automated payments. This greatly enhanced the payments system. New management structures were introduced in 2007 when the fixed-charge penalty office was decentralised to Thurles. The introduction in 2008 of robotic vans with digital camera technology and safety cameras represented a move from the use of video, which used a wet film, to the use of digital technology, which provides for a more enhanced system of capturing the offender. All of those things were introduced.

The most significant element of the audit system that is now in place is the fact that it has three tiers. First, we have our own internal audit unit, which randomly chooses a number of districts and divisions and looks at the systems and processes in place. Second, the professional standards unit, which is an independent statutory unit that I am obliged to have in place to examine how the gardaí do their business, comes in and looks at the decision-making process. Third, the assistant commissioner in charge of the traffic unit, who is present at today's meeting, comes in and looks at conflicting interests that may exist. That is of relevance to the

Deputy's last point about cases involving a close family member or a person of notoriety. The assistant commissioner examines those issues in the various districts and divisions. He ascertains whether there was a conflict and, if so, what was done about it. He demands to see the paperwork in all such cases. They are the fixes we have put in place now to try to address all of these concerns. A great deal has been happening incrementally since 2000.

Deputy Derek Nolan: The central issue in the 2000 report was that cancellations were being made without reasons being given. That continued until 2012.

Mr. Martin Callinan: It did, in a limited number of cases. I should qualify what I am saying. I am not excusing it. The Deputy is absolutely right to say it occurred. Of course it did. That screen does not give the complete picture. One has to go behind that screen to find out why the cancellations occurred. It is true that documentation was not available in all cases. That is an accepted fact. That is what the assistant commissioner exposed in his report. There is nobody hiding anything here.

Deputy Derek Nolan: Sure. This is a real corporate governance issue.

Mr. Martin Callinan: Absolutely.

Deputy Derek Nolan: This issue was flagged in 2000. The perception that things were being fixed or written off inappropriately was not acted on fully at that time. There was something wrong in the corporate governance of An Garda Síochána, given that this was not fixed promptly and fully at that time.

Mr. Martin Callinan: Yes. I understand the Deputy's point absolutely. I accept those criticisms. Of course I do. All I can say is that in a highly regulated corporate body like An Garda Síochána, directives are issued and instructions are given almost on a daily basis. All I or any of my senior officers can do is issue a set of guidelines or directives with a strong expectation that they will be implemented in full. Those who address these directions have to make professional judgments. For example, they decide whether to arrest somebody or to let them go. It is difficult and complex to try to cater for discretion in a comprehensive way. There is an expectation that people will do what they are asked to do, which is to make up their minds in a fair and balanced way. There have been weaknesses in the system.

Deputy Derek Nolan: Can I ask a final question? I am aware that I am probably running out of time. The question relates to the differing termination rates at the various district levels. It has been identified that the percentage of charges that are terminated or cancelled varies significantly from a low of 0.1% in Birr to a high of 5.9% in Ennis. What was going on in Ennis that it had such a high level of terminations?

Mr. Martin Callinan: The licensing system is based in Ennis. It is difficult to put one's finger on any single element. One could say that traffic units play a significant part in the issuing of fixed charge notices. There may be other elements - I simply do not know. All I can do is produce the facts that are there. The assistant commissioner has produced those facts.

Deputy Derek Nolan: I want to come back to an issue I was pressing Mr. Callinan on. I am still not satisfied. Has the activity in question, whereby a garda cancels a notice for a family friend as a favour, been uncovered in any of the Garda's investigations? I will put it as bluntly as that.

Chairman: I would like to be of assistance. The Garda Commissioner asked how "cor-

ruption” is defined. I remind him that under the reporting of malpractice and corruption Act, it is defined as covering falsehood and prevarication, deliberate falsification of records and improper influence to make personal or family gain. Is that document circulated to members of the force? It defines corruption. I think that was what the Commissioner was asking.

Mr. Martin Callinan: It certainly describes elements of corruption. The Chairman is referring to our anti-fraud policy, which is part of a wider Government and State theft, fraud and corruption system.

Chairman: It defines it as falsehood and prevarication, deliberate falsification of records or improper influence to make personal or family gain. I think that is the answer to the Garda Commissioner’s question. Is that correct?

Mr. Martin Callinan: That is absolutely correct.

Deputy Derek Nolan: Is that a definition of “corruption” or of “fraud”?

Chairman: It is how “corruption” is outlined by An Garda Síochána under the reporting of malpractice and corruption Act. There is a paragraph on it. I will not read the entire paragraph. It includes falsehood and prevarication, deliberate falsification of records and improper influence to make personal or family gain. As I understand it, that is the definition of “corruption” as outlined for the Garda Síochána in its own document.

Mr. Martin Callinan: The Chairman is absolutely correct. There may be other elements-----

Chairman: There are other elements described in this paragraph. I am only taking the-----

Mr. Martin Callinan: Absolutely.

Deputy Derek Nolan: We have ascertained that this issue would come under that definition of “corruption”. Has the Garda come across such activity and behaviour in any of its investigations?

Mr. Martin Callinan: No, we have found no evidence of that type of activity. I suppose I should qualify that by saying that there is currently one file with the Office of the Director of Public Prosecutions in relation to specific allegations against three members of An Garda Síochána. When a previous file under this legislation was sent to that office, it said there was no evidence found and there was no prosecution. That was the result of that investigation. Each of the two files I am indicating to the committee - one has been dealt with and the other is still live with the Office of the Director of Public Prosecutions - has been created by two of the people who are central to these allegations. Very specific allegations were made in these cases.

To come back to the Deputy’s question, page 25 of the O’Mahoney report, under the heading Family Connections, states:

In the absence of specific information it is difficult to categorically identify whether the petitioner is in any way connected with either the terminating office or a member of An Garda Síochána.

1,530 of the 1,537 terminations examined (99.5%) had no identifiable family connection between the terminating member of An Garda Síochána and the fixed charge nominee.

These are in relation to the very specific allegations that were made and identified by the

O'Mahoney investigation. This may be a good opportunity for the Assistant Commissioner to respond.

Chairman: Mr. O'Mahoney may respond if he wishes.

Mr. John O'Mahoney: As the Commissioner said, it is obviously very difficult to clearly identify a connection unless somebody declares that he or she is a family member. That is a difficulty that we had in coming to our determination. With friends and family, the name does not necessarily mean anything. Our examination found seven cases involving identifiable family members. We examined those seven cases in detail and found that the people who terminated were not family members. We did not find any family member terminating for a family member.

Deputy Derek Nolan: The Assistant Commissioner used a sample of more than 600 cases for his investigation. How did the process work? Were people interviewed at Garda stations about an individual sample? Were they asked their views on the operation of the fixed charge notice and its weaknesses? Was such a broad scoping exercise done to judge the feeling of members of the force, talk to them about their experiences and so on, or did the exercise involve going through each case individually?

Mr. John O'Mahoney: As the Deputy can imagine, we were given a specific task and time-frame to examine the allegations that were made. We decided for comparative purposes that we would look outside of the allegations that were made by the persons who made them. We decided to look at 1% of cases. We divided the 672 cases between all the district headquarters around the country, other than some of the districts that were already dealt with as part of the allegations. Every one in 16 was picked at random. To answer the Deputy's question as to whether we asked people specifically what they thought of the system, the answer is "No".

Deputy Derek Nolan: Did the investigation or any subsequent or previous reflection done by the Garda Síochána on this issue include a broader approach of talking to and engaging with members of the force to get their sense of the issue? This could include doing an anonymous survey or having a place where people could submit their thoughts or feedback on the allegations that have been made. This would be a way to facilitate the process without identifying themselves. Was a broader approach taken as part of the investigation to try to get a better sense of the culture and attitude in the force? Much of this is unprovable if one does not have any documentation. In a system that allows for decision making to go unaccounted for in some regards, the only way one will find out is if one does a much broader testing of members of the force.

Mr. Martin Callinan: I suppose in terms of the offences that were sent for disciplinary investigation, one would obviously be digging down and going out to look at, for instance, areas where there might be some sort of activity other than what appears to be in front of one's nose. If there is no documentation, it creates its own problem. These are, however, a small number of cases, particularly the ones which involved acting within policy but outside of the process. To put this in context, if I am a superintendent in Santry and I cancel a ticket in Dalkey, perhaps for all the right reasons, with proper justification and being authorised at a particular rank to do so, the proper procedure in that instance would be to forward the documentation, if one was satisfied that there was justification for cancelling the ticket, to the superintendent of the area in which the offence occurred and let him or her make the decision. That is what should have happened and did not happen in a certain number of cases. That is the distinction I am drawing between acting outside of the policy versus outside of the process. That happened in a number

of cases. However, where the disciplinary issues arise, these are matters that were deemed to be too serious and they certainly involved a lack of documentation and an audit trail.

Deputy Derek Nolan: I will finish on that. I thank the Commissioner and his officials.

Mr. Martin Callinan: Maybe we will get to this issue later on but I mentioned the three tiers of audit. In the context of the committee's mail shot yesterday, the Chairman spoke about a number of things, particularly audit trails and asked if we were fixing the system. It is important to the discussion with Deputy Nolan that, in terms of compliance, 24 stations have been visited to date, five divisions have been inspected by the Assistant Commissioner in traffic and the internal audit unit has visited the fixed charge office unit in Thurles. In all areas, there is 100% compliance. It is important to put that on the record. Does it prove that the fixes are now working? Let us hope so.

Deputy Derek Nolan: I thank the Commissioner.

Deputy John Deasy: I will start on the Commissioner's final point. Is that something new? This material goes back to 1998 in some cases.

Mr. Martin Callinan: It is new.

Deputy John Deasy: I find it unusual that people were not visited prior to August of last year. Were no spot checks carried out in divisions or stations previously?

Mr. Martin Callinan: There were spot checks.

Deputy John Deasy: What is the difference now?

Mr. Martin Callinan: There is much tighter control now. Every district has a superintendent or an inspector acting for the superintendent when he is away. These are the people who are charged with the responsibility of ensuring that all of these matters are conducted in a proper fashion.

Deputy John Deasy: This material includes a large number of reports, including four reports from the Comptroller and Auditor General dating back to 2000 and the report from Assistant Commissioner O'Mahoney. The Garda Inspectorate is also looking into these matters as they relate to fixed charge notices and we have a report from the Garda professional standards unit dating from April. When one looks through all this material, it is fair to conclude, as the Commissioner stated, that the system has become better in some ways. That conclusion is proved by the figures. However, the system has also got worse in some areas. There have been marginal negative changes in respect of issues such as serving summons, inputting data, allowing offences or potential offences to become statute-barred and failing to prosecute individuals who are driving company cars. While the data shows there have been improvements, there have also been areas in which no improvements have been made. The Comptroller and Auditor General has made the same recommendations consistently since 2000, yet there has not been any improvement in some categories.

I will start with the positives. With regard to the collection of fines, the position 13 or 14 years ago was that more than half of such offences went unpunished. The rate of collection has improved, with only 20% of fines going uncollected today. The cancellation rate for on-the-spot fines was approximately 8% in 1998, whereas the most recent report cites a rate of 5%, which indicates an improvement. When it comes to the serving of summonses, for example, in

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2000 there was about 44% non-serving of summonses but it has gone up to 50% on the latest date provided to us by the Comptroller and Auditor General. Will the Commissioner start with that issue? What are the reasons and why has there been a marginal increase in the non-serving of summonses from his perspective?

Mr. Martin Callinan: I suppose there are many reasons people will evade either getting a fine or conforming to whatever the sanction for that fine being imposed on them. It is the case that there is a greater population now, there is a transient community with people from both the North-South and east-west and there are data quality control issues in the context of registered owners of vehicles. The Deputy is right. Summonses are a difficulty and have been a difficulty for us for many years in terms of trying to get them served.

Deputy John Deasy: Let me be specific. I am sorry for cutting off the Commissioner. There are some other issues I need to get to. In the 2000 report the Comptroller and Auditor General made a recommendation and he made it again in 2012. The recommendation was very simple, that the Garda and the Courts Service need to work together to deal with the issues of summonses. That has not happened.

Mr. Martin Callinan: It is happening and we are engaging with the Courts Service and have been for some time on this issue.

Deputy John Deasy: Please continue.

Mr. Martin Callinan: I do not have a whole lot more to say to the Deputy. That is the case. We are working on it. I have a designated officer working with the Courts Service with a view to seeing what else we can do to improve. He has a group looking at it to see if there is anything further we can do. All I and my senior officers can do at every available opportunity we have is re-emphasise the need to ensure that summonses are served in a timely fashion. We reiterate that message quite frequently.

Deputy John Deasy: Has the Commissioner come across any evidence of deliberate non-serving of summonses by gardaí?

Mr. Martin Callinan: No.

Deputy John Deasy: Will the Commissioner explain to me how the serving of summonses is tracked right now? How is this monitored?

Mr. Martin Callinan: It is the function of every district superintendent to track the summonses that arrive to him or her for service. That is a function that should be taken very seriously. Primarily, he or she is responsible for doing that.

Deputy John Deasy: Has the Commissioner taken disciplinary action against any garda with regard to the non-serving of summonses?

Mr. Martin Callinan: No.

Deputy John Deasy: Has the Commissioner ever detected multiple non-serving of summonses by a particular garda?

Mr. Martin Callinan: To be fair, no. It is a volume issue. It is a difficult area for us and we accept it is a difficult area for us but we are working to try to reduce the level.

Deputy John Deasy: I am going to ask a question because we are going back 12 years. What can we expect with regard to that individual the Commissioner named as working on this with the Courts Service? Are we going to be here in 12 years' time with the same 50% figure? I have to ask that question because it is going on a long time and is getting worse. What can the Commissioner tell the committee to reassure us that figure is going to get better?

Mr. Martin Callinan: I think it is very clear that we are very serious about our business in terms of summonses and the courts process and we will continue to reinforce, as best we can, the need for our people to ensure that all of the summonses we get are served. This is not just unique to our own organisation, there are other organisations that suffer the same issues in terms of compliance with matters.

Deputy John Deasy: I will move to company cars and return to the recommendation made by the Comptroller and Auditor General in 2003. We are still in the same situation. I think the figure is 28%. Let me provide some background. The assurance at the time was that the Garda Síochána would contact the Department of Transport, Tourism and Sport, and deal with the issue. That was ten years ago. Can the Commissioner say why that did not happen with the Department?

Mr. Martin Callinan: It did happen and I have already indicated to the committee. In 2004, section 19 of the Road Traffic Act was introduced but, in effect, it was found to be not effective. It is the case that one can register a vehicle in a company name. We are working very closely on the issue. There are a number of people involved in this matter because we view it so seriously. The Road Safety Authority, the Department of Transport, Tourism and Sport, the Department of Justice and Equality and the Courts Service are all working together to try to address this.

Deputy John Deasy: I am sorry to stop the Commissioner again. In 2004 the legislation passed was not effective. That was ten years ago. The revenue foregone for 2011 and 2012 is more than €1 million. Since 2004, when the Commissioner identified that the legislation was ineffective, what steps did he take with the Department of Transport, Tourism and Sport to rectify that because in those two years the State lost €1 million?

Mr. Martin Callinan: We will work with any Department we can in an effort to improve matters but we do not make the law. We implement the law as best we can.

Deputy John Deasy: It there a lacuna in the law, the Commissioner identifies that and communicates that to different Departments all the time.

Mr. Martin Callinan: With the greatest respect, Deputy, that has been well-flagged in many Departments.

Deputy John Deasy: It has been for ten years.

Mr. Martin Callinan: It has been well-flagged.

Deputy John Deasy: This figure is very low. I will start with that again. I must press the Commissioner on this. This is fairly basic stuff. There are a lot of reports, including Comptroller and Auditor General reports but in some cases there has been no movement whatsoever with regard to changing the law and putting into place the procedures and systems to actually improve the system. In some cases it has improved but in other cases there are serious lapses, organisational lapses, legislative lapses and I do not think it is fair to say it is simply a matter of

law enforcement. The Commissioner has a critical role with regard to identifying gaps in the law and communicating them to a Department so it can fix them, whether it is the Department of Justice and Equality or the Department of Transport, Tourism and Sport, but it has not been done.

Mr. Martin Callinan: With respect, it has. We are meeting those involved and are indicating the difficulties and the problems we have. On many occasions a discussion has centred around an individual's driving licence particulars being associated with a particular vehicle, for example, and maybe that might help to address the issue. In reality, what does one do with the employee who is employed by a large transport company who is driving a variety of lorries? The bottom line here is that under section 103 of the Road Traffic Act there is an obligation on either the secretary of a company or some company official to indicate who was driving the lorry.

Deputy John Deasy: They are not doing that.

Mr. Martin Callinan: Correct.

Deputy John Deasy: They are not replying-----

Mr. Martin Callinan: We have highlighted this issue many times so it is not fair to point the finger at the Garda and say it is not addressing it. We have highlighted these issues time and again and people are aware of the difficulties.

Deputy John Deasy: So the Commissioner is saying it is a lapse on the part of the Department of Transport, Tourism and Sport to deal with this.

Mr. Martin Callinan: I am not saying it is a lapse on anybody's part. All of these people can speak for themselves. What I am indicating is where problems like this manifest themselves, we interact with the various agencies that are involved in the process and we bring it to their attention.

Deputy John Deasy: I will move on to statute-barred offences and, again, I go back to 2003. At the time 5,500 cases were flagged as being statute-barred in a particular period. In 4,561 of these no reason was stated in the computer file. The Accounting Officer at the time told the Comptroller and Auditor General that the reason for the high number of statute-barred offences was due to a backlog of offences relating to the introduction of the new penalty points system. The Accounting Officer at the time, not yourself obviously, stated that since the backlog was now clear that - I stress - the situation should not arise again. In the current report the Comptroller and Auditor General examined over 3000 offences detected in 2011 and 2012, yet it is still a problem. There were 3,000 offences detected in 2011 and 2012. It is still a problem. It results in a huge loss of revenue from the Exchequer.

I do not think we can point the finger at the Department of Transport, Tourism and Sport or any other Department. This is basic inputting of data. Court proceedings must be initiated within six months of the offence's being detected. If they are not it will be statute barred. Why is this still a serious problem ten years on while the State is losing huge amounts of revenue because data is not entered?

Mr. Martin Callinan: There are a couple of aspects to this. If a member of the Garda Síochána who applies for a summons for a specific offence, whether it is a road traffic or any other matter, does not deal with that within the statutory period of six months it is statute barred. That

is one aspect. The other is the notepads that we use. The Comptroller and Auditor General's report, and the O'Mahoney report, identified problems for us in that respect. We have implemented a new system whereby all of these pads, which come in batches of 20, are bar-coded and accounted for. An accounting regime has been put in place. I expect to see improvements on that aspect.

Deputy John Deasy: It is a question of individuals. Some individuals are not doing this more than others.

Mr. Martin Callinan: It is. By the way, the Deputy mentioned in his question that I cannot blame any Department. I am not in the business of blaming any Department or any other agency for sins on my side of the fence. I want to make that clear.

Deputy John Deasy: That is fine.

Mr. Martin Callinan: I am putting my hand up here about several fault-lines within the system.

Deputy John Deasy: Does Mr. Callinan understand that it is reasonable to ask the question when nothing has happened after ten years and when the figures are so bad?

Mr. Martin Callinan: That is different. I will certainly answer the question but the Deputy should please not accuse me of laying the blame on-----

Deputy John Deasy: I am not.

Mr. Martin Callinan: The Deputy mentioned it. That is a point.

Deputy John Deasy: Let us be honest about this, someone is falling down in regard to dealing with this.

Mr. Martin Callinan: If we allow a situation to occur whereby a summons becomes statute-barred then it is clear that we are at fault. That is a given.

We are putting matters in place in respect of the electronic notepad system to repair that. If there are other issues to be addressed we will address them. According to the Comptroller and Auditor General's report it is 0.4%.

Deputy John Deasy: With regard to what I said, it comes down to individuals not inputting the data in some cases. Does the Garda Síochána have a system to identify those people? There are repeat offenders – offenders is the wrong word - people do this repeatedly or do not do this repeatedly. Is there a way to find those people and deal with that problem? What is the system for weeding this out?

Mr. Martin Callinan: In terms of processes, all of these things should manifest themselves in the ordinary management of a district or a division. All of these things should be addressed by line management within those areas.

I hope that the notepad issue I mentioned will take care of itself through the audit trail we now have. The inspector in the district has to make a return on a monthly basis to the fixed charge notice. It is the case, when people are out on mandatory alcohol testing, MAT, checkpoints or other road traffic duties in very inclement weather, that these forms are destroyed and are mislaid. All of the human elements come into play. I am not using this as an excuse but

these are issues that arise in the course of ordinary everyday business. It is up to us in management to ensure that there are sufficient checks and balances to ensure that no summons is statute-barred.

Deputy John Deasy: I have picked out three examples and I will finish on this point. I have to make the observation after going through all of this information dating back to 2000, and the four reports and sets of recommendations that the Comptroller and Auditor General and his office have made over those years, in those three areas I have outlined there has not been much improvement. In some areas there has been. To be fair it has been very positive. The system in many respects is far more rigorous. There are areas where I am to an extent at a loss to figure out why the improvements are not greater. That is merely an observation.

Since the new policy was issued in August, what improvements have been made and can Mr. Callinan give us some detail on the kinds of figures, if they have improved since then, across the board, since the new policy was initiated in August?

Mr. Martin Callinan: I have already mentioned the three-tier audit system, the professional standards unit which looks at the decision-making process-----

Deputy John Deasy: May I stop Mr. Callinan and ask what they do? Mr. Callinan said that there is a statutory requirement to have that unit. When I look across all these areas I ask myself, while all of this has been going on for the past 13 years, what has that unit been doing in these areas? What is its role? How often does it meet? Mr. Callinan said it is a statutory requirement to have it but how effective is that unit?

Mr. Martin Callinan: It is a unit of its own right. It is an entity in Garda headquarters. I was statutorily obliged to set it up. As the Deputy can imagine from its title it considers professional standards for the Garda Síochána. It would typically go into a district or a division and examine the processes in operation and bring back recommendations across the whole system, not just penalty points. It makes recommendations and reports to local management.

The Deputy mentioned what has been happening in trying to correct this. Apart from those three tiers, the Assistant Commissioner, the professional standards unit and the internal audit unit, there are several changes in respect of the cancelling authority and redefining its area. In other words, superintendents in the new policy are not now in a position physically to access a machine and cancel it. It has to go to the fixed charge office with the recommendation to cancel or not.

A similar tracking system is in place in respect of the notepads so that a return goes every month to the fixed charge office which is auditing. I mentioned the three units. They are some of the things that have been happening since August under the new policy arrangement. Of course if there are other recommendations from the inspectorate or the Director of Public Prosecutions we will consider them and if we can factor them into the policy we will do so.

Deputy John Deasy: On the issue of whistleblowers, Mr. Callinan will not talk about individual cases. He has made that clear and the committee has accepted that. It is fair enough but can Mr. Callinan fill me in? I have a concern about the information that it seems is now frequently given to Members of the Oireachtas and committees. In some cases it might constitute a fragment of the information around one particular case, or an alleged offence. This committee needs to be careful about how it deals with that information because it does not give the full picture. Is that Mr. Callinan's opinion too?

Mr. Martin Callinan: That is absolutely the case. If one considers the allegations that the Assistant Commissioner has examined on behalf of all of us it is very clear that in a substantial portion of the allegations the people who complained about corruption, malpractice, cancellations of all types had very limited access to the decision-making process. They simply did not have access, to put it in a nutshell. They opened a screen in the PULSE system and looked at a snapshot of the actual event but they did not see the complete picture.

Deputy John Deasy: Will Mr. Callinan give us an idea of what else there is? What constitutes the full picture beyond the screen?

Mr. Martin Callinan: For example, if an allegation is made that a particular superintendent cancelled a particular group of tickets, it would be necessary to go to the district office and examine the audit trail, providing it is there, of course, but this has not always been the case. If the trail exists one would have to examine it to see the circumstances, to see if it has been done correctly and whether the professional judgment exercised was proper and appropriate in the circumstances. That information is not available from these screen shots; one must go behind them.

For example, when dealing with the fixed charge notice system, in some instances the juvenile diversion scheme is at issue. Once a date of birth is recorded for a driver, it will automatically go to the fixed charge office for cancellation under the juvenile diversion scheme. Therefore, there are elements which are not visible when one looks at a screen.

Deputy John Deasy: What are the Commissioner's views on how this committee is doing its business? Let us say I agree with the Commissioner and that I have a similar concern. I am not questioning anyone's bona fides - whistleblowers - but I am getting to the nub of the issue. The Commissioner is saying that in his opinion he cannot make a decision or an analysis based on a fragment of information.

Mr. Martin Callinan: Yes.

Deputy John Deasy: What are his views on how the committee has been doing its business in that case? Is he saying that it cannot possibly-----

Mr. Martin Callinan: In relation to this particular aspect?

Deputy John Deasy: -----make a correct analysis if it does not have all the information?

Mr. Martin Callinan: I do not believe it is possible; I really do not believe it is possible. Far be it from me to criticise the important work that goes on in this committee, because it is necessary and important that we are called to account, as we should be. As the Accounting Officer for the Garda Síochána I have a statutory function under section 26 of the Garda Síochána Act to direct and control the force. The only effective way I can do that is to have a proper disciplinary regime in place so that when people step outside I have access to sanctions.

I should preface my remarks by indicating that one of the people who is now engaged in this so-called whistleblowing exercise is a person who is a serving member of An Garda Síochána, as I understand it. If that is the case, then he or she is subject to the disciplinary regulations. It is the case that at any time, at any place, anywhere, a member of An Garda Síochána can step outside the ordinary standards expected of that member. If that is the case then I would have to consider whether I would have access to the disciplinary regulations to deal with that issue. I am not for a moment suggesting that I will go down the road of exercising discipline in this

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particular case but it is certainly something on which I would have to reserve my position. If I am asked in general terms whether it is appropriate for a member of An Garda Síochána to use this committee as a platform for exercising whatever it is he or she wishes to exercise and make unsubstantiated allegations or provide sensitive personal data to a third party - such as this committee - then I will have to seriously consider my position and their position. I have already indicated to the Chairman that I have very serious concerns about the information, the data, that has been passed on to the committee. I am not aware of what is contained in that data but I can only presume it from the response of the committee. I have no issue with the committee taking legal advice and deciding how best to do its business but it is the case that I have also taken advice and I am told that, as we speak, I am in breach of the Data Protection Act and that it is possible that the person who supplied that information is in breach of the Data Protection Act. This is clearly a matter on which I will need to take action. I will reserve my position with regard to how I will deal with that. If I am asked in a general sense whether I would be in favour of a member of the Garda Síochána coming in here and using this forum, this committee, to expose material in the fashion in which it has been exposed or to make allegations that have not been substantiated, I think that is fundamentally wrong.

Deputy John Deasy: The Commissioner is also making the case that it is not possible to make a comprehensive case because not all the information is available. Is that correct?

Mr. Martin Callinan: If I may put it this way, I do not know what the committee has at its disposal. Certainly, if it is anything like the level and extent of the knowledge that the assistant commissioner had at his disposal about the allegations made, if that mirrors what the assistant commissioner was dealing with, clearly it would be impossible to make a judgment. That was part of my concern which I articulated in the letter to the Chairman. For instance, if the information is anonymous and if this committee were to rely on providing statistics in a public forum, then we are in a very rocky place unless these matters can be explored and properly teased out. I have indicated to the committee that there were issues within the system that needed to be corrected, and this has been done. However, I emphasise it is very important that as a disciplined force we do not allow a situation to occur in which 13,000 members of An Garda Síochána start making complaints about one another and investigating one another. We have to exercise some form of control. It is important that as Commissioner I have control and authority over the force. How can I manage the force unless I have access to that type of control? The organisation could not perform its policing or security remits if I and my officers were not in a position to exercise that type of control.

I do not want it to be said that I am considering disciplinary action with regard to these people. I have given it very careful consideration and I will continue to do so. However, there may come a point at which I will have to seriously consider this matter for all the reasons I have indicated. I cannot allow a situation to continue where information is being bandied around. I realise people are relying on a certain section of the law as an authority.

Wrongdoing by any member of An Garda Síochána will not be tolerated by me or by any member of my officer corps. The committee can take that as a given. There is a difference between reporting wrongdoing and consistently putting about large volumes of material. These are the parameters I must consider. When I became aware of it, I issued a very clear direction to the two members involved. We had a discussion with Deputy McDonald on the last occasion I was before the committee as to when I became aware of the identities of these people and what they were saying. I have carefully checked my records since then. In December, following on from the information that the retired member of the force and a serving member, a sergeant,

were working together to provide information and material for an elected representative, I took advice and I was advised that this was wrong. In light of that advice, I set about putting in place a direction to both of these individuals that if they had any problem at all or any complaint to make, the first thing they should do is to revert either to the assistant commissioner who deals with very serious allegations or any other member of the Garda Síochána. As I recall, I used the words “without prejudice to the confidential reporting mechanism,” because I fully recognise and support the confidential reporting system in An Garda Síochána and elsewhere. Everybody, not just in An Garda Síochána, is entitled to be in a position to confidentially report matters of wrongdoing that come to their attention. At the same time, these individuals have a responsibility as well, and the making of allegations that cannot be substantiated on a regular basis is a particular difficulty that I may have to deal with.

Deputy John Deasy: Thank you, Commissioner.

Chairman: I wish to clarify certain matters before calling the next speaker. Given that we have exchanged correspondence on this matter, like any committee of the House or any individual, we took legal advice on the matter and we retained the box of information. I simply want to place on record that we were given the opportunity to examine the box to see whether it was of any relevance to the committee. The members decided that it was, and we authorised the clerk and the person giving legal advice to the parliamentary system to analyse what was in the box. Any personal information was redacted because that is not our business. Our business is the loss of money to the State should a system not be working properly. That is exactly what we are about in this case in analysing the information we received.

I am sure the box of information contains the same type of material as that referred to by Assistant Commissioner O’Mahoney. We set out that material yesterday at a private meeting and issued it to members, redacted and fully compliant with the Data Protection Acts. The Commissioner is quite welcome to a copy of that information.

Mr. Martin Callinan: I appreciate that.

Chairman: He is also welcome to examine, without taking it away, the box we originally examined, in order to complete the information gap that seems to be there.

It is a fact that other Members of the House and other committees of the House received similar information from the two whistleblowers.

Yesterday we received a letter which was sent to the justice committee on 12 January and received by it on 15 January, which makes further very serious allegations in regard to all of these matters. I am saying this to inform Commissioner Callinan of the work of the committee.

I want to address the issue around the information that is there. The original information from PULSE gives the garda name or number - I forget which it is - and an indication as to which member of the Garda would have taken the action to remove the penalty points. However, one of the whistleblowers, respecting the data protection provisions and leading us to this point, provided us with the information which told us, for example, that a certain number of penalty points were struck out for a particular family. We do not know what family it is. He went to the bother of quantifying the cost of the total loss to the State. He says it runs to €4 million to €6 million, which is not perhaps much different from the figure that is reached when one works out either Assistant Commissioner O’Mahoney’s figures or those of the Comptroller and Auditor General.

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The Commissioner gave an example earlier of bees worrying livestock. I was struck by a number of examples that were contained in one of the whistleblower's report whereby a senior person had his or her penalty points struck out because he or she was on his or her way to court. The whistleblower went to the bother of finding out that there was no court sitting on the day in question. He also went to the bother of looking into a situation where a garda who was stopped did not receive penalty points because, it was stated, he was on duty. Apparently, several penalty points were at issue here. The whistleblower states that he investigated the case and found that the garda was not on duty when the incident took place and it did not take place in the area where he normally would be working. In fact, he was on sick leave.

I am not saying these things to embarrass the Commissioner or the Garda in any way. I am simply saying that this is the type of information that is circulating around the Oireachtas. Would it not have been possible to bring in the two serving gardaí before one of them retired and have a man-to-man discussion with them in regard to their duty, as they saw it, to report what they considered wrongdoing and, in some cases, what was described as corruption under the definition we gave earlier? As proper members of the force, willing to give this information, they have put their jobs on the line. That is what happens to whistleblowers - they sometimes become the victim. Was it not possible within the force to create a situation where they were brought forward in order to give that information? They provided the information to the committees of the Oireachtas because it was suggested that this was the proper way to do it. There is an issue here in that the matter must be dealt with in some way, because it is damaging the reputation of the force and people are wondering if what we have heard is true or false. That is really what we are about here.

Mr. Martin Callinan: I absolutely accept what the Chairman is saying. That is one element and one side of the story. I recognise a number of matters he has mentioned by way of example. One or two of them have been bottomed out. I will say no more about that.

It is clearly the case that on 14 December 2012, following legal advice, I presented an opportunity to these individuals - not alone did I present it but I directed them - that if they had any of that PULSE material in their possession, to hand it over, because they should not have had it in the first instance. None of us should. Second, I advised that they had an opportunity, without prejudice to the confidential reporting system - that is very important, and I have copies of the directions I gave to these people - to come forward with absolutely any complaint they had to the assistant commissioner. I would expect that any member of the Garda Síochána would know the channels of communication in the case of wrongdoing. I have already indicated to the committee that anybody who sees or hears about wrongdoing would be expected to take action, and that action could be on their own, through their superiors or through the confidential reporting mechanism. That is a clear direction that was issued in June 2012 in the context of the last point the Chairman mentioned.

Deputy Mary Lou McDonald: It was December.

Mr. Martin Callinan: My apologies, December. That is a clear indication of my intent that if they had knowledge of any matters of wrongdoing, they should come forward with the information.

Both of these people have engaged with the system at different points. On 1 September 2012, one of them made very serious allegations under the anti-fraud policy to a chief superintendent. When asked at the time whether he had any other issues, he indicated he had not. That file has gone to the Director of Public Prosecutions. I may be incorrect but I think it involved

in the region of 20 specific complaints against one member. The DPP issued a direction that there be no prosecution. In June of last year, the other person made a specific complaint under the anti-fraud policy against three individuals and I think there were 17 specific cases of alleged criminality. That matter has been investigated and it is with the Director of Public Prosecutions right now. So they have chosen - very carefully - when to act and when not to act. This is another feature of what is going on. All of these things are of great concern to me in terms of exercising the proper controls that I need to exercise so that we, as an organisation, can function.

Chairman: By way of concluding this part of proceedings, I wish to state that the Committee of Public Accounts last night agreed to engage again with one of the whistleblowers because he asked to come before us. We agreed that we would hear his evidence on Thursday next. I think the Commissioner should be aware of that. In the letter to which I referred earlier, the second whistleblower has stated, "I am willing to give evidence to your committee at the earliest opportunity". That just arrived this morning, so it will be with the correspondence circulated to members. That is the state of play at present and, as indicated, the information is before us in redacted form in order that there is protection for both the individual garda and the individual who was stopped. It is disturbing to read the material involved. There is a need for a comprehensive response to this document and to what are being presented as facts from the Commissioner to the committee on another time. To be fair, I will not discuss the matter in detail because the Commissioner has not seen any of the documentation.

Mr. Martin Callinan: It is extraordinarily unfair that this position is now evolving. I am the Accounting Officer of An Garda Síochána. I am the person answerable to the committee, the Minister and the Government in respect of revenue streams and efficiencies and processes within the system. There are ample fora within An Garda Síochána if an individual or individuals have issues that they wish to highlight in terms of reporting matters of wrongdoing. I think it is grossly unfair that this situation has evolved. I certainly do not want to interfere with the important work of this committee. I want to make that perfectly clear. The committee has lots of things to consider but I cannot, in all fairness, have a situation where members of An Garda Síochána are coming in and making very serious allegations of a criminal nature - and a disciplinary nature - and using a platform such as this committee to air their grievances, without my having a response. I have not seen any material the committee has. It is grossly unfair. I should have an opportunity to deal with this situation and make very cogent arguments if that is what the committee would require of me to make in advance of people coming in here and - let us put our cards on the table - airing certain matters. I will not say they are pursuing a particular agenda but they may very well be misguided in terms of the state of the information they feel the have.

Chairman: That is why-----

Mr. Martin Callinan: I am not for a moment suggesting that in the context of everything they are saying, there are not elements in that which are not in accordance with policy and procedures. That may very well be the case. However, where members of my force are coming in and making very serious accusations of a criminal nature against my officers, then that is an extremely serious matter. It is a matter that should be dealt with by either myself or by other fora. If there are matters of such a serious criminal nature, I think the Director of Public Prosecutions should be involved. There are clear obligations on the people who are making these accusations. I am only repeating myself, I know that.

Chairman: That is why I raise the matter with the Commissioner. We will pass on the information so that he will be aware of what the committee is examining. That is only fair. The committee has not, as yet, decided whether the matter will be dealt with in public or private

session. That is a matter with which we will deal next week having heard the Commissioner's evidence today. So the issue will come back onto the agenda for next Thursday's meeting.

Mr. Martin Callinan: Clearly, Chairman, I will have to take legal advice and take whatever action I feel is appropriate to protect the Garda Síochána, not, as people might interpret, to circle the wagons but because there is a very fundamental principle here and that is the direction and control of the organisation. People will be aware - and it is a matter of public record - of how I do my business and how this man beside me, Deputy Commissioner O'Mahoney, does his business. We have, and I have said this in the past, both been involved in investigations where we sent our colleagues to jail. Not a very pleasant exercise I can assure everyone sitting in this room. We have had an occasion where one of our own colleagues' wives collapsed in front of us when he was sent to jail. So no one can point the finger at me and say that I will not take firm action if I have any hint of wrongdoing. It is not a question of acting in a particular way to suit my particular circumstances, it is about fairness to both the organisation and to the control and discipline that requires to be intact within An Garda Síochána in order to allow it to carry out its functions.

Chairman: The Commissioner will appreciate that I could not allow the hearing to proceed further without informing him of the position from our point of view. It is only fair that everyone should be aware of that position.

Deputy Paul J. Connaughton: I welcome the witnesses and I thank the Commissioner for the evidence he has given to date. In his initial contribution, the Commissioner referred to Garda discretion. He referred to one matter in the context of bees worrying livestock. While I very much hope that the cows involved were okay, he can see - from the public's perspective - it seems unusual that discretion was used in that case. Are there any controls relating to Garda discretion or is any advice provided in respect of what is actually considered such discretion?

Mr. Martin Callinan: In short, all I and my colleagues can do is provide advice and guidance as to things that might be appropriate. However, in terms of the actual professional judgments that are required to be exercised, all of the things one would expect ought to be an ingredient of that process, namely, fairness, transparency, audit trail and reason for the decision. These are all of those things that we are now ensuring are in place. We recognise that there were weaknesses in the system and that this did not always happen. Of course there will be variations and I dare say that if one counted the people that are in this room and presented 20 scenarios to each and every one of them, we may not all come back with a uniform decision-making process. Discretion is a difficult area to be either descriptive or prescriptive about. We depend on people to do the right thing.

Deputy Paul J. Connaughton: I accept that and I certainly have no issue with the idea of discretion, particularly as it could be used in a common-sense way in many other areas and by certain Departments. However, what might constitute discretion to one member of the force might not constitute it to his or her colleagues. Members of the public would be concerned with regard to situations where certain members of the force might use common sense in respect of particular matters while their colleagues might insist that the law has been broken. I am trying to discover the checks and balances that are in place within the Garda Síochána. Is there a meeting every month to find out how Garda discretion was used that month? Are those checks and balances in place?

Mr. Martin Callinan: The professional standards unit, which is looking at the decision-making process, has already visited 24 stations and will have visited the entire country within

the next couple of months. It dips in and takes random samples in respect of the decision-making process. Thankfully, it has not discovered any issue that would cause concern.

Deputy Paul J. Connaughton: When is that supposed to finish?

Mr. Martin Callinan: It is an ongoing process. A total of 24 statements have been dealt with and five divisions have been visited by the assistant commissioner. The internal audit unit has visited the fixed charge notice office. All of that work is ongoing.

Deputy Paul J. Connaughton: What happens in a case where one might find a Garda has used discretion that one may not agree with? What happens then?

Mr. Martin Callinan: We would then have to deal with that matter as it arises.

Deputy Paul J. Connaughton: How would that be dealt with?

Mr. Martin Callinan: It would be dealt with through the disciplinary procedure.

Deputy Paul J. Connaughton: If someone is caught speeding and sent a notice for two penalty points and a fine, I believe another is sent out after that. If they do not respond to that, it ends up in court. What is happening in respect of the convictions of all those who end up in court? What kind of figures are we looking at in respect of prosecution?

Mr. Martin Callinan: In respect of this particular-----

Deputy Paul J. Connaughton: In respect of fixed charge notices.

Mr. Martin Callinan: I do not have those figures.

Deputy Paul J. Connaughton: If people ignore the notice and the second notice, are they all getting charged through the Courts Service?

Mr. Martin Callinan: It then goes into the summons system.

Deputy Paul J. Connaughton: Have there been cases where they have been struck out in court?

Mr. Martin Callinan: Absolutely.

Deputy Paul J. Connaughton: On what grounds?

Mr. Martin Callinan: Again, it is at the discretion of the judge. It is the case that some of the elements of the petition that a superintendent or an inspector acting for the superintendent would have to consider might be arguments that would be presented to a particular District Court judge in a courtroom and he or she may decide to use the Probation Act or a contribution to the poor box or have it struck out. There is a suite of options open to the District Court judge.

Deputy Paul J. Connaughton: Where is the cost involved? The Garda Síochána sends out the notice of the penalty points and the €80 fine. It then goes to court and it gets struck out for some reason. Who then covers the costs?

Mr. Martin Callinan: Going to court is an expensive item, as we all know, because it involves time used by the particular individual, for example, loss of business. It involves employing a solicitor in a number of instances. It is the volume that the courtroom must deal with. There are huge expenses and factors involved. In our case, if a member has to go to court, I

must pay that person overtime if they are not rostered for duty. Beyond that, the Courts Service has issues.

Deputy Paul J. Connaughton: One hears this anecdotally and the Commissioner might be able to disprove this today. If someone ignores the letter and the second letter and turns up in court and says they never got the letters, is that struck out?

Mr. Martin Callinan: Again, it is a matter of a judge making a professional decision as to which way to proceed. They may well look for proof that this is the case.

Deputy Paul J. Connaughton: How would there be proof?

Mr. Martin Callinan: It is a difficulty. Those type of difficulties occur in other services that depend on other systems. An Post is an issue in terms of deliveries. There are issues that I cannot really quantify.

Deputy Paul J. Connaughton: Is the Garda Síochána working with the Courts Service on that?

Mr. Martin Callinan: Yes.

Deputy Paul J. Connaughton: How far along is it with that?

Mr. Martin Callinan: We have been working with the courts for quite a considerable time in terms of trying to improve the summons serving issue, which we accept is very high. There are all sorts of reasons that summonses are not served. Where it is the case that we are falling down, every district officer is charged with the responsibility of ensuring that the summonses sent to his district are served. There might be a variety of reasons that it is not happening.

Deputy Paul J. Connaughton: We are approaching the anniversary of the murder of Detective Garda Adrian Donohoe. Are we further along in that investigation?

Mr. Martin Callinan: We have made progress. The date of the anniversary is 25 January and, please God, we will be attending a mass in Dundalk. Progress has been slow but we are very committed to bringing the perpetrators of this crime to justice. There are people out there shielding the murderers. There is no question about that. We are continually appealing to these people to come forward because people are aware, as are we, of the people involved in this crime. Our intention is to bring those people to justice and that is what we will continue to do to bring them to justice.

Deputy Paul J. Connaughton: Does the Commissioner expect arrests any time soon?

Mr. Martin Callinan: We have done a lot of work and a considerable amount of work is ongoing as we speak. That said, if we were in a position to move tomorrow morning because of particular circumstances, we would do so. I am certainly not putting a time limit on it. It is a very serious matter but I assure the Deputy, the committee and everybody else that we are as committed today as we were on 25 January 2013.

Deputy Eoghan Murphy: I thank the Commissioner and his officials for being here today. I will be brief because I wanted to focus on the issue of summonses which Deputies Deasy and Connaughton have already touched upon. To return to the Commissioner's opening remarks, he talked about the O'Mahoney report's finding that the termination rate was 4.55%. The Commissioner said that it was two terminations per-----

Mr. Martin Callinan: Per district.

Deputy Eoghan Murphy: Per district per week. The Committee of Public Accounts is not just interested in the issue of terminations. Rather, we are interested in the system in its totality and what revenue might be lost to the State. When we step back from that and look at the significant weaknesses, it is more akin to one in five according to the Comptroller and Auditor General in terms of the system not being robust enough. One in five is an important figure because it is a huge amount of fixed charge notices that are not being dealt with, not because of corruption or anything like that, but because the system is weak. When we acknowledge that and the potential revenue lost to the State, it is important that we have a proper management plan to get from one in five to one in ten and less than that. Deputy Connaughton spoke about the integration with the Courts Service. The Comptroller and Auditor General recommends that the Garda Síochána integrates better with the Courts Service to find out exactly where it led to prosecution, how many cases, the amounts that were raised, etc. Are there timelines for implementing the recommendations of the Comptroller and Auditor General? Is there a person in charge of delivering certain objectives?

Mr. Martin Callinan: In respect of the recommendations?

Deputy Eoghan Murphy: The recommendations from the Comptroller and Auditor General's report.

Mr. Martin Callinan: We have incorporated all of the recommendations, including some from the assistant commissioner and some from the professional standards unit, into our draft guideline policy document. That is resting with the Director of Public Prosecutions who will, obviously, have an interest in what we are doing. It is also passed to the inspectorate. As the Deputy is aware, the inspectorate has been tasked by the Minister with looking at this area as well. It may have additional matters that need to be catered for. As an interim solution, on 30 August 2013, I issued a HQ directive outlining audits and clear accountability trails in the context of everything we are discussing.

Deputy Eoghan Murphy: Is there a person in the Commissioner's office who is responsible for implementing the recommendations or seeing that the recommendations of the Comptroller and Auditor General are implemented?

Mr. Martin Callinan: All of us will be collectively responsible.

Deputy Eoghan Murphy: Is there an individual who is managing the process?

Mr. Martin Callinan: There are a number of tiers, as I have mentioned. The assistant commissioner in charge of traffic will be looking at this area and will report to me on an annual basis the findings of his set of circumstances, the internal audit and the professional standards unit and I will then provide a report to the Minister. That is where it is at the minute.

Deputy Eoghan Murphy: Will the first report be from 30 August last year to 30 August this year or will it be the end of the calendar year?

Mr. Martin Callinan: I plan on providing a report a year from the investigation from Mr. O'Mahoney. However, there might be other matters to report on depending on what else comes in from either director or the inspectorate's office. There might be additional layers that might be required to be reported on, but if, for example, our proposed guidelines are accepted, then that report will issue in 12 months' time.

Deputy Eoghan Murphy: I want to be sure of the kind of detail we can expect to see in the future so that the Comptroller and Auditor General would not need to do another exercise like he did. Can we expect to see, for example, the number of cases that were struck out because no summons was issued? Can we expect to see a decrease in that number to compare against-----

Mr. Martin Callinan: I certainly cannot interfere with the court process. So in terms of strike-outs that is a matter for the courts. What I would earnestly hope to be in a position to do is to give an indication that our rate of summons serving has improved dramatically and that the attrition rate does not fall below an acceptable level in terms of how we are doing our business in terms of cancellations and that that audit trail and the layers of audit that we have in place are actually working effectively. I think those things together will certainly improve matters.

Deputy Eoghan Murphy: In the case of companies, 49%, one in two, of those summons were not served to companies. Each year with this report we would like to see that figure reducing. Can we expect to see that level of detail in the report?

Mr. Martin Callinan: Let us hope we can improve that through our interaction with all the other stakeholders. Let us hope we can advance that, but I do not have full control of that process.

Deputy Eoghan Murphy: Of course. However, when we look back to when these issues were first raised regarding the system itself and while we can talk about things that were implemented, without seeing a plan with indicators and timelines and whether they were met, it is difficult to judge what has happened since then. If we were to look at this system again I would like to be able to judge if we were still at one in five not being dealt with sufficiently or if we had improved how that improvement had come about.

Mr. Martin Callinan: As the Deputy has rightly identified, the process map from the Comptroller and Auditor General's report 7.11 clearly sets out the percentages in terms of the number of tickets that are cancelled. I would hope we would be in a position to improve our lot in that process. However, issues where summonses go to court and are served are separate from our business. In the context of statute-barred tickets, I would hope to be in a position to improve that 0.4%. It is relatively small but nonetheless with figures behind it-----

Deputy Eoghan Murphy: On that point, does the Commissioner have a target he wants to hit to reduce from 3,000? Obviously we would all love to be at zero, but we need to be realistic.

Mr. Martin Callinan: That is what we should be aiming for. I do not think it would be appropriate to set a target that is acceptable. I think we would have to go for zero on that particular issue. In terms of company summonses, zero is the only threshold to go for. I do not think we should settle for anything less.

Deputy Eoghan Murphy: What is the timeline for getting to zero then?

Mr. Martin Callinan: We will work with whoever we can to try to get there. That is all I can say to the Deputy.

Deputy Eoghan Murphy: Does the Commissioner have a plan to try to get to zero? It is one thing to say we want to get to zero, but it is another thing to lay out a 24-month process, for example, with reviews and recommendations arising from that to further the Commissioner's goals of getting to zero.

Mr. Martin Callinan: We are working with all of those agencies I mentioned earlier on with a view to getting there as quickly as possible - not in six months time, but tomorrow if we can manage it. That is where we are.

Deputy Eoghan Murphy: So we should expect significant progress by the time of the first report.

Mr. Martin Callinan: I would hope the Deputy would see some movement in this area, but I cannot predict what is going to happen.

Deputy Eoghan Murphy: We are not talking about some movement; we are talking about getting to zero in a plan. I do not think it is possible to get to zero because there will always be some degree of human error.

Mr. Martin Callinan: I agree with the Deputy.

Deputy Eoghan Murphy: I am talking about an objective we all want to achieve, which is a better system in which people can have faith. We should have a system that collects the revenue that should be collected for the State and imposes the penalty on the individuals for the law they have broken. However, we need to see how we get there or else we could be here in 12 months still with 2,000 statute-barred cases even though we wanted to reach zero. Then I would be asking why we are only at 2,000.

Mr. Martin Callinan: All I can tell the Deputy in the context of the company summonses issues is that we will continue. However, there is a section in the Road Traffic Act I mentioned earlier on - it is 103, I think - where there is an obligation on whoever has the vehicle registered to indicate to us who was driving. There are all sorts of legal issues around this, but we would hope to be as proactive as we possibly can in extracting that information, which is the only way we can impose penalty points because these cases have successfully been challenged in the courts.

Deputy Eoghan Murphy: While I take that point, the great thing about the Comptroller and Auditor General's report is that it is so detailed and has accurate numbers so that we could see that, for example, 3,000 cases could not be pursued owing to the late entry of data. We could then measure against that 3,000 so that if a year later it was only at 2,000 we might be wondering why it is not at zero and the Commissioner might be saying the Garda wanted to get there as quickly as possible which is not a timeline but an aspiration. I am trying to figure out why there is not one person whose job it is to bring the system from one in five to a specific lower figure. There should be a timeline in each area, including summonses to companies, statute-barred cases and summons not issued but court dates held, for example.

Mr. Martin Callinan: Again the assistant commissioner in charge of traffic is working with all of those agencies with a view to bringing these numbers down. From our perspective we will be targeting the people who are the registered owners of the vehicle or fleet of vehicles because one has car-hire companies and all of those things. One has to follow that trail.

Deputy Eoghan Murphy: I am not just talking about the companies; I am talking about the different areas of the report that were highlighted.

Mr. Martin Callinan: The Deputy is talking about company summonses.

Deputy Eoghan Murphy: I am talking about the 3,000 cases that were not pursued due to

late entry of data, the 92,000 cases that were struck out because no summons was issued - I am talking about every aspect.

Mr. Martin Callinan: I beg the Deputy's pardon; he is talking about the whole system.

Deputy Eoghan Murphy: Absolutely, yes.

Mr. Martin Callinan: Of course, my apologies. Absolutely the Deputy will see improvements; there is no doubt he will. Will one ever get to the stage where one will correct all of the issues? It is a wider question. If one looks at the summonses that have not been served - 11% - that is a huge chunk of the 28% where there is no sanction. So that is an area we have to work harder on - all of us - to try to get those summonses served.

In relation to the cases that are terminated, we have already dealt with that and the Deputy has adverted to it - the 4.55%. The 2.57%, I think, is probably a realistic figure in terms of terminations because if one looks at the national figures and the national average that the Comptroller and Auditor General has mentioned and put up on the screen earlier, it is around 2.2%. We are at 2.57%, so-----

Deputy Eoghan Murphy: I want to be clear. I am talking about the totality of what the Commissioner will be reporting back to the Minister in the future in how we improve this system as a whole and I have been giving specific examples. For example with the 11% for the summonses not issued, a fixed-notice fine was issued but no fine paid and no court summons so no court hearing. The Commissioner could set a target getting to, for example, 3% in two years time. He can then chart a plan as to how to get from 11% to 3% so that when we look at this in a year's time, we can see how the Garda is doing against that plan. Does such a plan exist or is it just an aspiration to do better?

Mr. Martin Callinan: It is both; we are proactive on this front. I do not see why we would settle for 5% or 7%.

Deputy Eoghan Murphy: Okay.

Mr. Martin Callinan: It is a business process. The Deputy may take that view, but I take the view that all summonses should be served, full stop. We will do everything in our power to ensure that happens. How do we do that? We work with all of the stakeholders that are involved, particularly the Courts Service, and we are now auditing. We are making sure that we get a sense of these summonses - the higher proportion of them that are not being served. We are doing that type of work.

Chairman: Take care of the time, Deputy.

Deputy Eoghan Murphy: I thank the Chair.

Let us say for a moment that it is a business process and we want to get to 0%. We know we cannot get there in two months because that is unrealistic, but should there be a plan in place stating that we hope to achieve as close to 0% as possible in the case of this system?

Mr. Martin Callinan: But we are doing that.

Deputy Eoghan Murphy: That plan is being-----

Mr. Martin Callinan: We are tracking, yes.

Deputy Eoghan Murphy: In terms of who then would be responsible for seeing that the plan is implemented, does it fall to the assistant commissioner?

Mr. Martin Callinan: We will have oversight of that but the most effective way to deal with the service of summonses is to ensure that the district officer, in charge of the district where those people reside and where the summons is required to land, takes ownership of the process. That is the most effective and efficient way of ensuring that the summons will actually be served, but we will be monitoring those areas.

Deputy Eoghan Murphy: I want to come in then on that issue of the summonses, if I may. Most of it has been addressed. The Comptroller and Auditor General's report refers to 92,650 cases struck out because there was no summons issued but there was a court date. Who has issued the summons in that instance? Is it the garda who noted the offence and reported it? He is then responsible for issuing the summons.

Mr. Martin Callinan: He applies to the Courts Service for the issuing of summons or summonses are generated automatically if this process that we are speaking about is not complied with. It is the Courts Service that generates the summons and it forwards them on. At the moment, it is coming to the district where the garda serves who is in charge of the case but we are looking at other ways. Perhaps it might be more appropriate to send the summons or set of summonses to the district officer where the person resides but that again presents its own problem in terms of the garda tracking where his material is.

Deputy Eoghan Murphy: When a summons is issued then, is it issued by registered post or how is the receipt of the summons then known?

Mr. Martin Callinan: Physically.

Deputy Eoghan Murphy: Is it by registered post? Do the Garda Síochána or the Courts Service get a receipt that the summons has been received?

Mr. Martin Callinan: No. It is a physical handover. It is a personal service.

Deputy Eoghan Murphy: I am sorry, I do not understand. An individual goes-----

Mr. Martin Callinan: Correct.

Deputy Eoghan Murphy: If I am stopped for, say, not having the NCT displayed and I am summonsed to court, a person should come and give me a document. Is that how it is meant to work?

Mr. Martin Callinan: Yes.

Deputy Eoghan Murphy: Is the garda then notified that the person received the document?

Mr. Martin Callinan: No. The garda gets the summons.

Deputy Eoghan Murphy: Sorry, the garda gets the summons but how does the individual who has been summonsed to court get the summons?

Mr. Martin Callinan: A personal service. I hand you the summons. If you are the offender, I or one of my colleagues will hand you the summons, if we can track you.

Deputy Eoghan Murphy: If no summons has been issued, why is a court date set?

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Mr. Martin Callinan: We are talking about a summons being served so we physically have the summons in our possession with a court date and we produce that to the offender.

Deputy Eoghan Murphy: I am sorry, there might be some confusion here on my part. If we are talking about over 92,000 cases being struck out and no court hearing happening, and the issue given was no summons,-----

Mr. Martin Callinan: No service, I think.

Deputy Eoghan Murphy: No service. Excuse me, I beg the Commissioner's pardon, I am sorry.

Chairman: Mr. McCarthy wants to make a point.

Mr. Seamus McCarthy: The issuing of the summons is a legal process. As I understand it, and correct me, please, if I am wrong, once the summons is issued indicating when the person is to appear in court, it goes to the Garda Síochána which then has to present it to the person to whom it is addressed. In the case as indicated here, if the summons is not served, then on the date in court the person does not turn up because the summons has not been served, the case is struck out. So the summons exists and has been issued, but it has not been served. Does that explain it?

Deputy Eoghan Murphy: It does not actually. It comes up in court in that instance.

Mr. Seamus McCarthy: The case is listed in court.

Deputy Eoghan Murphy: Yes, the case is listed in court but struck out.

Mr. Seamus McCarthy: Yes. The judge says the summons has not been served, therefore case struck out. End of process.

Mr. Martin Callinan: I think the Deputy is referring to the non-service of a summons.

Deputy Eoghan Murphy: I am sorry, I beg the Commissioner's pardon. Yes, the non-service of summons.

Mr. Martin Callinan: The summons, when it is generated, will be recorded in the District Court and then it may be the case that the summons is not served so it is struck out.

Deputy Eoghan Murphy: The summons is not served so it is struck out. Does the garda still have to appear in court before it being struck out?

Mr. Martin Callinan: If the summons is not served, it is unlikely that would happen.

Deputy Eoghan Murphy: If it is struck, it is listed in the Courts Service, but then when it comes up it is merely struck out. Are there no proceedings in court for getting around it?

Mr. Martin Callinan: No. There are other reasons, apart from non-service, why summonses would be struck, that is, for all the things we were discussing earlier.

Deputy Eoghan Murphy: I thank the Commissioner for the clarification.

Deputy Simon Harris: I thank the Commissioner and his team for being here. Many of the points have been covered. I have a few brief questions.

In regard to the issue of this committee meeting with the whistleblower and the conversation the Commissioner had with the Chairman earlier in the meeting, I understand that the Commissioner would welcome receiving a copy of the redacted material which we have in our possession, which will happen, and he will take a look at the box of information that we also have. Would he be happy to look at the box of information that we have?

Mr. Martin Callinan: I will be happy to look at everything, yes.

Deputy Simon Harris: I wonder what the Commissioner then intends to do. In an effort to assist us with our look at this matter, is he going to look at the box and then endeavour to respond to us on the contents of the box, or what is his intention? What is the Commissioner hoping to garner from looking at the box?

Mr. Martin Callinan: I would like to have a look at it in the first instance and perhaps we can then make a decision as to what we would do. If they are similar in content and number to the items that Mr. O'Mahoney had to deal with, it must be considered that process took five months, five chief superintendents, six superintendents, 28 dedicated members of An Garda Síochána, in addition to other staffs, our IT people and our analysts. All of those had to come together and work on this almost full time. So you will appreciate, if we are getting a box of documents of a similar nature to what we have had previously, it will take some time to get through it, but where there is duplication, we can deal with that pretty quickly.

Deputy Simon Harris: The Commissioner, and, presumably, particularly assistant commissioner O'Mahoney, who has done all this work on the Garda's report, will probably be able to garner relatively quickly whether he is looking at material similar to what he already looked at.

Chairman: And get our answers as well.

Deputy Simon Harris: Would that be a fair assumption?

Mr. Martin Callinan: Is it the case that the Deputy would like me to give the job to assistant commissioner O'Mahoney? I am sure he would welcome it.

Deputy Simon Harris: Mr. Callinan is the Commissioner. He will give the job to whom he likes. The Commissioner should be able to garner fairly quickly whether he is looking at new material or, as I say, material the assistant commissioner has already looked at.

Mr. Martin Callinan: I would hope so.

Deputy Simon Harris: I wonder should we garner from the Commissioner's comments regarding his heading up a disciplined force and his right to take legal advice that he intends to consider preventing us meeting with the whistleblower next week.

Mr. Martin Callinan: If the Deputy does not mind,-----

Deputy Simon Harris: Please.

Mr. Martin Callinan: -----and I am trying to assist, I think in the first instance it goes without saying I would have to take legal advice but my personal view is that members of An Garda Síochána, who are serving or retired, should not be coming in to this fora and using this platform to discuss matters of such importance, particularly in the context of criminal and serious allegations that are being made against their colleagues. I think it would certainly have an

adverse effect on the maintenance of discipline and good order in An Garda Síochána, and that would be my primary concern - not, in any way, shape or form, to interfere with the good work that this committee does, absolutely not. That is why I am here, after all - to answer any question at any time in regard to revenue streams and any other matters that come to your notice that you wish to put to me. It is important that if I, as Commissioner of the Garda Síochána, am performing a statutory function, I should not be usurped by subordinates in terms of how I do my business. I know I am repeating myself, but there is very clear avenues for people to go down - in terms of wrongdoing - and I would not for one moment want any particular member of this committee or any member of the public to be of the impression that I am trying to hide from wrongdoing. My view is that if any member of the Garda Síochána at any rank, anywhere, anytime sees wrongdoing, there is an expectation and they have a statutory obligation to act on that wrongdoing. How does one do that? Every garda knows that one reports through one's authorities or one goes through the confidential recipient if matters are so sensitive that one feels one cannot go any other route. I am totally in support of the confidential reporting mechanism. I have it in place. It is working well within An Garda Síochána and anything I get from the confidential recipient, I will act on immediately and report back on. Those opportunities have been presented to these two people in the past, in December 2012. They choose not to use that vehicle.

Deputy Simon Harris: I thank the Commissioner for clarifying his view. Can he clarify - he has discussed some of these matters to some degree already - the issue of a garda at the appropriate rank cancelling a fixed charge penalty notice from outside of their district? Why would that happen? It is a genuine question.

Mr. Martin Callinan: It has happened. Maybe people might feel that they have the authority; if one is a superintendent or inspector acting, one may feel they have the authority. Some may have contacted their colleagues, they make an agreement and it is cancelled. That is not going to happen any more. The decision is made, the recommendation is made and then it is forwarded to the fixed charge office in Thurles and they are the people who will terminate it, so there can be no fudging on this now. If I tried to cancel a ticket - as has happened in the past - in the Deputy's area, I could have done that but I cannot do that any more.

Deputy Simon Harris: That is good to hear.

On the issue of the blanks - both reports refer to this and it is something we have seen in the material that we have - was this just a case of sloppiness, for want of a better word? I know the Commissioner has given some examples already as to why this might have happened in the sense of people rushing about their business - gardaí are busy - and just not filling them in? It that what the Commissioner found?

Mr. Martin Callinan: I think that is a reasonable assessment. I certainly could not disagree with it. There might be other reasons, of course, but one would have to concede there was an element of sloppiness in terms of the recording process in a small percentage of cases. With the Chairman's permission, perhaps I will ask assistant commissioner, Mr. John O'Mahoney, to make an intervention in response to Deputy Harris.

Chairman: Yes.

Mr. John O'Mahoney: There were some issues as well as to why somebody might see a blank screen. Again, I would have to go check the dates but I think it is July 2010, and I am open to correction there. Prior to July 2010, the common field was not part of the fixed charge

penalty - it was not there. It was brought in July 2010 as part of a PULSE release to assist with providing more information as to why those were terminated. If one looks at one's screen today and one looks at an offence that was terminated prior to 2010, one will see a blank screen. Any incident prior to 2010, if it is looked at today, will show as blank. One will also see a blank screen where the offences have been terminated in Thurles because it is not a requirement in Thurles.

Mr. Martin Callinan: On a point of clarification, is Deputy Harris talking about the notepad?

Deputy Simon Harris: I am talking about some of the information we have received which has now being discussed where when we look at the file there is a box which is meant to contain the reason and there is no reason given in the box.

Mr. Martin Callinan: That is fine.

Deputy Simon Harris: I have a final question and comment on which I would like to get the Commissioner's view. I accept the 95% or thereabouts figure because we have that roughly in the Comptroller and Auditor General's report and in the assistant commissioner, Mr. O'Mahoney's report. We are homing in on the 2.7%.

Mr. Martin Callinan: 2.57%.

Deputy Simon Harris: That is what I am talking about. We are acknowledging that 95% plus is beyond question but it is the 2.57%. When I look at some of the information we have been sent and some of the information that has appeared in both reports, it makes sense that gardaí have to apply discretion, and I accept the Commissioner's comments on that. It makes sense that somebody could be sick once and in a rush or somebody could have a family emergency once and be in a rush or the issue with the bees could happen once but where I have a difficulty is where I see some examples of the same individual having points cancelled on multiple occasions or when I see the same family having points cancelled on multiple occasions and often by the same officer. That does not sit right with me. Could the Commissioner comment on that?

Mr. Martin Callinan: Absolutely. I concur with the Deputy's view. It is the case now that we are trying to bring about a more focused and integrated IT solution to people who are making decisions around cancellations so that they can see this very quickly. It is a very complicated and convoluted process to get in and check to see whether an individual had received points previously. That is a piece of work that is going on at the moment and we would hope to bring that matter to conclusion very speedily. Certainly, it is the case that if a person, for no good reason, has broken the law and been found to be speeding on a consistent basis, then absolutely it should not be tolerated, but in a number of cases where some of these allegations are made, there have been very genuine reasons that the person looking, at face value, could not see beyond a particular screen - persons delivering blood, for example, in an emergency situation-----

Deputy Simon Harris: I take that point but I am specifically talking about the multiple occasions. Let us take the Commissioner's example of the person with the bees. I do not mean to trivialise it but that person was speeding, they were breaking the law. They might have had to rush home but, ultimately, the life of a person is obviously more important than the life of the livestock or of the bees. If the gardaí decide, with supporting documentation, to apply discre-

tion in that instance, fair enough, that is a judgment call, but if that person - I am not saying they did - came in contact with a garda again, surely it would be a bit much for the garda to apply discretion to the same person twice, if he was speeding and rushing back to deal with the bees again or whatever. That is the point I am trying to make. It is about the multiple occasions.

Mr. Martin Callinan: The Deputy will not find any argument with me on that. I am absolutely in agreement with him on it.

Deputy Simon Harris: The Commissioner is working on the systems too.

Mr. Martin Callinan: Absolutely. Those types of situations should not be tolerated but we have found in some of the cases we looked at are that actually they are different individuals that are referred to and of the same name. Unfortunately, the media yesterday were articulating some of those points but, anyway, we will resolve it.

Chairman: I call Deputy Nash.

Deputy Gerald Nash: I thank the Commissioner and his colleagues for their contributions thus far. I want to focus for a moment on the confidential reporting mechanism that is available to members of the force. When was that mechanism first introduced?

Mr. Martin Callinan: In 2007, I think. The statutory instrument was introduced in 2007 and I think it became operational and enforceable in 2008.

Deputy Gerald Nash: Is the Commissioner in a position at this stage to confirm to the committee how many members of the force would have accessed that mechanism to date?

Mr. Martin Callinan: This is a discussion we have had previously at the committee in a small number of cases that the process has been exercised.

Deputy Gerald Nash: Is Mr. Callinan satisfied it is sufficiently robust to address concerns that members of the force have drawn to its attention previously?

Mr. Martin Callinan: Absolutely; there is no question about it. It has been implemented in other cases outside the discussion we are having. I fully support the system and the people involved in it.

Deputy Gerald Nash: Can Mr. Callinan talk me through the level of support provided for a member of the force who feels he or she must bring information to the attention of individuals operating this mechanism?

Mr. Martin Callinan: In the first instance, I should not know who the people are, unless the individuals who bring the complaint to the recipient wish me to know who they are. That protects the integrity of the system. One is investigating the subject matter of the complaint rather than prying into the motivation behind the individuals bringing the complaint in the first place.

Deputy Gerald Nash: Who examines a complaint brought to the attention of the people concerned?

Mr. Martin Callinan: I have a number of people whom I have appointed internally. I have three assistant commissioners and five chief superintendents.

Deputy Gerald Nash: Is there no one outside the ranks of the Garda Síochána investigating complaints brought to the attention of the confidential reporting system?

Mr. Martin Callinan: No, it is an internal process, but we follow the principle and the statute in terms of the principles within the system.

Deputy Gerald Nash: Is Mr. Callinan satisfied there is sufficient buy-in by members of the force in terms of the robustness of the structures available? Since its inception, has it been independently assessed in terms of its effectiveness or efficacy?

Mr. Martin Callinan: It is on a statutory footing.

Deputy Gerald Nash: Therefore, it has not been assessed to date.

Mr. Martin Callinan: I am not aware that it has been.

Deputy Gerald Nash: Have members of the force been asked whether they are of the view that it is an effective mechanism?

Mr. Martin Callinan: No, other than making them aware of the process and the fact that it is in place for them. Have we gone to individuals and asked them whether they are happy it is in place? The answer is no.

Deputy Gerald Nash: Does Mr. Callinan support such an approach? Does he support occasional or frequent reviews of the efficacy of the system?

Mr. Martin Callinan: Absolutely.

Deputy Gerald Nash: Clearly, members of the force have made certain allegations and do not appear to be satisfied by the efficacy of the service.

Mr. Martin Callinan: That is an interesting point. They are allegations-----

Deputy Gerald Nash: I have made that clear. It appears members of the force may not be satisfied.

Mr. Martin Callinan: As I have checked my records, I know precisely what people used the system. There is a Protected Disclosures Bill and the Garda Síochána is included in it. Perhaps that will refine, update and improve the situation. I fully support the system and its integrity and no one will hear, from me or my officers, the identities of the people who come forward on a confidential basis. If they choose to go public of their own volition, that is a matter for themselves, but then they are stepping outside the system and it is a different matter.

Deputy Gerald Nash: Following completion of the report of the Assistant Commissioner, Mr. O'Mahoney, Mr. Callinan requested a further examination of some of the issues discussed today through the Garda professional standards unit. Will he tell me what that involves? Is it a commentary on the fact that he is not satisfied that there are no gaps in the report of Mr. O'Mahoney? What does he hope the investigation carried out by the Garda Síochána professional standards unit will achieve?

Mr. Martin Callinan: The work of the professional standards unit is a continuum. It is examining a range of policing disciplines, including this area. Where there are systems that are not quite right, it will report back and deal with any that requires to be dealt with. That is what the unit does.

In terms of the report of the assistant commissioner, Mr. O'Mahoney, all he was required to do was look at the allegations and report back on them. That is precisely what he did.

Deputy Gerald Nash: The professional standards unit will be looking at the possibility of tightening some procedures not within the terms of reference of the report of the assistant commissioner, Mr. O'Mahoney.

Mr. Martin Callinan: The professional standards unit has had access to the report of the assistant commissioner and factored his report into its deliberations, as well as the recommendations.

Deputy Gerald Nash: I draw the attention of Mr. Callinan to one aspect of the report, that 81% of terminations at the Bridewell, for example, were in respect of offences detected outside the district. That rate strikes me as particularly high, notwithstanding the explanations Mr. Callinan gave previously and his efforts to address some of the shortcomings. How does he account for this? From reading the report of the Comptroller and Auditor General and previous examinations of the issue, I understand monthly reports are available to the Garda Síochána on terminations per district. Did no one raise a red flag? I assume this is consistent and not just a spike in one particular period reviewed by the Comptroller and Auditor General. Surely those responsible for managing the district identified this as an issue, examined and investigated it and tried to identify what was at issue. Was that not the case via the monthly reports?

Mr. Martin Callinan: Absolutely, the fixed charge office is on Capel Street, in the Bridewell district; that accounts for it.

Deputy Gerald Nash: I understand there would be a higher number of terminations outside the district. The Commissioner dealt with the issue of allegations in the public domain in respect of family members and relations of members of the Garda Síochána. Some seven identifiable family members had terminations and there was no direct link made between a family member intervening on the PULSE system and terminating the fixed notice penalty. Is it the opinion of Mr. Callinan that it is never appropriate for a family member to terminate a fixed notice penalty for another family member in any circumstance?

Mr. Martin Callinan: What we have is a scenario where we can identify that there are family members in the cancelling authority - a superintendent, an inspector or a member of the Garda Síochána. When that occurs, it goes to the next level, chief superintendent, to make an independent assessment of the circumstances involved.

Deputy Gerald Nash: Is it made with corroborating evidence, which is required?

Mr. Martin Callinan: Absolutely; it could not be done any other way.

Deputy Gerald Nash: This is third-party evidence.

Mr. Martin Callinan: Absolutely.

Deputy Kieran O'Donnell: I welcome Commissioner Callinan. Why does he think the whistleblowers went to such lengths? The ordinary person looking at this issue will wonder why they did it, as it had an impact on their jobs. Why were there two whistleblowers in the Garda Síochána?

Mr. Martin Callinan: With respect, I must refrain, as, currently, there are a number of High Court actions active in respect of the people concerned. I do not want to say or do anything about how they came to trigger what they are doing because I will have to deal with these issues in court. It is not appropriate to go into it. I can talk in general terms.

Chairman: I seek clarification. Who is taking the High Court action?

Mr. Martin Callinan: Both of these individuals have actions in the High Court presently.

Chairman: On this issue?

Mr. Martin Callinan: Wider issues, actually.

Chairman: Who are they against?

Mr. Martin Callinan: Against me and the State.

Deputy Kieran O'Donnell: Against An Garda Síochána?

Mr. Martin Callinan: Against the State.

Deputy Kieran O'Donnell: Am I correct in saying these are in the public domain?

Mr. Martin Callinan: They are in the court system, yes. They are in the High Court.

Deputy Kieran O'Donnell: Would these issues refer to the Garda Síochána Ombudsman Commission? The public has great respect for An Garda Síochána. Why are we here today discussing this particular issue? The Commissioner has spoken about the internal systems in the Garda. Did the two individuals make formal complaints within the system? Were their complaints heard? The Commissioner might walk me through that.

Mr. Martin Callinan: It is the case that a member of An Garda Síochána cannot make a complaint against another member to the Garda Síochána Ombudsman Commission. In circumstances where they retire, they are prohibited from making complaints pertaining to the time when they were in the Garda Síochána. However, in the context of what we are discussing here today, I have written to the chairman of the Garda Síochána Ombudsman Commission in relation to that aspect. Beyond that-----

Deputy Kieran O'Donnell: What exactly did Mr. Callinan say to the ombudsman?

Mr. Martin Callinan: I am sure the Deputy will appreciate that matters raised by me with the ombudsman in such a sensitive area-----

Deputy Kieran O'Donnell: Let me rephrase the question. Why did the Commissioner feel it necessary to write to the Garda Síochána Ombudsman Commission?

Mr. Martin Callinan: I thank the Deputy. I, and I am sure a good few people around this room, listened last Saturday to one of the particular people at the centre of these allegations on a radio programme, and there were clear admissions of criminality made and also allegations of criminality against members of An Garda Síochána. In that context, I wrote to the Garda Síochána Ombudsman Commission.

Deputy Kieran O'Donnell: Does the Garda Ombudsman have any role in that regard?

Mr. Martin Callinan: That is a matter for it but I felt obliged to travel that route.

Deputy Kieran O'Donnell: In terms of the procedures within the system, the Commissioner said that on 1 December 2012 there was one complaint made under the anti-fraud provisions and that it was referred to the DPP. Was it in respect of one individual?

Mr. Martin Callinan: What date?

Deputy Kieran O'Donnell: In respect of one individual. The case was referred to the DPP.

Mr. Martin Callinan: Yes.

Deputy Kieran O'Donnell: Were that complaint and the one of June 2013 made by the same whistleblower?

Mr. Martin Callinan: No, they were separate.

Deputy Kieran O'Donnell: In terms of the June 2012 version under the anti-fraud provisions, were all the complaints against the three individuals upheld? I assume Assistant Commissioner O'Mahoney examined this matter. Were all three cases upheld and referred to the DPP?

Mr. Martin Callinan: The file is with the DPP currently.

Deputy Kieran O'Donnell: Were the cases in respect of three individuals referred to the DPP? Complaints were made against three individuals. When the Garda examined this, did it refer all three complaints to the DPP?

Mr. Martin Callinan: Yes.

Deputy Kieran O'Donnell: So there was no complaint that the Garda did not refer.

Mr. Martin Callinan: Absolutely. Can I go back to the Deputy's question as to why we are here? I have already explained, but it is worth doing so again to complete the question the Deputy is asking.

Deputy Kieran O'Donnell: The question I am really asking is on the robustness of the system as perceived by someone looking in. How did the two whistleblowers bring the matter to the notice of their superiors in An Garda Síochána? How did it funnel up through the system? What decisions were taken and why did the individuals feel it necessary to go outside the mechanisms within An Garda Síochána?

Mr. Martin Callinan: I can answer it very quickly. There is one recorded complaint to the confidential reporting system on 4 April 2012 in relation to allegations of tickets cancelled in four cases by a member of superintendent rank. That is the only issue that I have in my file in relation to the confidential reporting system.

Deputy Kieran O'Donnell: Did they go to any member of An Garda Síochána with their complaints?

Mr. Martin Callinan: In relation to the allegations?

Deputy Kieran O'Donnell: In relation to the documentation that is before the PAC.

Mr. Martin Callinan: I do not know what documentation is before it. Let us deal with the issue we are dealing with - the allegations. The answer is, "Absolutely not". I was not aware at any point along the journey, apart from 1 September 2012-----

Deputy Kieran O'Donnell: Was it 1 December?

Mr. Martin Callinan: It was 1 September.

Deputy Kieran O'Donnell: So, when I am saying 1 December, it should be 1 September.

Mr. Martin Callinan: It was 1 September 2012. One of the individuals at the centre of this made a complaint under the anti-fraud measures in relation to one individual. I think there is a total of 20-----

Deputy Kieran O'Donnell: The Commissioner is saying the only formal complaints he received in the system were on 4 April 2012, that being the first occasion on which this came to light. One of the whistleblowers rang the confidential line-----

Mr. Martin Callinan: No.

Deputy Kieran O'Donnell: Can the Commissioner explain how the procedure worked?

Mr. Martin Callinan: He made a complaint to the Assistant Commissioner in HRM in Garda headquarters.

Deputy Kieran O'Donnell: In writing?

Mr. Martin Callinan: I want to get this right for the Deputy; I believe we are at cross-purposes.

Deputy Kieran O'Donnell: Maybe I am not making myself clear. I will repeat my point. I want to boil it down to practicalities. I want to know when the matter originally surfaced within An Garda, the form it took, the individual to whom it was reported, the action taken and the outcomes.

Mr. Martin Callinan: In relation to the allegations we are discussing here – the 189 allegations that the assistant commissioner is dealing with – we heard about them first when I got two lists from the Department of Justice and Equality in October 2012.

Deputy Kieran O'Donnell: Can I go back? What happened on 4 April 2012?

Mr. Martin Callinan: One of the people at the centre of the allegations made a complaint, and perhaps two of them; I do not know.

Deputy Kieran O'Donnell: To the assistant commissioner?

Mr. Martin Callinan: Can the Deputy give me a chance to respond? He may come back at me in a second. It is very difficult to try to answer when he keeps jumping in.

Deputy Kieran O'Donnell: I am trying to assist and mean no disrespect to the Commissioner. I am sorry.

Mr. Martin Callinan: I thank the Deputy. I did not mean to be impertinent and I apologise if he believes I was.

Deputy Kieran O'Donnell: I did not feel that. We are both on the same passage and need to get to-----

Mr. Martin Callinan: On 4 April 2012, one of these people, or perhaps two – I do not know – reported to the confidential recipient a superintendent who had cancelled four notices. That is the only record I have on the confidential reporting file that I have in Garda headquarters that matches in any way, shape or form-----

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Deputy Kieran O'Donnell: That would have gone to an assistant commissioner.

Mr. Martin Callinan: It is a fraction of the allegations that have been made. That process then took the form of me sending the matter out to one of my assistant commissioners who is part of the system. He reported back and I reported back to the confidential recipient on his findings. That is the only time fixed charge penalty notices appeared on the confidential reporting radar.

Deputy Kieran O'Donnell: Is the Commissioner at liberty to tell us the outcome of his deliberations on those complaints that he reported back to the confidential ---

Mr. Martin Callinan: All of the matters were inquired into and dealt with comprehensively and I forwarded that report back to the confidential reporter. What the recipient does beyond that is outside of my control. I want to make it clear that I do not know who the people are - whether an individual or a group - who make these reports unless the confidential recipient gets permission to indicate who they are or unless I - or the Minister - take the view that their identities are required to be known in order to process-----

Deputy Kieran O'Donnell: Did the Commissioner know their identity on 4 April?

Mr. Martin Callinan: No.

Deputy Kieran O'Donnell: Were the complaints they submitted upheld and was any action taken on foot of them?

Mr. Martin Callinan: There was one small matter dealt with under the disciplinary proceedings. It was in regard to a process matter concerning one particular aspect.

Deputy Kieran O'Donnell: Was it a serious matter?

Mr. Martin Callinan: No.

Deputy Kieran O'Donnell: Following on from that, I ask the Commissioner to move on to October 2012 because I want to get a chronological understanding of why we are here today.

Mr. Martin Callinan: In October 2012 the Department of Justice and Equality forwarded two lists to me. These were the lists that formed the basis for the investigation led by Assistant Commissioner O'Mahoney. The outcome of all of the allegations contained within those two lists amounted to 189 allegations. Those 189 allegations spoke to, in so far as we could identify, 2198 cancellations of fixed charge notices.

Deputy Kieran O'Donnell: In terms of the process, when the complaint went in to the confidential line on 4 April, would the whistle blower have been communicated with once the Garda Síochána had deliberated on the particulars of that?

Mr. Martin Callinan: All I do, Deputy, is report back to the confidential recipient. That is the system.

Deputy Kieran O'Donnell: What the Commissioner is saying is that bar the four complaints that went in ---

Mr. Martin Callinan: It was one complaint involving four particular instances where tickets were cancelled by a nominated superintendent.

Deputy Kieran O'Donnell: Apart from that, no complaints were made within the formal procedures within an Garda Síochána. Is that correct?

Mr. Martin Callinan: Absolutely, within the confidential reporting system, save for the two anti-fraud issues that I brought to the committee's attention.

Deputy Kieran O'Donnell: If a member of An Garda Síochána had come forward and put the documentation that was given to the Department of Justice and Equality into the system within An Garda Síochána, what would have been the consequences?

Mr. Martin Callinan: They would have been investigated immediately.

Deputy Kieran O'Donnell: As things stand currently, within the procedures of An Garda Síochána, what would have been the consequences? If someone came forward as a member of An Garda Síochána with information from the PULSE system and said that he or she believed it constituted wrongdoing, what would the consequences have been for that individual?

Mr. Martin Callinan: Any member of An Garda Síochána should report wrongdoing. There is no question at all about that. Members should report it. How can they be sanctioned for reporting wrongdoing?

Deputy Kieran O'Donnell: Are they not breaching the Data Protection Act? The Commissioner said earlier-----

Mr. Martin Callinan: We are talking hypothetically here. Gardaí deal with information on a daily basis, every single day of the week. It is a different question as to whether or not they should have been doing what they were doing at a time when they should, obviously, have been doing something different. That is a different matter. That is the reality.

Deputy Kieran O'Donnell: I will cut to the chase here. If a member of An Garda Síochána believes there is wrongdoing and comes forward through the channels up to Commissioner level, what are the legal consequences of that? What are the consequences for that member within An Garda Síochána?

Mr. Martin Callinan: Members of an Garda Síochána, every single week, report wrongdoing. Thankfully ---

Deputy Kieran O'Donnell: In respect of their colleagues?

Mr. Martin Callinan: -----very little of that is internal. Of course, they would be entitled to make a complaint. Any person can make a complaint. The assistant commissioner can make a complaint about me and vice versa and of course, those matters have to be investigated. There is no question about that. People within An Garda Síochána are not isolated because they make a complaint about somebody.

Deputy Kieran O'Donnell: The Commissioner would see it in a different context if a member takes information from the PULSE system and reports it internally rather than reporting it externally, to third parties. Is that correct?

Mr. Martin Callinan: Exactly. It is not disseminated to a third party. There is a technical breach here in regard to doing what they are doing because one should not be on the PULSE computer system, trawling the system, looking for issues unless one has a specific purpose. The data protection laws are quite specific. We are afforded great latitude under those laws

in terms of the prevention and detection of crime. What are these individuals doing in their particular place of work? Obviously, they are charged with the responsibility of protecting the communities where they work. It is very clear to me from the amount of documentation that I have seen in the assistant commissioner's report that countless hours must have been spent on the computer, searching and printing. That is clearly wrong. By any stretch of the imagination, that is wrong. It is a far different matter if a member of An Garda Síochána observes something that is wrong, that he or she knows is wrong, and reports that or needs to get into the computer system to find out the particular circumstances surrounding it. That is one thing but to go into a system and trawl through the system looking for difficulties or perceived wrongdoing is patently wrong. That is not to say that if a member is aware of wrongdoing and knows that there is wrongdoing, that he or she should not report it. They are two different things. Am I making myself clear?

Deputy Kieran O'Donnell: Yes. I have one final question. On a general note, in the context of people driving without insurance, tax or NCT certificates, in this modern age of computers, what strides is An Garda Síochána making in terms of linking up with various databases so that it can identify people who have not paid their car tax, insured their cars, renewed their driving license or put their vehicle through the national car test? Where is An Garda Síochána at in terms of the robustness of its systems?

Mr. Martin Callinan: We have an automatic number plate recognition, ANPR, system. We are in collaboration with the national fleet database, to which we have access in terms of getting particulars on that. We have also been collaborating with the Irish Insurance Federation in the context of getting details of insured vehicles. However, there has been a certain amount of difficulty in this area. It is very difficult to keep up with changes of ownership and so forth. We are reviewing that system at present.

Deputy Kieran O'Donnell: I thank the Commissioner.

Deputy Shane Ross: I thank the Commissioner for coming in today. I ask him to expand on what he has just said. I have a feeling that we have a dialogue of the deaf going on here today. The Commissioner said that if anybody goes into the system in search of wrongdoing, that is absolutely wrong. Is that right?

Mr. Martin Callinan: What I am saying is that nobody has an entitlement to start trawling the system unless they have a specific reason for doing so. That is all I am saying.

Deputy Shane Ross: We are talking about whistleblowers. If they feel there is something wrong in the system and they are in search of wrongdoing does Mr. Callinan think they should not do it?

Mr. Martin Callinan: No, I am not saying that. What I am saying is that if they have specific knowledge that there is a particular person or persons involved in wrongdoing they should report the matter to the appropriate authority in order to have the matter investigated. The appropriate authority is up through the system.

Deputy Shane Ross: If they do not have confidence in the procedure what course of action should they taken then?

Mr. Martin Callinan: They should then move through the confidential recipient process.

Deputy Shane Ross: What would they be expected to do if they do not have any confi-

dence in the procedure?

Mr. Martin Callinan: These are the systems we have in place.

Deputy Shane Ross: I know, but if they do not have confidence in those procedures, surely the only option open to them is to pursue it in the way they did.

Mr. Martin Callinan: No, I do not agree with Deputy Ross.

Deputy Shane Ross: What other options do they have?

Mr. Martin Callinan: These are members of An Garda Síochána, with respect, so they are supposed to act in a responsible manner. They have responsibilities in the same way as I have in terms of how they perform their duties. It is important that if they see wrongdoing they report it. It is fine if they can deal with it but what is not acceptable is to trawl a database to the extent that it was trawled to come up with such material and then disseminate it to a third person without the authorities being made aware of it and dealing with it.

Deputy Shane Ross: Mr. Callinan is aware that there have been cases of many people – I will not quote them to him because it would probably be invidious – who have been victimised because they were whistleblowers. They had no confidence in the system and lost their jobs. They did not find the whistleblowing systems adequate. If one supposes that the people in this case decided, which I suspect they did, that they did not have confidence in the system, the only option for them was to find the evidence and give it to a third party.

Mr. Martin Callinan: What I find extraordinary about that proposition is that both of those people engaged with the system at different stages and were selective in terms of the pieces of information that they chose to bring forward without bringing forward the rest. That is what I find particularly difficult.

Deputy Shane Ross: Obviously their engagement with the system was unsatisfactory.

Mr. Martin Callinan: That may be their view but it does not excuse the fact that they are members of An Garda Síochána who know that they should report wrongdoing to their superiors so that the matter can be properly investigated.

Deputy Shane Ross: We will have to agree to disagree. I, and all members of the committee, have the advantage over Mr. Callinan, of having seen the unredacted evidence. Mr. Callinan will get the redacted evidence at some stage. I am alarmed by something to which Deputy Harris also alluded. It was useful to see the unredacted form, not for any prurient interest in the names, but because of the extraordinary repetition of the names. We went through them and reference was made to the same people, to the same garda being involved in the termination of penalty points. How can Mr. Callinan explain that?

Mr. Martin Callinan: Deputy Ross is asking me to explain something I have not seen.

Deputy Shane Ross: No, but if that were the case.

Mr. Martin Callinan: If that were the case it would be a different matter. Is Deputy Ross confident that the name he saw repeated is the same person? Is he absolutely satisfied that is the case?

Deputy Shane Ross: Yes, absolutely, in so far as I can be. It was the same name and ad-

dress.

Mr. Martin Callinan: Those type of allegations were made in Assistant Commissioner O'Mahoney's investigation and it is clear that was not the case. We did have the same name but it did not happen to be the same person. Deputy Ross is correct that he has an advantage over me. I would have liked the opportunity to have seen the material so that we could have examined it and perhaps then I would be able to answer the Deputy in a more direct way.

Deputy Shane Ross: I think that is fair enough because Mr. Callinan has not seen the document. He will no doubt see it in due course. I have a problem which I am not sure Mr. Callinan understands. He said matters of such importance should not be discussed here in this body. What does Mr. Callinan mean by that statement?

Mr. Martin Callinan: Deputy Ross had better give me the context.

Deputy Shane Ross: Mr. Callinan was talking about the whistleblowers and their allegations. I think he was making a distinction between the loss of revenue and the information. Why should they not be discussed here?

Mr. Martin Callinan: I am sorry but I do not quite follow the Deputy.

Deputy Shane Ross: The context is quite clear. Mr. Callinan said that matters-----

Mr. Martin Callinan: Could Deputy Ross please excuse me for a moment?

Deputy Shane Ross: Of course. I refer to when Mr. Callinan was talking about members of the Garda Síochána using the PAC as a platform. He went on to say that we should not discuss matters of such importance here.

Mr. Martin Callinan: I thank Deputy Ross for the clarification. I do have a strong view that in matters of this importance where clearly members of An Garda Síochána are making very serious criminal accusations against other members of An Garda Síochána and producing personal, sensitive, individual data, that this is not an appropriate forum for any member of An Garda Síochána to be involved in that exercise to use this committee as a platform. I fully respect the committee and subscribe to the work it is doing in the context of how people conduct their business in terms of value for money. I accept loss of revenue streams is part of that but the appropriate person to deal with those issues is the Accounting Officer, namely, the Commissioner. I do not believe a sergeant, garda, inspector, superintendent or anybody else should be here discussing those matters. I am a legitimate target for all of those questions.

Deputy Shane Ross: I see it differently. I think Mr. Callinan is the last person the matter should be discussed with and who should make adjudications on it. If it were a specific allegation against one person or one matter of discipline relating to the force then that would be fine but Mr. Callinan is aware of the scale of the problem. We will differ about the numbers. Mr. Callinan has referred to 10,000, which is approximately 300 a day.

Mr. Martin Callinan: It is two per district.

Deputy Shane Ross: It is 10,000 terminations in one year which is 300 a day. That is big amount.

Mr. Martin Callinan: On a national basis.

Deputy Shane Ross: On a national basis as far as I can see 300 fines a day have been terminated. To me, that is systemic, whether Mr. Callinan likes it or not. If Mr. Callinan says that is unsuitable to be discussed here I suggest that it is perhaps unsuitable to be discussed by the Garda Síochána as well because the finger is being pointed at Mr. Callinan and Assistant Commissioner O'Mahoney. It is saying their force is indulging this practice and it is taking place on their watch. The people who should make judgments on that surely should be somebody else, some independent body.

Mr. Martin Callinan: Of course Deputy Ross is entitled to his view and I respect it but is it not extraordinary that it is just two individuals that are making these huge allegations of system failure, as Deputy Ross has referred to them, and that it is not dozens or hundreds of other members of An Garda Síochána who are making similar allegations?

Deputy Shane Ross: The people who make such allegations are always very rare because they are fearful of their positions. I am not making any judgment I am putting the case to Mr. Callinan.

Mr. Martin Callinan: Absolutely. The Deputy is right. My position is very clear. Anyone who makes any report of wrongdoing to me, I will deal with it very seriously. I am sure I speak for my officers beside me and elsewhere when I say that is the case. We will not be isolating anyone who makes a complaint of wrongdoing against another member of the force. We have many examples within the disciplinary process where we deal with people who transgressed every year. We are certainly not perfect, nor would I ever profess to come before this committee and say so. We have difficult problems. As one can imagine, in a force of over 13,000, dealing with such complex issues, of course we will have difficulties. However, the Deputy should be very clear that, from my perspective, as Commissioner of An Garda Síochána, I will not allow anyone reporting wrongdoing to be bullied, harassed, intimidated or whatever adverb or adjective the Deputy chooses to use. That will not happen on my watch. There is a mechanism and procedure for reporting wrongdoing which should not be going off to a third party with a whole raft of serious allegations, criminal and otherwise, and producing them elsewhere.

Deputy Shane Ross: Yes, I see the Commissioner's point of view. However, he spoke in a slightly alarming way that he has control and authority over the force. Of course, he does. However, when there is an accusation of a systemic problem, which there is, and the finger is pointed at him and the assistant commissioner, John O'Mahoney, then they are the wrong people to make a judgment on it. They should have said this is serious, these are multiple allegations and we will refer it to a third party. The result would be that the public would have confidence in the decisions that have been made as a result. For the Commissioner to say that it should not come to the Committee of Public Accounts and be left with the Garda is very difficult to justify

Mr. Martin Callinan: Of course I respect the Deputy's view. We have had this debate on a previous occasion when I attended the committee before.

Deputy Shane Ross: It has moved on though.

Mr. Martin Callinan: I see the point about the concept of the Garda investigating the Garda. That is why we have an inspectorate examining the system and an ombudsman examining how we do our business. I find there is a certain irony in that the very person charged with policing the security of this State, the person we all put our trust and belief in on a daily basis, the man responsible for all of these serious matters, is the very person who stands accused by

the Deputy's submission of not being open and transparent or producing a report as such. I find that extraordinary.

I do respect the notion that gardaí, in certain circumstances, should not be investigating one another. That is why we have the ombudsman commission to deal with those cases. Clearly, here, however, we have two people, out of a force of over 13,000, who are making extraordinary and serious allegations. There is not a whisper anywhere else or from any other member of the Garda Síochána, however, about this corruption, malpractice and other charges levelled against their fellow officers. Frankly, on a personal level I think it is quite disgusting.

That said, I have openly admitted here to this committee that there were difficulties within the system and that we have addressed them. That is where the Deputy and I will agree to differ, with the greatest of respect. I do respect what the Deputy is saying to me.

Deputy Shane Ross: I will leave it at that. This committee is very happy to consider itself a voice for those who may not be heard in other institutions of the State and to provide that platform to which the Commissioner objects to so much.

Mr. Martin Callinan: Long may that continue to be the case. I want to assure the Chairman and the committee that I, as the Commissioner of An Garda Síochána, as well as the officers here today to answer any questions the committee may have, do not subscribe to the view that because people are reporting wrongdoing they should be isolated. It is far from it. That is all I will say in response.

Deputy Shane Ross: Thank you, Chairman.

Mr. Martin Callinan: A quick calculation has been done and it works out the figure the Deputy used earlier for fines terminated every day is 30, not 300.

Deputy Shane Ross: Yes, the Commissioner is absolutely right.

Mr. Martin Callinan: We will not fight over it.

Deputy Mary Lou McDonald: I welcome the Commissioner and his colleagues to the committee.

We have heard from him on the substantive issue of the striking out of fixed penalty notices. Would it be fair for me to summarise his position as follows? Of the notices issued, discretion was exercised in 2.57% of cases, a minimal number. Where there were difficulties, question marks or inconsistencies in respect of those, he attributes them to poor record-keeping or confusion among those at the rank of superintendent in respect of the circumstances in which they had the authority to strike off these penalty points. He agrees with the report of his colleague, Assistant Commissioner John O'Mahoney, that there is no evidence at all of wrongdoing, much less criminality. Is this a fair summation on the issue of the striking out of these penalty points?

Mr. Martin Callinan: Part of it. I would not subscribe to the view that people were confused. The guidelines are there and there is a responsibility on every superintendent and inspector to ensure they upskill themselves in knowing the guidelines and procedures for cancellation. Yes, mistakes were made and there were errors of judgment, however.

Deputy Mary Lou McDonald: To reach the rank of superintendent, one would have some years' service.

Mr. Martin Callinan: The age profile of a superintendent would be 40 years of age with 20 years' service. Such an officer would be considered to be an experienced member of An Garda Síochána.

Deputy Mary Lou McDonald: The individuals who were confused or even a bit sloppy in respect of the guidelines which were in place would not have been rookies or new recruits but experienced officers. Is that the case?

Mr. Martin Callinan: Yes.

Deputy Mary Lou McDonald: Yet they would have been confused in respect of their authority or jurisdiction to write off penalty points.

Mr. Martin Callinan: Those are your words, Deputy. I am not saying they were confused. There might have been all sorts of reasons they would have stepped outside the process. I do not know; I cannot get into their mindset.

Deputy Mary Lou McDonald: I am not asking the Commissioner to be a mind reader. That would even be beyond his pay grade.

Mr. Martin Callinan: Which is not enough as one knows.

(Interruptions).

Deputy Mary Lou McDonald: That is another day's work.

I would have thought, having given consideration to these matters and in light of the Assistant Commissioner O'Mahoney's work, that the Commissioner would have established why it was these officers at superintendent level thought that they could either choose knowingly to step outside the process or were just confused as regards it. I do not believe the Commissioner has given a satisfactory answer to the example about Santry he gave earlier.

Mr. Martin Callinan: I used that as an exceptional example to articulate how these officers were within policy in making the determination. However, they were outside of the process in that they either contacted the superintendent in the district where the offence occurred and spoke to him or her and got his or her blessing and came back and actually terminated the notice themselves. That is what happened in some cases. In other cases, the lack of paper trail was an issue.

Deputy Mary Lou McDonald: I wish to focus on the issue of the officers concerned acting outside of their jurisdiction. In his opening remarks, the Commissioner mentioned that disciplinary action had been taken in respect of a number of officers. He also has made reference to those files with the Director of Public Prosecutions. However, I was interested that he also stated that some note or notification had been sent. I will find the Commissioner's precise words, which were "written advices have been issued to a further number as to the necessity to conduct matters within policies and procedures". Can I surmise that it is those superintendents or inspectors to whom the Commissioner is referring?

Mr. Martin Callinan: Yes.

Deputy Mary Lou McDonald: How many of those advices have been issued?

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Mr. Martin Callinan: A couple of dozen, I think.

Deputy Mary Lou McDonald: Does the Commissioner have a precise figure?

Mr. Martin Callinan: If the Deputy will wait for a moment-----

Deputy Mary Lou McDonald: Certainly.

Chairman: I will avail of this pause to note this meeting has been in progress since 10 a.m. this morning. While members have been in and out of the meeting, I wish to offer the witnesses a break, unless they are happy to continue. I overlooked the time and thought it was 1 p.m.

Mr. Martin Callinan: Provided the Deputy is not too hard on me, I would be delighted to keep going.

Chairman: I ask because Deputy Fleming has indicated-----

Mr. Martin Callinan: Oh dear; then maybe-----

Deputy Sean Fleming: I am frightening the Commissioner.

Mr. Martin Callinan: Perhaps we could take a couple of minutes, if that is convenient.

Chairman: No, that is fine. I must ask that question.

Deputy Sean Fleming: The Chairman should note that I am due in the Dáil Chamber after the second to next speaker.

Mr. Martin Callinan: Well, let us keep going.

Deputy Sean Fleming: I must play it by ear.

Chairman: If we said ten minutes-----

Mr. Martin Callinan: Yes.

Chairman: ----- that would allow-----

Deputy Mary Lou McDonald: I am happy to take a break for ten minutes.

Chairman: We will continue with Deputies McDonald and Fleming.

Deputy Mary Lou McDonald: I also am happy to continue in my train of thought.

Mr. Martin Callinan: I am the same and whatever the Chairman wishes to do, I am in his hands.

Chairman: I am getting notes from the outside, as they are worried about the witnesses not having a break. If Mr. Callinan is happy to go on, that is fine. I was just asking the question.

Mr. Martin Callinan: I hope it is not a whistleblower.

Deputy Mary Lou McDonald: Does the Commissioner have a more precise figure?

Mr. Martin Callinan: I am told that 39 officers were written to. To be more precise, their chief superintendents were written to, to advise them of the necessity to keep within the - these

were the subject of the allegations. The figure is 39.

Deputy Mary Lou McDonald: So it is 39 officers who had acted outside of the process, as the Commissioner has put it.

Mr. Martin Callinan: Yes.

Deputy Mary Lou McDonald: The Commissioner has made his position clear as regards the handing over of information from the PULSE system to third parties and we may revert to that issue shortly. Notwithstanding the fact that it was not 300 per day but 30 per day in terms of cancellation of these notices, in view of the fact that seasoned and senior officers with experience and so on were stepping outside of agreed processes, it would be fair to describe this as a systemic issue, rather than isolated incidents or rare occurrences within the system. Does the Commissioner agree with me to that extent?

Mr. Martin Callinan: Everyone will have a view in respect of that but when one looks at the level of tickets that actually were processed, 1.46 million, and when one whittles that down to 66,407, or 4.55%, this number, that is, 30 on a national basis, is not, I think, an inordinate number. I accept I would prefer if it was nil but there you go.

Deputy Mary Lou McDonald: Can the Commissioner not appreciate that the nub of this issue in the public mind is the concern that was raised at the outset by Deputy Nolan? I refer to the view or perhaps more correctly stated, the worry, that whereas the law applies to the 95.45% of persons who get these notices, one has the 5% who enjoy a particular status or a particular relationship with a particular garda and to whom, somehow-----

Mr. Martin Callinan: No, I do not-----

Deputy Mary Lou McDonald: ---- the rules do not apply.

Mr. Martin Callinan: No, I do not accept that.

Deputy Mary Lou McDonald: Can I just tell the Commissioner the reason I am making this point to him? He has consistently cited the 1.46 million of these charges that are made and has stated that out of that, there is only a dilemma, an issue or something irregular in respect of approximately 66,500 of them, as though that somehow resolves the matter and indicates the system is okay and there is not a problem. Does the Commissioner not accept it is this very notion that there is or may be a small percentage of people who, either by virtue of their status in society or their relationship with a particular garda, get special treatment? Does this not actually go to the heart of the concern?

Mr. Martin Callinan: The Deputy has a view and of course is entitled to her view. That 66,407 reflects a three and a half-year period, that distils down to 10,700. Moreover, as we have described earlier, we have the figures all the way down to less than two per week per district. If the Deputy believes that to be too many, that is fine and she is entitled to her view. I am putting it in perspective for her. What I do not subscribe to is the issue of 5%. I already have indicated that the 5%, or the 4.55% that Mr. O'Mahoney found in his inquiry, is distilled down further to 2.57%. Consequently, I have not conceded at any point in our discussion and nor will I concede at any point in the future to the notion that if one knows a garda or a superintendent or an inspector and because of the relationship one has with him or her, matters will be looked after. I do not subscribe to that view. I take the view that people must act professionally and where they do not, they are disciplined or are sanctioned in some other fashion. As far as I am

concerned, it is a straight cut.

Deputy Mary Lou McDonald: Just so the Commissioner and I are clear for the remainder of this conversation, this is not about me taking a view on matters. I am trying to ascertain and establish facts here and it would be of some comfort to people not to so much hear the Commissioner say it is only so many in a given week or a given year because that does not resolve matters. Arguably, if as many as a single individual enjoys favourable treatment above 1 million others-----

Mr. Martin Callinan: No, no.

Deputy Mary Lou McDonald: ----- that in and of itself is problematic. However, it has been far-----

Mr. Martin Callinan: Deputy, let us be careful with the language here.

Deputy Mary Lou McDonald: Let us.

Mr. Martin Callinan: With respect, I am talking about the attrition rate in the context of tickets being cancelled for all the right reasons. I am not, at any point in the conversation, subscribing to the view that individuals within An Garda Síochána, officers or otherwise, are entitled to cancel tickets for their friends or VIPs or anybody else.

Deputy Mary Lou McDonald: Okay.

Mr. Martin Callinan: I am not subscribing to that and nor will I ever.

Deputy Mary Lou McDonald: The Commissioner has made the point very fairly in respect of drawing conclusions from the information one would draw down from the PULSE system alone, on the fair basis that there is other background information. There might be a question mark over making an assertion based only on the PULSE records because there could be other corroborating information, such as letters or submissions of whatever nature. The Chairman has correctly informed the Commissioner that he can have view of the material that has come before this committee. We are disadvantaged to the extent that we do not have the opportunity to see the kind of corroborating material the assistant commissioner, Mr. O'Mahoney, and the Commissioner have access to. The Commissioner mentioned the case of the beekeeper and the livestock by way of illustration. Would it be possible, in some sample cases where there are question marks that would cause alarm to this committee and others, for us to have an exchange of information in redacted form so that we could see some of that background information?

Mr. Seamus McCarthy: I draw the Deputy's attention to the section of the report where I talk about recorded termination reasons. Part of the exercise we did was examining the information on the PULSE system. Part of it was also examining the reasons in a sample of 300 notice termination cases. In those circumstances we arranged, with the co-operation of the Garda Síochána, to visit six districts where we asked for files for 50 randomly selected cases. The reasons that were recorded on those case file include the bees attacking livestock, being late for a religious ceremony and rushing to collect a relative from a bus station. People have to submit a letter of application for a cancellation, and many of them said the driver was speeding on the way to a hospital or GP appointment or visiting others in hospital. Those examples are taken from letters that applicants submitted. We also made the point that in many cases there are circumstances that are capable of further documentation being provided to substantiate the circumstances of the case. In many cases there was no documentation to substantiate the claims

that were made.

I take the Commissioner's point that in any circumstances such as this an element of judgement is being made. I am not trying to second guess the situation. Another relevant piece of information is shown in figure 7.6 and the disparity between one region and another where there is a difference of 50 to 60 times in the rate of cancellation. These were the pieces of information I took into account when I arrived at the conclusion I express in 7.81 that, "Absent and inadequate records, and the recorded facts of many cases, give rise to concerns that many cases have been terminated without due cause." That is as far as I can go in it because I did not interview the individuals involved in the offences or the gardaí involved in making the decisions. There are also grounds for concern that certain "outside district" cases were terminated without appropriate authority.

Earlier, Deputy Deasy asked if we can draw conclusions here without seeing the information. I am presenting this information. An exercise has been carried out, the background documentation has been examined, and these are the conclusions I have drawn based on that work. Deputy McDonald's idea of asking for further redacted information is replicating the work I have done in some of these cases.

Deputy Mary Lou McDonald: Certainly, and I raised this mindful of that but also of the fact that this committee is in receipt of further material. The Chairman referred to one or two particularly serious instances where question marks arise over court dates, where we are advised there was no court date, etc. I take the point that the PULSE system is not a comprehensive account of any individual case. That is a fair point, but it is equally fair to say that whereas one may feel disadvantaged not having seen the material that has most recently come to this committee, we as committee members are at the disadvantage of not seeing in any form the substantiating material which the Commissioner and Assistant Commissioner O'Mahoney assure us exists. I wonder whether we might see the full material in respect of a sample of the specific cases to which the Chairman referred earlier. That would be a helpful and useful exercise. Shall I leave that thought with Mr. Callinan?

Mr. Martin Callinan: I have indicated to the Chairman and the committee that I do not believe this is the appropriate forum to deal with these issues. I recognise the committee's remit in terms of its responsibility to the taxpayer, of whom I am one. It is important that I be as open and transparent as I can be about the funding streams allocated to me and the potential loss regarding systems and processes and that I am the appropriate officer to deal with these issues. If I have a fundamental difficulty with someone who is making the allegations in the first instance being here and discussing them, I would have a similar difficulty with providing further information in that light. If there is a single ticket item - excuse the pun - or a single issue about which the Deputy might need confirmation in the context of a revenue stream or a matter of that nature, perhaps we can deal with it through correspondence. I do not know. What I-----

Deputy Mary Lou McDonald: Our only means of assessing whether revenue was lost to the State is to establish whether the processes and yardsticks for writing off these penalty points was proper and all the i's were dotted and the t's were crossed. That is why we are talking about this particular matter.

Mr. Martin Callinan: With all respect, am I, as the accounting officer, not the best person to report back to the Deputy on what precisely we do and how we go about the process?

Deputy Mary Lou McDonald: Mr. Callinan is the Accounting Officer and the man in

charge. There is no doubt there, but he is reporting to us on the basis that he is not comfortable with this as a forum to deal with the detail of these allegations.

Mr. Martin Callinan: No, no.

Deputy Mary Lou McDonald: Sorry, Commissioner.

Mr. Martin Callinan: Sorry.

Deputy Mary Lou McDonald: He is reporting to us in a context where we are disadvantaged by not seeing the full documentation. Therein lies the dilemma. I suggest a mechanism by which, on a sample basis, we might resolve that issue. I do not question Mr. Callinan's responsibilities as the Accounting Officer to come before this committee.

Mr. Martin Callinan: I do not mean to be-----

Deputy Mary Lou McDonald: I understand that.

Mr. Martin Callinan: Perhaps if the Comptroller and Auditor General needs to see some documentation in the context of his statutory remit and my obligation is to ensure he has at his disposal whatever he is required to have, perhaps that is a means to an end.

Deputy Mary Lou McDonald: Perhaps we might use that mechanism, given that Mr. McCarthy has carried out a similar exercise before.

Mr. Seamus McCarthy: From a revenue point of view, if I examine a particular case - and we have examined 300 - and am not satisfied that there were circumstances documented that warranted the cancellation I would conclude that there is some loss of revenue. For me to do further work on specific cases where there are allegations of corruption or illegality of some kind and to report back on those is quite a different process. I would have to reflect on what I could do, and having done it, what I could report.

Deputy Mary Lou McDonald: Okay.

Mr. Martin Callinan: Can I reserve my position on this and consider the matter?

Deputy Mary Lou McDonald: Please do. I want us to go back now to a conversation we had the last time the Commissioner was here in respect of the whistleblowers and the sequence of events as they unfolded. The Commissioner said repeatedly here that there are appropriate forums in which a member of An Garda Síochána can bring forward concerns or allegations. This, of course, is what happened in March 2012, when two serving officers came forward with concerns and allegations in regard to wrongdoing in the writing off of penalty points. We know that in July of that year - the Comptroller and Auditor General reiterated it this morning - a member of An Garda Síochána approached his office. We know that in August 2012, a similar approach was made to the CEO of the Road Safety Authority. We know that in the autumn of 2012, approaches were made to Members of the Oireachtas and that the public focus on these matters came at that time.

On his last visit here, the Commissioner told me, and repeated it today, that these matters came to his attention in December. I have never heard from the Commissioner, or anybody else, an explanation as to why it took from March until December, not alone for these matters to come to his attention from the confidential recipient, but for any action to be taken. Will the Commissioner explain that delay to me today?

Mr. Martin Callinan: The Deputy is right that we spent a considerable period of time on this issue the last day I was here. I had reservations, not having looked at the file for quite some time, on the date the Deputy gave me of March 2012. When I went back, I pulled the file to have a look see and quite clearly, on 4 April that year - the following month - it was the case that the confidential recipient reported to me, as I have already outlined to the committee, a report he had received in regard to his superintendent, who had cancelled four penalty points. That was it - sum total.

Deputy Mary Lou McDonald: A single -----

Mr. Martin Callinan: One single superintendent had cancelled four particular fixed charge notices. That was it in its entirety. I have nothing before or since that date on the confidential reporting file to indicate there was any mention of fixed charge penalty points.

Deputy Mary Lou McDonald: Okay.

Mr. Martin Callinan: I have already indicated to the Deputy that each of the people who are at the centre of these allegations have in their turn made allegations against particular members under the anti-fraud policy.

Deputy Mary Lou McDonald: We will come to that in a moment.

Mr. Martin Callinan: Should I go on to December, because the Deputy mentioned December?

Deputy Mary Lou McDonald: No, I do not want to move on yet. Let us stay at March and April. We have now established that the Commissioner did, in fact, get a report from the confidential recipient in April of 2012. That tallies with what the whistleblowers contend.

Mr. Martin Callinan: Let us be fair about this. The Deputy took me to task and we spent a considerable period of time on the last occasion talking about March 2012. I had not looked at these files for some considerable period of time and I was a little bit unsure of my footing, but when I went back, I discovered it was April. We should be precise on what we are talking about here.

Deputy Mary Lou McDonald: Is the Commissioner saying that the report was made to the confidential recipient and landed on the Commissioner's desk in April 2012 rather than March?

Mr. Martin Callinan: I am very clearly saying that and I am very specific about the date, 4 April, because the correspondence relates to "on this date, 4 April", etc.

Deputy Mary Lou McDonald: So the whistleblowers approached the confidential recipient on 4 April and it was on the Commissioner's desk the same day. Is that correct?

Mr. Martin Callinan: Yes, that is correct.

Deputy Mary Lou McDonald: And the Commissioner says it related to a single officer in respect of the cancellation of -----

Mr. Martin Callinan: Four tickets.

Deputy Mary Lou McDonald: The Commissioner will be aware that is not consistent, as I understand it, with what the whistleblowers are saying.

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Mr. Martin Callinan: It is absolutely inconsistent with what the Deputy has related to me. Absolutely.

Deputy Mary Lou McDonald: Thank you for that. The Commissioner has the information in April. What happens next?

Mr. Martin Callinan: I acknowledge, obviously, the correspondence, to the confidential recipient. Then, I have a number of people that I have appointed under this charter. I have three assistant commissioners and five chief superintendents who are designated to deal with these issues as they arise. I forwarded the correspondence immediately to an Assistant Commissioner to have that matter investigated and to report back to me so that I could inform the confidential recipient of the outcome of the investigation.

Deputy Mary Lou McDonald: Does the Commissioner want to name that assistant commissioner?

Mr. Martin Callinan: No I do not. This is a confidential process -----

Deputy Mary Lou McDonald: Certainly in terms of the complainant it is.

Mr. Martin Callinan: I do not want to be -----

Deputy Mary Lou McDonald: That is fine, I am not making an issue of that. So, the Commissioner informs the assistant commissioner and he or she goes and investigates this single instance and reports back to the Commissioner. What happens then?

Mr. Martin Callinan: I notify the -----

Deputy Mary Lou McDonald: Give me the timelines on that.

Mr. Martin Callinan: I wrote to the confidential recipient on 23 or 24 December that year, I think.

Deputy Mary Lou McDonald: So what was happening between April and December?

Mr. Martin Callinan: The matter was being investigated.

Deputy Mary Lou McDonald: What form did that investigation take?

Mr. Martin Callinan: This is confidential process. The assistant commissioner reported back to me his findings of the investigation, etc., and I passed that on to the confidential recipient.

Deputy Mary Lou McDonald: I fully appreciate that in a process such as this that the identity of the person making the allegation is a matter of confidentiality, and even, perhaps, the fine substance of the allegation. However, I do not accept that the process by which the matter is dealt with is or should be in any way confidential. What happened between April and December?

Mr. Martin Callinan: Well, it is actually.

Deputy Mary Lou McDonald: On what basis?

Mr. Martin Callinan: That is part of the system.

Deputy Mary Lou McDonald: It is part of the system?

Mr. Martin Callinan: It is a confidential process. I am not about to get into the methodology employed by anyone, in terms of how those investigations take place. That is not my function.

Deputy Mary Lou McDonald: So the Commissioner appoints an assistant commissioner to examine this matter -----

Mr. Martin Callinan: Yes.

Deputy Mary Lou McDonald: It takes between April and December to carry out this work and the Commissioner cannot describe for me, in terms of process, what that involved.

Mr. Martin Callinan: Correct.

Deputy Mary Lou McDonald: Eight months.

Mr. Martin Callinan: Eight months.

Deputy Mary Lou McDonald: Eight months on a single allegation.

Mr. Martin Callinan: No, there were four matters to be dealt with.

Deputy Mary Lou McDonald: Four allegations revolving around one individual.

Mr. Martin Callinan: Yes.

Deputy Mary Lou McDonald: It took eight months for an assistant commissioner to examine this and he reported back to the Commissioner eight months later

Mr. Martin Callinan: Correct.

Deputy Mary Lou McDonald: And the Commissioner is not in a position to describe what it was, I do not want to know who precisely was spoken to or -----

Mr. Martin Callinan: I understand.

Deputy Mary Lou McDonald: The Commissioner is not in a position to tell us what that eight month process involved.

Mr. Martin Callinan: I am reporting and the mechanics of what happened. That is all I am doing.

Deputy Mary Lou McDonald: How does the Commissioner account for the fact that the two whistleblowers, or one or other of them, were so frustrated by the autumn of 2012 - I am surmising - that they had no option but to approach Members of the Oireachtas with this information?

Mr. Martin Callinan: To be fair, how can I answer that question? I have said on more than one occasion here today that these are members of An Garda Síochána so they have a responsibility to act responsibly. Clearly if they witness wrongdoing of course they should report it.

Deputy Mary Lou McDonald: Is it, therefore, the Commissioner's contention these men have acted irresponsibly? Is this what the Commissioner is saying?

Mr. Martin Callinan: There is absolutely no question in my mind they have acted irresponsibly.

Deputy Mary Lou McDonald: They have acted irresponsibly.

Mr. Martin Callinan: The first time I became aware of this very serious matter was when the Secretary General at the Department of Justice and Equality forwarded these things to me. It was extraordinary this would happen in this manner, quite extraordinary. I am very clear about that.

Deputy Mary Lou McDonald: The Commissioner contests the fact these whistleblowers came forward with allegations of widespread wrongdoing in respect of the writing off of penalty points. He states this simply is not true. He states he had a single report in April and that he appointed an assistant commissioner to investigate matters. It took eight months through an undefined process he will not share with us and the assistant commissioner reported back to him in December. Meanwhile, the Comptroller and Auditor General had contact from a member of An Garda Síochána, the CEO of the Road Safety Authority had contact from a member of An Garda Síochána, and Members of the Oireachtas were furnished with information in respect of this matter. Let us talk about December. What happened in December? The confidential recipient was written to by the Commissioner in December. Tell us about December.

Mr. Martin Callinan: What would the Deputy like to know?

Deputy Mary Lou McDonald: I would like to know the sequence of events from the Commissioner's point of view.

Mr. Martin Callinan: Pardon me?

Deputy Mary Lou McDonald: I would like to know the sequence of events from the Commissioner's point of view from December onwards.

Mr. Martin Callinan: In respect of?

Deputy Mary Lou McDonald: In respect of the whistleblowers and the information.

Mr. Martin Callinan: On 8 December one of these gentlemen was in a station in the Cavan-Monaghan division printing off PULSE records. He was confronted by a sergeant and asked what he was doing. We went through all of this on the last occasion.

Deputy Mary Lou McDonald: We will go through it again.

Mr. Martin Callinan: He was confronted and asked what he was doing. He indicated he was working with the other member at the centre of this particular issue to supply information and documentation to an elected representative. The sergeant asked him why he was doing it and that he did not think he should be doing it, and they had a conversation. He reported the matter and this is when I became aware there were two people, as one of them indicated he was working with another member of the Garda Síochána, in trawling a system looking for wrongdoing and reporting it to an elected representative. This was the first occasion I became aware of it. Following on this, and within a week or so, on 14 December I sent a direction to both individuals and told them - I directed them - to desist from what they were doing, that they were in breach of the Data Protection Act and probably other offences also, and if they had any issues, problems or complaints that they should contact the assistant commissioner dealing with a very wide investigation on wrongdoing, without prejudice - and this is important - to their

entitlement to go to the confidential recipient. This is important. We heard nothing from them until one of them used the anti-fraud process in June last year. Previous to that, before the Assistant Commissioner embarked on his allegations inquiry, one of them had gone through the anti-fraud process.

Deputy Mary Lou McDonald: We will come to that in a moment. This is what happened in December. This turn of the event happened in a station in Monaghan.

Mr. Martin Callinan: No, Cavan. It was in the Cavan-Monaghan division.

Deputy Mary Lou McDonald: This was the Commissioner's first knowledge of these matters. He has stated these are matters which had not been reported to the confidential recipient and it was the first flag of this issue in the system.

Mr. Martin Callinan: As I stated and will repeat again, the first notification was October. This was when I received the documentation from the Department of Justice and Equality, and when I handed it to the assistant commissioner, and he began his work.

Deputy Mary Lou McDonald: How did the Department of Justice and Equality have this documentation?

Mr. Martin Callinan: I have no idea.

Mr. Kevin Clarke: The Department was forwarded copies of the correspondence from two sources during September. I do not have the precise dates but I can get them. One was copied from the Department of the Taoiseach, and that was followed approximately one to two weeks later from the Department of Transport, Tourism and Sport. We went over the documentation and decided we needed to send it to the Commissioner.

Deputy Mary Lou McDonald: Have we any notion how the Department of the Taoiseach and the Department of Transport, Tourism and Sport had this documentation?

Mr. Kevin Clarke: My understanding is the individuals called into the Department. I am not that sure. One was sent over to us in the middle of September and the second was a week to ten days afterwards. This was new to us also.

Chairman: Was it directly from the whistleblower?

Mr. Kevin Clarke: No it was from the Departments. Obviously he had given the information to the Department of the Taoiseach.

Chairman: A whistleblower gave it to the Department of the Taoiseach.

Mr. Kevin Clarke: Exactly, and the second was given to the Department of Transport, Tourism and Sport.

Chairman: The same material?

Mr. Kevin Clarke: It appeared to be slightly different but in essence it was the same.

Chairman: From the same person? Were there one or two whistleblowers?

Mr. Kevin Clarke: It would appear to have been from the same person.

Deputy Mary Lou McDonald: I thank Mr. Clarke. That is very helpful. There was notice

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of it in October. When the Commissioner got the information on the trawl in Cavan Monaghan and the material one individual was printing off, was it the same information as the information brought to his attention in October or was it additional material from the PULSE system?

Mr. Martin Callinan: I do not know. It would appear the man took the documentation with him without being challenged.

Deputy Mary Lou McDonald: Will Mr. Callinan repeat that? It would appear-----

Mr. Martin Callinan: That the person printing off the material took the documentation with him. This is my memory of the way it was reported.

Deputy Mary Lou McDonald: So Mr. Callinan did not get sight of whatever was printed in December.

Mr. Martin Callinan: No I did not.

Deputy Mary Lou McDonald: What happened then? Assistant Commissioner O'Mahoney's inquiry had been under way since October.

Mr. Martin Callinan: Yes.

Deputy Mary Lou McDonald: And it unfolded.

Mr. Martin Callinan: Yes, and he reported I think at the end of March 2013.

Deputy Mary Lou McDonald: Am I right to state that at no stage in the course of Assistant Commissioner O'Mahoney's investigation did he speak to or interview the whistleblowers?

Mr. John O'Mahoney: That is correct.

Deputy Mary Lou McDonald: Why was this the case?

Mr. John O'Mahoney: First and foremost the documentation provided to the Commissioner and subsequently to me was unsigned and unattributed. I proceeded with my examination on the basis I was dealing with anonymous allegations.

Deputy Mary Lou McDonald: I thank Mr. O'Mahoney.

Mr. John O'Mahoney: I became aware during the course of the investigation there had been an incident as the Commissioner described. There had been an incident, as the Commissioner described, and I was also aware that both of those persons had been issued with a direction that if they wanted to make their complaints, I was available to receive them. I waited for their contact but it did not come.

During the course of the investigation, around February 2013, one of those whistleblowers had extensive contact with a chief superintendent who was investigating the complaints about confidential fraud reporting. I was aware of that process and of the complaints he had made in that regard, and that the complaints mirrored strongly some of the issues I was investigating.

Deputy Mary Lou McDonald: Mr. O'Mahoney still did not speak to him.

Mr. John O'Mahoney: No, I did not speak to him.

Deputy Mary Lou McDonald: To summarise this, as far as I can ascertain we have two di-

rectly conflicting accounts of what happened in respect of the whistleblowers coming forward. The reason by the way that this element is so important is that, in respect of accountability structures, provisions and protections for whistleblowers are essential, albeit as an action of last resort. The Commissioner said it is extraordinary that only two officers came forward out of a force of 13,000 officers. Others have responded that it would be extraordinary if more than two came forward given the nature of these matters. For me, the case for the committee to hear from the whistleblower or whistleblowers is now compelling. I have not yet heard testimony from either individual but I am certain from what I know that they would strenuously contest that account and defend the position that they acted absolutely within the procedures of An Garda Síochána, including making a full report to the confidential recipient. The committee needs to get to the bottom of that matter.

The Commissioner expressed concern about the use of the committee as a platform from which individuals might exploit opportunities to make wild allegations or unsubstantiated claims. Looking at the matter from the point of view of whistleblowers and in a balanced and objective way, we cannot allow the committee to become a platform from which to disparage or cast question marks over the good name of those two individuals who came forward. Does the Commissioner appreciate that?

Mr. Martin Callinan: Of course I would hope that whatever important work this committee does, it would be conducted in a proper fashion. I am laying the facts before the committee as I know them and nothing more.

Deputy Mary Lou McDonald: Does Mr. Callinan accept that those facts are contested?

Mr. Martin Callinan: If the Deputy is telling me that she was advised that what I am saying is incorrect, of course I accept her word. As a responsible elected public representative, I would not expect anything less.

Deputy Mary Lou McDonald: It is not a case of my view or what I think or what I have been told. Solely on the basis of information that has been in the public domain for some time, it is clear that the facts as they were presented by the Commissioner today are contested. The two individuals concerned have very different accounts of events from March 2012 onwards.

Mr. Martin Callinan: If they have a different account, I have not heard from them in that regard.

Chairman: I did not interrupt Deputy McDonald because she was pursuing a particular line and dates but she is well past her time.

Deputy Mary Lou McDonald: I ask the Chairman to bear with me for two more minutes. The Commissioner described their behaviour as disgusting. It is a strong thing to say that they have carried themselves in a manner that is disgusting.

Mr. Martin Callinan: Correct. In the context of the manner in which they decided to pursue what they are pursuing, that is definitely something that I cannot accept at any level.

Deputy Mary Lou McDonald: I am also aware that the individuals concerned claim they were isolated in their workplaces. They felt they were victimised to whatever extent. One of them subsequently left the service of An Garda Síochána. Does the Commissioner not accept it would be difficult for them to hear him use a word like “disgusting” to describe their behaviour?

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Mr. Martin Callinan: I do not know whether the Deputy was here earlier when we were discussing this point. There are live actions in the High Court in respect of these two people. I am not going to enter into that province because I will have an opportunity to air my particular views in the context of what the Deputy is now putting forward in the courts. That is where I intend to-----

Deputy Mary Lou McDonald: That is all right but it was the Commissioner and not I who offered up the term “disgusting”. I am simply saying that is a strong term.

Mr. Martin Callinan: I agreed with the Deputy that it is a strong term. It reflects my view.

Deputy Mary Lou McDonald: On reflection, the Commissioner remains of that view.

Mr. Martin Callinan: Yes.

Deputy Mary Lou McDonald: What will happen to the individuals when they appear before this committee? What are the consequences for them or will there be consequences for them?

Mr. Martin Callinan: The Deputy will appreciate that now that I am aware they have been invited, I will have to take further advice. I have already aired my views on what should happen and have stated that the property should be returned to me. The committee has taken legal advice, as is its entitlement, and I respect that. I, in turn, will take further legal advice and I will decide then what is best for An Garda Síochána in the context of what we are now hearing.

Deputy Mary Lou McDonald: What message does the Commissioner think that might send to other serving gardaí who might have some information or who might be minded to come forward and to be whistleblowers? I note that the Commissioner referred to the individuals as “so-called whistleblowers”. Is he concerned that his approach to this matter and his approach at this committee today might send a very negative signal to officers doing their duty and shake their confidence in the process and the protection they might be afforded should they step forward? Whatever his view, these individuals had no confidence in the internal procedures and they almost felt goaded to go to outside agencies, including Members of the Oireachtas.

Mr. Martin Callinan: I have no concerns whatsoever in the context of the confidential reporting mechanism that is set up and well established in An Garda Síochána. It has been working very well for quite a number of years. To repeat what I said earlier, if anybody has any wrongdoing to report, they have a clear responsibility as members of An Garda Síochána to report those matters. There is a process of doing that up through the authorities or going through the confidential reporting mechanism. I can assure the committee once again - this is probably the third or fourth time I have done it but I will do it again - that I will support fully any person who is reporting wrongdoing and so will these officers around me and all the other officers in An Garda Síochána.

Deputy Mary Lou McDonald: So the Commissioner does not regard whistleblowers as disloyal?

Mr. Martin Callinan: How could I? I fully support the concept. Of course I do.

Deputy Mary Lou McDonald: I will end with this question. I thank the Chairman for his forbearance. On the previous occasion the Commissioner appeared before the committee, I asked him the number of reports that had been made to the confidential recipient - not the detail

of them - over the previous 12 or 18 months and he was not in a position to give a figure at the meeting. What is the figure now?

Mr. Martin Callinan: No, I indicated on the previous occasion that they are quite small in number.

Deputy Mary Lou McDonald: Why will the Commission not give us a number?

Mr. Martin Callinan: This is a confidential reporting mechanism. We have been through this several times-----

Deputy Mary Lou McDonald: No, we have not and I have made clear to the Commissioner that I am not looking for the detail or the identity-----

Mr. Martin Callinan: But the Deputy knows my position on it.

Deputy Mary Lou McDonald: The Commissioner's position is not to tell us and I find that troubling.

Mr. Martin Callinan: My position has not altered. That is the most I can say.

Deputy Mary Lou McDonald: That is not transparent. Is it?

Mr. Martin Callinan: To be fair, there is an annual report forwarded to the Minister in relation to this area. I am obliged to do that. It includes the amount of reports and the amount of progress we have made on previous reports and all of that. That is an annual report that is submitted to the Minister.

Deputy Mary Lou McDonald: The Commissioner is, therefore, telling me to ask a parliamentary question rather than to annoy the Commissioner.

Mr. Martin Callinan: The Deputy is well capable of doing her own business. I would not never suggest to her how to conduct her business.

Deputy Mary Lou McDonald: I thank the Commissioner

Mr. Martin Callinan: I thank the Deputy.

Deputy Simon Harris: If a figure is available in the public domain of the number of complaints made or if it has been given to the Minister, I am not sure why the Commissioner cannot share it with the committee.

Mr. Martin Callinan: I am not aware that figure is in the public domain.

Deputy Simon Harris: It is in the annual report.

Mr. Martin Callinan: The Deputy said it is in the public domain.

Deputy Simon Harris: I thought the Commissioner said it was an annual report.

Mr. Martin Callinan: That I report to the Minister on.

Deputy Simon Harris: Which is not published?

Mr. Martin Callinan: I am not aware that it is. I do not mean to be fencing with the Deputy

on the matter but I genuinely do not believe it is.

Deputy Mary Lou McDonald: The Commissioner said he is the Accounting Officer and that he is the person to put questions to but when I ask what form an eight-month procedure takes to investigate one of the complaints, he cannot tell me what was the process. When we ask how many people have come forward to the confidential recipient, he cannot give us a figure. We are not looking for names or details.

Mr. Martin Callinan: I appreciate all that but all we are doing is raking over the coals once again. I have already indicated to the Deputy my position several times-----

Deputy Mary Lou McDonald: Yes, that the Commissioner will not tell us.

Mr. Martin Callinan: -----and I am not going to change my mind on it.

Chairman: That is pretty straightforward. We can just leave it at that. I will put one or two questions to the Commissioner. I will not delay because we have had a long session.

I made a public statement about whistleblowers and how they are treated and so on. I, therefore, feel obliged to address it in this forum before we end the meeting. Both whistleblowers have approximately 30 years experience but my interpretation of their side of the story is they came across wrongdoing as they saw it and they decided they were going to take proof for evidence from the PULSE system. They then used the mechanisms open to them relating to the confidential recipient and so on and they put their case. For some reason or reasons, they lost confidence in the system of reporting and then they obviously decided to make the information available publicly to Oireachtas Members and they quoted various Acts for doing that. Does that not explain, in the context of the volume of information that is now in the public domain, the lack of confidence they had in the system and their desire because of their commitment to the Garda and their belief in the uniform they wore, that when they saw this, they wanted to report it and they wanted action taken? They were not convinced by action that was taken.

Mr. O'Mahoney said he did not speak to either individual and I understand the Commissioner issued a directive. Did the Commissioner and Mr. O'Mahoney not speak to each other? Is there not room to discuss with a serving officer the issues he raised? Where stands that type of approach? Would Mr. Callinan, as the boss, not contact the whistleblower and invite him into his office for a chat? I ask this in the context of what would happen in any normal business.

Mr. Martin Callinan: I accept that what the Chair is putting forward is the view of the two people at the centre of these allegations.

Chairman: No, it is my view.

Mr. Martin Callinan: Is it?

Chairman: It is not a view; I am asking a question. I am not representing them in any way. I am just asking a question about them.

Mr. Martin Callinan: There are lots of senior officers in the Garda outside of the people about whom complaints were being made that they had recourse to. The Chairman already adverted to the fact that these individuals in question are experienced members of An Garda Síochána. They know many people, far and wide, and if they had chosen to knock on my door at any moment in time, by God, I would have that door opened, I would be sitting them down and I would be investigating the allegations very thoroughly.

Chairman: This issue is now in the public domain. In the correspondence, one of the whistleblowers writing to us today states: "I discovered over 200 senior Garda officers terminating fixed charge notices inappropriately and, in most cases, corruptly." This is going to appear as part of the documentation submitted to members of the committee. I would have thought the reaction to something like that would be for the Commissioner or his senior officers to call them in and ask how they discovered this information, although we know how they discovered it, and investigate whether the information stands up in any way. The information is causing damage to the force but I have to rely on the fact that the two individuals have 30 years experience. The individual who described himself as a serving sergeant states: "Having been treated the way I was for reporting the above [which is all of what we spoke about earlier in the meeting] I don't think I would do it again. It destroyed me, my career and my family." Given the years of service and the structure of the force, is it not time for one of the bosses to speak to these individuals?

Mr. Martin Callinan: It is quite extraordinary that the Chairman has raised this issue because the assistant commissioner spoke to him in April 2013 and I will let him respond.

Chairman: In April of what year?

Mr. John O'Mahoney: April 2013. Now that the Chairman has raised the issue, one of these people contacted me in April 2013 and wanted to know why I had not interviewed him as part of the investigation. That was when it became public that my investigation had been forwarded to the Minister. At that stage, I spoke with him and asked him again that if he had any information I would be willing to listen to him, to sit down and to give him a fair hearing. That was on 23 April. Subsequently, for somebody who did not have confidence to report within An Garda Síochána, he did report through our fraud policy in June 2013. He reported somewhere in the region of 17 separate allegations relating to three members. A full-scale investigation was carried out into the matter under a chief superintendent and a file was forwarded to the Director of Public Prosecutions, DPP.

Further on my answer to Deputy McDonald's question on whether I engaged, I did not engage because I had information from the PULSE system. Bear in mind that I was doing my examination and finding that, in most cases but not all, what was on PULSE did not accurately reflect what these people were alleging. In fairness, if they had had the full information, they might not have made the allegations. I had that information. Bearing in mind the issue of confidential reporters and confidential recipients and honouring that system - indeed, one of these people is still anonymous or has not gone public - I would have gone back to the Commissioner had I any reason to interview those people and asked him whether I could find out for definite who they were. I would have certainly engaged with them during the course of my investigation. That was prior to 28 March.

Chairman: The two whistleblowers are known. They have been for some time.

Mr. John O'Mahoney: Yes, but I am referring to the context of my examination.

Chairman: Mr. O'Mahoney did not know who they were.

Mr. John O'Mahoney: I had very strong suspicions about who they were, but 23 April was the first time that-----

Chairman: Does Mr. O'Mahoney believe that, even now, he will call in the person who is still serving and discuss all of this?

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Mr. John O'Mahoney: If the person is willing to come forward and discuss it, there is no office within this organisation that would refuse. I have already offered it.

Chairman: In terms of the line of command and the fact that Mr. Callinan is the Accounting Officer and the person's boss, why would no one telephone him and say that he or she needed to see him?

Mr. Martin Callinan: He was directed that, if he had any information, he was to go to the Assistant Commissioner or use confidential reporting. The door is always open for anybody to-----

Chairman: Why is it that no one can ring him and say, "You are a serving garda, you are doing something that I do not agree with [the Commissioner described it as disgusting] and come into the office because I want to talk to you"?

Mr. Martin Callinan: Many times the local officers have tried to engage on other matters and were rebuffed. There is a High Court action involved. With respect, I will reserve my position on this matter and deal with it there. The Chairman is almost challenging me in my attitude towards these people. I have repeatedly told him and this committee that, if anyone observes any wrongdoing at any time, the proper action for those people as responsible members of An Garda Síochána is to report it. The Chairman has heard me say this several times.

Chairman: I have indeed.

Mr. Martin Callinan: One can also go to the confidential reporting system. If the scenario is as the Chairman has painted and asked his question on and if those people felt that they needed to come to my door, I would not have turned them away.

Chairman: I am approaching this from-----

Mr. Martin Callinan: I know.

Chairman: -----the point of view of an employer. If something goes wrong on the floor of my factory, I find out the name of the person who might be involved and ask him or her into my office for a discussion, particularly when the information being put into the public domain is damaging my company. I am not telling Mr. Callinan how to do his job, as I would not dare do that, but this would appear to be the commonsensical, simple way to deal with the matter.

When one analyses this situation, there is not much difference between the type of material that the Comptroller and Auditor General or Assistant Commissioner O'Mahoney examined and what is available to the committee. However, it has been made available everywhere. It is out there. Surely someone needs to discuss with the person or persons the reasons he or they are putting it out there and look at the names, Garda numbers and so on involved to see whether this man's case stands up. I am only asking from a practical point of view. Can someone not bring about a resolution to that in this way? Of the two whistleblowers, one with whom we have been dealing has asked to appear before the committee next Thursday. We must deal with it in private or public session and reflect on what has been said today. The members want to hear from that whistleblower, but not to know names, places or how something happened. For example, the whistleblower referred to file No. 204, whatever that means, and stated that attached were a number of tickets terminated for the first ten months of 2012 and that, having taken a generous percentage off, some 25%, the amount of revenue lost was serious at €720,000. We do not know whether this is right or wrong.

Mr. Martin Callinan: That is the point.

Chairman: We need to bring him in and ask him.

Mr. Martin Callinan: Does the committee? It could ask me as the Accounting Officer responsible.

Chairman: We have asked.

Mr. Martin Callinan: The committee has asked me.

Chairman: No, we are going to give Mr. Callinan this material.

Mr. Martin Callinan: That is fine. I will look at it and I will-----

Chairman: This book of analysis. All I am asking is whether Mr. Callinan, as the Accounting Officer, can ask the man whether the latter's claim of a cost to the State of €720,000 is true or false.

Mr. Martin Callinan: If the Chairman gives me the material-----

Chairman: I will.

Mr. Martin Callinan: -----of course we will deal with it. I have been saying that all morning. I must be careful, but the particular gentleman the Chairman has been speaking about has been interacting with authorities for quite some time and has had ample opportunities to come forward with any complaint he has to make. I have repeated this several times. Now the Chairman is asking me whether someone could have lifted the telephone and talked to him. How many times-----

Chairman: That is what I would do.

Mr. Martin Callinan: I am telling the Chairman-----

Chairman: Mr. Callinan has a different style than mine. I would pick up that telephone and ring my employee. I am entitled to put my view to Mr. Callinan because that is what everyone would say to me. I do not want to have an argument about it.

Mr. Martin Callinan: No, but what I am saying to the Chairman-----

Chairman: It is commonsensical to pick up the telephone and ring the man. All of this stuff is leaking out all over the place.

Mr. Martin Callinan: Absolutely, and it should not. He has been interacting with management for a long period of time and has been given ample opportunity to make those complaints. They would be dealt with. That is the reality from my perspective. That is my answer to whether I would have lifted the telephone.

Chairman: As to the person who is still employed, we have discussed whistleblowers and so on. Is it the fact that he continues in the service in the normal way without being intimidated? Is he carrying out the full range of his duties and that sort of thing?

Mr. Martin Callinan: As far as I am concerned, he is entitled to carry out his duties in a the fashion that I would deem to be appropriate for him.

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Chairman: As a normal serving garda sergeant.

Mr. Martin Callinan: Absolutely. Regarding his access to PULSE, I have asked that he be supervised when he now accesses PULSE. I have good and valid reasons for doing that.

Chairman: His claim would be-----

Mr. Martin Callinan: That does not interfere with what he is doing. If he has a difficulty while investigating something locally and he needs to use the machine, of course he will have access to it - on a supervised level. That is the way it is, unfortunately. That is the way life is currently.

Chairman: He does not have that view. Needless to say-----

Mr. Martin Callinan: The Chairman has been telling me all day that the person has a different view. I accept that he does. I wonder whether we would be here at all discussing these matters if both his views and mine were concomitant. I doubt it. If he has a difficulty with any element of his duty that he needs to pursue, there is a prescribed mechanism in place for him to get access to the PULSE system to do it. Apart from that, I expect him to do his duty as he is required to do.

Chairman: Do members have other questions? We will draw the meeting to a close. I thank the Commissioner and his colleagues for attending today's meeting. We very much appreciate their being here since 10 a.m.

The witnesses withdrew.

The committee adjourned at 2.50 p.m. until 10 a.m. on Thursday, 30 January 2014.