

# DÁIL ÉIREANN

---

## AN COISTE UM CHUNTAIS PHOIBLÍ

## COMMITTEE OF PUBLIC ACCOUNTS

---

*Déardaoín, 5 Samhain 2015*

*Thursday, 5 November 2015*

---

The Committee met at 10 a.m.

---

### MEMBERS PRESENT:

Deputy Paul J. Connaughton,	Deputy Patrick O'Donovan,
Deputy Joe Costello,	Deputy John Perry,
Deputy John Deasy,	Deputy Shane Ross.
Deputy Robert Dowds,	

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:** Are the minutes of the meeting of 22 October 2015 agreed? Agreed. On matters arising from the minutes, last week we had a note on HL Commodity Foods which was circulated to members. The clerk is doing a background note to inform members of where the issue stands now and we will have it next week.

We will now deal with correspondence from Accounting Officers and Ministers. Correspondence has been received from the Secretary General of the Department of Education and Skills, Mr. Seán Ó Foghlú on UCC's compliance with the public sector pay policy, to be noted and published. Correspondence dated 30 October 2015 has been received from Mr. Seán Ó Foghlú in regard to the delay in the presentation of audited account of Mary Immaculate College, to be noted and published.

Correspondence dated 3 November 2015 has been received from NAMA, a follow-up to our meeting on 1 October 2015. It relates to a legal position and I suggest we refer that letter to the legal advisers to the committee and ask for their response to the matters raised to give us a clear understanding of what action might have to be taken after that. Is that agreed? Agreed.

We now come to individual correspondence. No. 3B.1 is correspondence dated 12 October 2015 from Ms Frances Ryan Chairman of the Board of Directors, New Ross Community Hospital Limited, to be noted. The issue relates to the delay in registering nurses, a matter on which the Secretary General of the Department of Health has promised to report back to the committee. We will forward this correspondence to the Department so that it can be considered as part of its response. The situation with the Nurses and Midwifery Board of Ireland is not satisfactory. I raised this with the Secretary General of the Department and asked that it be investigated. Those returning to Ireland who want to have their qualifications acknowledged are delayed in taking up employment because of the inefficiencies of that system. We might send a reminder to the Secretary General of the Department requesting a speedy response.

No. 3B.2 is correspondence dated 30 September 2015 from Mr. John McCarthy, Secretary General Department of the Environment, Community and Local Government in regard to the application of non-domestic water charges by Kildare County Council, to be forwarded to Ms Julie Gibbons.

We will now deal with documents relating to today's meeting. Nos. 3C.1 and 3C. 2 are the briefing documents and opening statement for today's session, to be noted and published. No. 3C.3 is reports, statements and accounts received since our meeting on 22 October. In regard to No. 4.1, I will ask the Comptroller and Auditor General, Mr. McCarthy, to take us through his comments on the National College of Art and Design.

**Mr. Seamus McCarthy:** The National College of Art and Design's financial statements for the year ended 30 September 2012 have been presented. In the audit certificate, as well as drawing attention to the recognition of a deferred pension funding asset, which is a standard paragraph in certificates for third level education bodies, I referred to the governance issues in NCAD, which I have reported on previously. The statement on internal financial control gives an extensive report by the college on the state of play in regard to those matters. It continues to

## COMMITTEE OF PUBLIC ACCOUNTS

be an unsatisfactory situation. I have qualified the audit opinion regarding the keeping of proper books and accounts. The next set of financial statements are currently being audited. We received them just last week and the audit on that is progressing, but there will continue to be delays because of the extensive difficulties with the keeping of books of accounts in the college.

**Chairman:** Has the committee some unfinished business with the college from the last time it was before the committee?

**Mr. Seamus McCarthy:** I do not believe so. The issues were relatively well ventilated in discussion with the committee. The matter is ongoing, and we will keep it under review and continue to report.

**Chairman:** It is quite unsatisfactory that we are getting the 2012 accounts. Did you receive the 2013 accounts?

**Mr. Seamus McCarthy:** Yes, only in the last week.

**Chairman:** When will the 2014 accounts be expected?

**Mr. Seamus McCarthy:** The indicative suggestion is that we will have them around February 2016 to begin audit.

**Chairman:** Regarding the issues in relation to governance, procurement, documentation procedures and processes, are they all in place? Is the college catching up on paperwork that it has, or is it that it does not have the paperwork?

**Mr. Seamus McCarthy:** There is very poor paperwork for some of the transactions. I believe the system is being rectified, but it cannot be rectified retrospectively when it comes to preparing the financial statements. We expect the situation will improve once we get to the 2014-2015 set of financial statements, and then we should be able to bring them back on track.

**Chairman:** Is it possible for the committee to get a note on the big issues, or are they contained in the statements?

**Mr. Seamus McCarthy:** They are contained in the statement on internal financial control. I believe the committee had a letter last week from the Department in which the Secretary General drew attention to the appointment of a new board chaired by Professor Brennan. There is a very significant process in place within the college to rectify the problems.

**Chairman:** Professor Niamh Brennan?

**Mr. Seamus McCarthy:** Yes.

**Chairman:** Of DDDA fame?

**Clerk to the Committee:** She came in to clean up the DDDA.

**Chairman:** And the person who did not come before a meeting of the Committee of Public Accounts.

**Clerk to the Committee:** That is correct.

**Chairman:** That is correct. Maybe when Professor Brennan comes before the committee to discuss the National College of Art and Design we can extend our questions to cover the past.

## BUSINESS OF COMMITTEE

**Deputy Patrick O'Donovan:** She definitely will not come in then.

**Mr. Seamus McCarthy:** I believe the chief officer of the college is the accountable person.

**Chairman:** That is the get-out clause.

**Deputy Patrick O'Donovan:** Could the Comptroller and Auditor General clarify where the college stands now on the 2015 work in terms of governance, oversight and record keeping? Has there been substantial change there?

**Mr. Seamus McCarthy:** Yes, there has.

**Deputy Patrick O'Donovan:** Is the Comptroller and Auditor General happy that the 2015 accounts will be presented in 2016 along with the 2012, 2013 and 2014 accounts?

**Mr. Seamus McCarthy:** Given that we still need to do the 2013 and 2014 accounts, it will certainly be the back end of 2016 and possibly into 2017 before the 2015 accounts are presented.

**Deputy Patrick O'Donovan:** How long, in your estimation, will it be before the college is up to speed and running a normal set of accounts?

**Mr. Seamus McCarthy:** It can move to running a normal set of accounts in the current year, and I think substantially it is doing that.

**Deputy Patrick O'Donovan:** Is that from an audit statement point of view?

**Mr. Seamus McCarthy:** From an audit statement point of view, it will be the 2014-15 set of financial statements.

**Deputy Patrick O'Donovan:** Which will probably be received in 2017.

**Mr. Seamus McCarthy:** I imagine those accounts will come before the committee by early 2017.

**Chairman:** The Deputy might get a chance to look at those.

**Deputy Patrick O'Donovan:** The Chairman will be here then, or he might be Minister for Education and Skills.

**Chairman:** Could the clerk circulate the note from the last meeting about the letter and the note about the accounts for the information of members?

I will now turn to Teagasc. Attention is drawn to its disclosure of a settlement with the Revenue Commissioners in relation to the non-payment of VAT amounting to €399,000.

**Mr. Seamus McCarthy:** That is correct. There was a technical problem in Teagasc and incorrect computations were being done. Teagasc has rectified the matter and the Revenue Commissioners are satisfied.

**Chairman:** The disclosure was its own?

**Mr. Seamus McCarthy:** I think so, yes.

**Chairman:** Would Teagasc be similar to a company, or similarly the HSE, it that it makes returns and is inspected by the Revenue Commissioners?

## COMMITTEE OF PUBLIC ACCOUNTS

**Mr. Seamus McCarthy:** Yes, it would certainly be subject to audit. The Revenue Commissioners have carried out audits. However, in this case Teagasc discovered internally that there was a problem, researched it and made a disclosure to the Revenue Commissioners, and a settlement was made.

**Chairman:** We will note all those accounts. With regard to the work programme of the committee, in the next few weeks we are to meet with the Director of Public Prosecutions, the Attorney General, the Office of the Chief State Solicitor, the Office of Government Procurement, Bord na gCon and the Department of Finance, and on 10 December we will meet Waterford Institute of Technology and Cork Institute of Technology.

**Deputy John Deasy:** With regard to the Department of Public Expenditure and Reform and the Office of Government Procurement, the committee had suggested - or maybe I did not - that when the representatives from the Office of Government Procurement appear at the committee we should deal with the tendering arrangements for the Aran Islands air service, the construction of the contract and the tenders within the office. The committee should make it absolutely clear that those issues are on the agenda for that meeting. The witnesses will have to outline to the committee how the tender document was constructed and how it is being dealt with now, including the differences due to the fact that the contract is being incorporated into the new tender arrangement. They will have to explain to the committee how they could get something so horribly wrong, such as its failure to check whether one of the tenderers had a licence to land and take off. Actually, it was the company that was eventually awarded the contract, and it was the preferred bidder in that case. That was a failing by the Office of Government Procurement which it will have to explain to this committee.

**Chairman:** That is fine. We will ask the clerk to flag that to the office so that its representatives are absolutely clear about what is expected when they come here. Deputy Connaughton raised an issue with regard to the meeting between the Department's procurement section and the group that came before the committee. Did we get a report back on that? I think they met one group but did not meet the other.

**Deputy Paul J. Connaughton:** No, they met after that. There were actions to be carried out, but I will be in touch with them before.

**Chairman:** So you will raise that at the meeting.

**Deputy Paul J. Connaughton:** Yes.

**Chairman:** The work programme is agreed. I will now turn to any other business.

**Deputy Patrick O'Donovan:** I was missing for the last meeting. Is there any update on the issue with regard to the University of Limerick which was raised at the committee previously?

I asked this question before, but it might have been dealt with. When the representatives from NAMA were here they gave us a figure for the number of social housing units that were rejected by local authorities in Dublin and other areas of Leinster. Has NAMA provided further details on the actual locations of those houses?

**Chairman:** On the day of the committee meeting NAMA representatives had a list but they did not provide it. It was to be provided to the committee the following week. There is a list in front of us on the screen-----

BUSINESS OF COMMITTEE

**Deputy Patrick O'Donovan:** Yes, I see it.

**Chairman:** -----which sets out the different figures for you.

**Deputy Patrick O'Donovan:** That shows house completions rather than-----

**Chairman:** Are you looking for the 6,500 houses that were offered and refused?

**Deputy Patrick O'Donovan:** It was suggested here at the meeting that we ask the local authorities in question the reasons the houses were refused.

**Chairman:** We also asked NAMA for its list and did not receive it. We did not get either piece of information, so we will remind them again.

**Deputy Patrick O'Donovan:** Yes.

**Chairman:** At the end of the meeting with NAMA I gave the representatives a list of queries about Project Jewel. Deputy Deasy attended that meeting. We toured the site and saw it at first hand. I asked NAMA to answer the questions submitted to us by representatives of families but it did not do so, except to say that the site is sold. Some of the questions relate to the attitude of NAMA towards this group in the period leading up to the sale. I want to get the answers to those questions. I ask the clerk to the committee to remind NAMA that this information is outstanding and that it should submit its response to the committee. While some of the questions do not necessarily apply now because the property is sold, an explanation as to what happened beforehand is required.

On the subject of housing, the completion of the Tipperary hostel and the State money spent on it comes up here time and time again. In the context of the provision of accommodation, given the current demand, it would be no harm if someone would look at it. It may provide an opportunity for the State to intervene, fund its completion and put the property to an appropriate use. I ask the clerk to write to the Department and ask it to review that property in that context, thereby saving some of the taxpayers' money that has already been spent on that building and preventing its further dilapidation.

**Deputy Patrick O'Donovan:** I ask the Chairman to outline the position on the University of Limerick issue.

**Chairman:** We got a protected disclosure relating to the University of Limerick and we are not finished with that yet. I understand that an explanation was given as to how those people were employed.

**Deputy Patrick O'Donovan:** I am asking about the expenses issue.

**Chairman:** We are not finished with that yet and will process it further.

**Mr. Seamus McCarthy:** Was the Deputy not raising the point relating to supernumerary staff and the-----

**Deputy Patrick O'Donovan:** That was at Limerick Institute of Technology, on the other side of the Shannon but in the same city.

**Chairman:** It is a Limerick thing.

Is there any other business? No. We will move to the main part of today's meeting, which

is to deal with the accounts of the Department of Justice and Equality. I invite the witnesses to attend.

## **Annual Report and Appropriation Accounts of the Comptroller and Auditor General 2014**

### **Vote 21: Prisons**

### **Vote 24: Department of Justice and Equality**

### **Chapter 9: Development of Prison Accommodation in Dublin**

**Mr. Noel Waters** (*Acting Secretary General, Department of Justice and Equality*) called and examined.

**Chairman:** Today we will deal with Vote 21: Prisons, Vote 24: Department of Justice and Equality and Chapter 9: Development of Prison Accommodation in Dublin. Before we begin our meeting, I remind members and witnesses to turn off their mobile phones as they interfere with the sound quality and transmission of the meeting. I advise witnesses that they are protected by absolute privilege in respect of their evidence to this committee. However, if they are directed by the committee to cease giving evidence on a particular matter and continue to so do, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and 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 House or an official, by name or in such a way as to make him or her identifiable. Members are reminded of the provisions within Standing Order 163 that the committee should 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 Mr. Noel Waters, acting Secretary General of the Department of Justice and Equality and ask him to introduce his colleagues. This is Mr. Waters's first time appearing here as Accounting Officer but he has been before the committee previously.

**Mr. Noel Waters:** Thank you very much Chairman. I am accompanied by Mr. Seamus Clifford, principal officer, who is head of our shared services and financial unit in Killarney, Mr. Doncha O'Sullivan, principal officer in one of our co-ordination divisions in the Department, Ms Oonagh McPhillips, assistant secretary in charge of corporate affairs in the Department, Mr. Jimmy Martin, assistant secretary in charge of our prisons section as well as international policy, Mr. Michael Donnellan, director general of the Irish Prison Service, Ms Caron McCaffrey, director of corporate affairs in the Irish Prison Service and Mr. Lorcan O'Connor, director general of the Irish Insolvency Service.

**Chairman:** I ask the witnesses from the Department of Public Expenditure and Reform to



introduce themselves.

**Mr. Ronan Gallagher:** My name is Ronan Gallagher and I am joined by my colleague, Mr. Eoin Dormer.

**Chairman:** The witnesses are all very welcome. I ask Mr. McCarthy to give his opening statement now.

**Mr. Seamus McCarthy:** The appropriation account for Justice and Equality recorded gross expenditure of just over €363 million in 2014. Salaries accounted for 35% of the expenditure. At the end of the year, just under 2,300 whole-time equivalent staff were employed in the Department and its related offices. As well as the administrative costs of the Department, expenditure was incurred on a wide range of services including naturalisation and immigration services, asylum seeker accommodation, legal aid; the Irish Youth Justice Service; the Probation Service, the Legal Aid Board and the Magdalen compensation fund. The Vote also includes funding for a range of statutory services operating under the aegis of the Department, including the Office of the Data Protection Commissioner, the Criminal Assets Bureau and the Garda Síochána Ombudsman Commission.

The appropriation account for prisons recorded gross expenditure of €335 million in 2014. The expenditure was incurred under one programme, the administration and provision of safe, secure, humane and rehabilitative custody for people who are sent to prison. Much of the programme expenditure related to payment of salaries, wages and allowances totalling €237 million. In addition, the prison service spent just under €50 million in 2014 on buildings and equipment and €28 million on prison services.

Chapter 9 of the report on the accounts of the public services 2014 concerns the development of prison accommodation in Dublin. The report reviews the current status of and expenditure on a project at Thornton in north county Dublin which aimed to develop new prison accommodation on a greenfield site. The project commenced with the purchase of a 150 acre site at Thornton for €29.9 million in January 2005. The site was to be used to build a new prison to replace the Mountjoy complex. Adjacent land totalling just under 15 acres was subsequently purchased in 2007, at a cost of a further €2.1 million. At the time the site purchase was approved by Government, it was stated that an indicative construction cost for the new prison complex to accommodate around 1,000 prisoners could be in the region of €150 million. It was expected that, in time, this cost would be partially offset by the proceeds of the sale of Shanganagh Castle prison and of the Mountjoy site and reduced prison operating costs.

In 2006, a proposal was developed for a significantly expanded scope for the new prison. The proposed wider project, with a capital cost estimated at €525 million, was to be developed under a public private partnership, PPP, arrangement. Following the financial crisis, PPP projects in Ireland effectively became unbankable and the option of direct State development of the proposed prison was considered. However, this was subsequently deemed to be unaffordable and the project was suspended.

When it became clear that the Thornton project was unlikely to proceed in the foreseeable future, development work was undertaken instead on the prison accommodation at Mountjoy to deal with the problems there - in particular, overcrowding, the elimination of slopping out and security issues. From 2010 to 2014, €28.7 million was spent on capital works on the Mountjoy site. Additional accommodation was built at the existing Midlands Prison to house 300 prisoners, at a cost of some €25 million. As a result, many of the problems at the Mountjoy complex



## COMMITTEE OF PUBLIC ACCOUNTS

have been fully addressed, at a much lower cost than was originally proposed to build a new prison on the Thornton site. My net conclusion is that the decision to acquire the Thornton site was underpinned by inadequate analysis of the likely costs of developing a new prison and the potential to deal cost effectively with the problems at Mountjoy by other means.

Since the acquisition of the land at Thornton, work on site preparation, and on off-site service works such as the provision of water, telecommunications and sewerage systems, has been undertaken. No prison building work has been undertaken. The cost of this work to May 2015, together with the site cost, was just over €50 million, and this is the carrying value of the assets on the appropriation account balance sheet. The prisons Vote appropriation account presents inconsistent valuations of prison land and buildings, with the property at Thornton being treated differently from similar property held by the Prison Service elsewhere. Relative to other similar property held, the property at Thornton is overvalued in the account.

The Prison Service has set up a working group to review the Thornton project and look at options which would yield the best possible value for the State in its future use. When my report was being completed, the working group was still reviewing the options. The Accounting Officer will be in a position to update the committee on the group's work.

**Chairman:** Thank you, Mr. McCarthy. I invite Mr. Noel Waters to make his opening statement.

**Mr. Noel Waters:** Thank you, Chairman. Given that it is somewhat unique to have an acting Secretary General before the Committee of Public Accounts, I propose to say a few words, with the Chairman's permission, on the circumstances that have given risen to this, before proceeding to deal with chapter 9. As members know, Mr. Brian Purcell, the former Secretary General of the Department of Justice and Equality, moved to another area of the public service in October last year. The Minister asked me to take on the role of acting Secretary General, and I felt it my duty to do so. I was working at the time as director general of the Department's immigration service, and I continued to do that role until the summer of this year. It was anticipated that I would be in the job for no more than a few weeks while a competition to fill the role was held in the normal way via the Public Appointments Service. For the sake of full disclosure, I advise members that I was not an applicant for the post of Secretary General at the time.

The competition did not yield a successful candidate, with no name being recommended to the Government for consideration. The Minister has publicly stated her view that this may have been a result of the controversies which had surrounded the post. In other words, there was not a huge number of people knocking on the door of the Public Appointments Service seeking to do the job.

**Chairman:** In the interests of the State, perhaps Mr. Waters will have to reconsider his decision not to apply for the post.

**Mr. Noel Waters:** I might get back to the Chairman on that. The Minister has indicated the job will be re-advertised when she considers the time is right to do so. There is nothing further I can add at this stage. I will continue to do the job for as long as I have been asked to do it.

It is important to note that the word "acting" in my title does not change the way I do the job; I do it in the same way as do all the other Secretaries General. I have no difficulty whatsoever with my colleagues in the Department. They are fully supportive of me in the role, as are colleagues in other Departments and the wider justice system. I am doing the job as if I were

Secretary General of the Department. Moreover, I have been formally appointed as Accounting Officer, hence my attendance here today. I consider it important to put these matters on the record before getting into the issues the Comptroller and Auditor General has raised.

**Deputy John Deasy:** May I put a question, Chairman?

**Chairman:** Yes.

**Deputy John Deasy:** Mr. Waters indicated that the process of finding a new Secretary General will be gone through again when the “time is right”. What exactly does that mean? Surely, within any Department, particularly a Department like Justice and Equality, we should seek to have the post of Secretary General filled in a permanent capacity?

**Mr. Noel Waters:** It is not in my gift to decide when the time is right. That is a matter for the Minister.

**Deputy John Deasy:** However, Mr. Waters will know the institutional history with regard to a Department like Justice and Equality. He is there long enough. Has a situation ever arisen previously where there was a lapse or gap?

**Mr. Noel Waters:** To my knowledge, it arose many years ago for a matter of weeks, certainly not for a prolonged period. In saying that, I emphasise that I am doing the job in all respects.

**Deputy John Deasy:** That is fine.

**Mr. Noel Waters:** I am attending Government sub-committees-----

**Deputy John Deasy:** I am not questioning that at all.

**Mr. Noel Waters:** I am doing the job.

**Deputy John Deasy:** However, Mr. Waters is completely in the dark in terms of when and if the appointment process will be restarted?

**Mr. Noel Waters:** It is a policy matter.

**Deputy John Deasy:** It is not a policy matter; it is purely an administrative issue for the Department of Justice and Equality.

**Mr. Noel Waters:** I would not put it in those terms as my being in the dark. As I said, I am happy to do the job and feel it is my duty to do it. I was working in a large area in the Department and was asked to step forward. That is what I did and still am doing. Beyond that I really cannot go, other than to say I am happy to do the job.

**Deputy John Deasy:** That is fair enough. Thank you, Mr. Waters.

**Deputy Shane Ross:** Chairman, I, too, would like to put some questions to Mr. Waters.

**Chairman:** Go ahead.

**Deputy Shane Ross:** Why did Mr. Waters not apply for the job?

**Mr. Noel Waters:** It is a personal matter, but I will help the Deputy as best I can. I had been in charge of the immigration service for several years, as I indicated. It is a very large area of the Department, with approximately 600 staff. We were doing some really good things in de-

veloping immigration services, making useful changes, introducing new policies and so on. I felt that work needed to be continued and that I was best placed to manage it. That was where I saw my career at that point.

**Deputy Shane Ross:** How many applicants were there for the post?

**Mr. Noel Waters:** I have no direct knowledge of the competition, but I gather from public reports there was something of the order of six applicants, to the best of my memory.

**Deputy Shane Ross:** Is that actual applications?

**Mr. Noel Waters:** I might stand corrected on it, but my recollection from public reports is there were six applicants.

**Deputy Shane Ross:** Was it the case, then, that nobody who applied was suitable for the job, in the view of those who were making the selection?

**Mr. Noel Waters:** The Public Appointments Service was responsible for conducting the selection process. It was unable to nominate a person who would, in its view, be suitable for the job.

**Deputy Shane Ross:** Does it tell us something about the Department of Justice and Equality that no suitable person wants the top job there?

**Mr. Noel Waters:** I am trying to be helpful to the Deputy, but I am not in a position to-----

**Deputy John Deasy:** It probably says more about individuals than it does the Department.

**Mr. Noel Waters:** ----divine what people's motive might have been. We had come out of a very difficult situation and, as the Minister noted, that may well have been a demotivating factor for potential applicants.

**Deputy Shane Ross:** What is the pay for the top job?

**Mr. Noel Waters:** It is the standard pay for Secretaries General, which is €175,000 or thereabouts.

**Deputy Shane Ross:** I want to give Mr. Waters an out here. Will it be a political decision by the Minister when new applications are considered and the process is restarted?

**Mr. Noel Waters:** In the normal course, as in any Department where a vacancy arises for the post of Secretary General, it is a matter for the Minister to make that decision.

**Deputy Shane Ross:** However, since the Minister has not given the all-clear for a new process, are we looking at there being a vacancy for the foreseeable future?

**Mr. Noel Waters:** She has indicated she will do it when she feels the time is right. I do not regard it as there being a vacancy; I am in the role and am doing the job in every respect. In that sense, there is no vacancy.

**Deputy Shane Ross:** Will Mr. Waters apply for the role in the next round?

**Mr. Noel Waters:** It is something to which I will give consideration in due course.

**Chairman:** Deputy Ross will put Mr. Waters off if he is not careful.

**Deputy John Deasy:** Has somebody filled in for Mr. Waters in his previous role in the immigration service, or does Mr. Waters continue to perform it?

**Mr. Noel Waters:** I was doing it until July of this year. Following sanction from colleagues in the Department of Public Expenditure and Reform, a person was appointed to the role at that time.

**Deputy Shane Ross:** Has anybody from outside the Department or the Civil Service shown any interest in the Secretary General position?

**Mr. Noel Waters:** Again, the process is not in my control or in the Department's control. It is in the control of the Public Appointments Service. I cannot answer who would have applied in terms of outsiders, but I can say something about outsiders. In the Department in recent months, we have changed our management board in its entirety. We have appointed three new assistant secretaries through the normal public appointments top-level appointments committee process, one of whom is from outside the Department. We have also appointed a deputy Secretary General. Recently, I have succeeded in changing the roles of all the assistant secretaries in the Department. Everyone is now doing a different job from the one they would have been doing last year.

**Deputy Shane Ross:** I am sure Mr. Waters is doing a very good job, but is it not a little staggering that one of the most important positions in the Civil Service cannot be filled for over a year?

**Mr. Noel Waters:** I have to go back to what I said. I am in the role and doing the job. It is a matter for the Minister, in due course, to decide when she wants to ask the Public Appointments Service where it should be taken from here.

**Deputy Shane Ross:** It is political control in the Department of Justice and Equality.

**Deputy John Deasy:** The reality is that this Administration is coming to its end. Nothing will happen until after the next election. Effectively, it is a political appointee. That is really what we are talking about. We are talking about another six months.

**Mr. Noel Waters:** Deputy Deasy used the term "political appointee". It is a choice.

**Deputy John Deasy:** It is a political pick.

**Mr. Noel Waters:** Exactly.

**Deputy Shane Ross:** Politicians are conniving with a vacancy which suits them. I think, honestly, Mr. Waters is probably doing a very good job. However, the manoeuvrings behind the scene are utterly unacceptable.

**Chairman:** Would you say the same about the Clerk of the Dáil? That vacancy still exists.

**Deputy Shane Ross:** That should be filled as well.

**Chairman:** Maybe they are doing us all a favour. They could be waiting until after the election and then a number of outsiders might be available.

**Deputy Shane Ross:** That is if they are re-elected.

**Chairman:** If they are not coming back here, they could apply for both of those jobs given

their experience.

**Deputy Shane Ross:** It depends on who is elected.

**Deputy John Deasy:** I do not believe the position of the Clerk of the Dáil and that of the Secretary General of the Department of Justice and Equality are comparable. I believe there is a lapse or a gap. It does not send a good signal across all of the areas of criminal justice in this country when we have the top administrative job when it comes to the justice area in a void or not filled. I believe it should be acted upon.

**Deputy Shane Ross:** I agree with Deputy Deasy. Moreover, I believe it is sinister in view of what has happened in the Department of Justice and Equality in recent times. It is quite sinister that a vacancy cannot be filled, is not being filled and is being blocked by the Government.

**Chairman:** Mr. Waters is doing his job.

**Deputy Shane Ross:** That is correct. He is doing it very well I am sure.

**Chairman:** He is doing the job he has been asked to do and he is doing it well. That discussion could be taken up in the Dáil Chamber, but the points have been made.

**Deputy Robert Dowds:** Is this a regular occurrence in terms of filling leading positions in Departments? Is it unique?

**Mr. Noel Waters:** As I said earlier, it may have happened in the Department of Justice many years ago for a short period. I cannot speak for other Departments, but my sense is that it would not be regular. In the case of lower level posts at assistant secretary level, it would be normal and people would be in acting roles pending the holding of a competition. That would be normal.

I am keen to respond to one point from Deputy Ross. I have no sense at all that I am part of any political game-playing. I want to be clear on that. I have the full support of the Minister in discharging the role. I want to make that absolutely clear.

**Deputy Shane Ross:** I do not think Mr. Waters is a puppet, but I think they are probably looking for one. That is probably the problem.

**Deputy John Deasy:** There is a problem if Mr. Waters has no interest in tending for this position career-wise. This is not with regard to Mr. Waters personally, but organisationally and institutionally there is a failing. It is not on the part of the Department, but it is the most important position in the Department. Notwithstanding what Mr. Waters has just said - I agree with that - the non-filling of this position is problematic.

**Chairman:** Before you continue your opening statement, Mr. Waters, I have to ask Deputy Dowds to chair the meeting. I have to leave for a few minutes. Perhaps the item we have just discussed could be taken up with officials from the Department of Public Expenditure and Reform when they are before the committee in terms of their role in this and the appointments.

*Deputy Dowds took the Chair.*

**Acting Chairman (Deputy Robert Dowds):** Mr. Waters, please proceed with your statement.

**Mr. Noel Waters:** I have already submitted an opening statement and I am happy to place



it on the record rather than read it out, if that is satisfactory to the committee. If it would be helpful to the committee, in terms of using time as best we can and answering any issues that members wish to raise, I propose to give a synopsis of the statement, especially in respect of Chapter 9 relating to the Comptroller and Auditor General's report dealing with prison accommodation in Dublin.

First, I thank the Comptroller and Auditor General and his staff for their comprehensive report. It is a valuable document for those of us in the Department in terms of managing this issue. The stark reality is that substantial millions were spent with the aim of building a prison at Thornton Hall and this has not happened. Clearly, there are important questions to answer relating to why this is the case. I realise that ten years ago the committee covered questions relating to the acquisition of the site. Moreover, I know that the Comptroller and Auditor General's predecessor had a report on that matter. The people involved at the time were before this committee and the matter was discussed extensively. I do not intend to go over all of that again, but from my examination of the papers and from conversations with colleagues relating to what happened at the time and since then, a number of points strike me. I believe it might be useful to share them with the committee today.

Based on my experience of working in various areas of the Department over a lengthy career, I reckon the biggest problem for the entire criminal justice system over the decades has been the operation of what became known as the revolving door system in our prisons. Early release in any civilised prison system, when it is intended to incentivise, is a good thing and it has its place. However, what we had was a scenario where people were being released in large numbers on an unplanned basis. The revolving door acts to negate the efforts of everyone in the criminal justice system to keep our community safe. It meant that the work being done by the Garda in tackling crime, the work in bringing people to court and the work of the courts in sentencing people and dealing with them was all being set to nought when people turned up at the prison door and were then released because there simply was no space for them.

Thankfully, in more recent times we have moved away from that situation. However, I have no doubt that in proposing the new prison at Thornton Hall between 2003 and 2004, the need to avoid a revolving door scenario was at the forefront of everyone's mind. Of course, that is as it should have been.

While substantial works have been undertaken in Mountjoy, as the Comptroller and Auditor General pointed out, we would be deluding ourselves to believe that a prison first built in 1850 could now match the standards which would apply in a purpose-built prison constructed now. It is a matter for the Oireachtas to decide where money is allocated at a time of scarce resources and many pressing demands and the decision might be taken not to proceed with the construction of a new prison. However, it does not mean building a new prison would not be desirable. This brings me to the fundamental point on why we are here today and why we are addressing the issue.

While people may have points to make about the detail of what happened, the stark reality is that the construction of the prison at Thornton Hall did not proceed because of the crisis that arose in the economy. In fairness to all those involved in the project, their thinking, understandably, was not informed by the impending economic collapse. That is where we are. In order to take it forward from here, I see two challenges that face us now. Clearly, we have to learn what lessons can be learned from what has happened. I am being frank with the committee by saying that learning those lessons is going to be complicated by the fact that we had a set of circumstances whereby the economy did what it did and that could not have been foreseen by



people who were planning the project.

I emphasise that this was not a solo run on the part of the Department or the Irish Prison Service. The Governments of the day were consulted extensively about the project because of its scale. By my calculations, the Government was consulted and made decisions in respect of this project at least ten times, or perhaps a little more when we take other issues into account. Indeed, the plans for the project, as Deputies will be aware, were subject to legislation brought before the Oireachtas.

It seems to me that if we are to go down this road again, we need to have a clearer picture of what we are trying to achieve. Are we going to build a prison on the basis that it should last another 150 or 170 years? Are there compromises we may make around that in terms of the cost? A report was published by the Inspector of Prisons and Places of Detention earlier this week, as committee members may be aware. The report raises some interesting points about the type of prison which has been found to work in other jurisdictions in combating recidivism. We are examining whether there is some way of approaching these projects in a way that would minimise exposure to the taxpayer if circumstances arise involving another funding crisis.

The second challenge is for us to arrange the use the site at Thornton Hall in a way that maximises its value to the taxpayer and, in that respect, the question of a new prison being required cannot be ruled out. There has been no Government decision not to build a prison on the Thornton Hall site.

Members of the committee will be aware that by and large, communities do not welcome prisons being sited in their midst and it would be a fraught and difficult exercise for us to have to embark on finding a new site or sites some years down the road. On the other hand, the reality is that in the short term a prison will not be built on that site. The recently published capital programme for the justice area does not contain funding for it. We have a group examining the best use which may be made of the asset of that site in the short to medium term to see if it is possible to do so in a way that might leave open its eventual use for what it had been intended for in the first place. I will be happy to discuss that and to report on future developments in that regard to the committee. I hope that these remarks have been helpful in setting the context for today's discussion.

**Acting Chairman (Deputy Robert Dowds):** Deputy Deasy is our first questioner.

**Deputy John Deasy:** That was the shortest opening statement ever, which is a good sign. I was not going to start with the issue of prisons as they are not as such the subject of this Vote. We are dealing with the appropriation accounts, which cover quite a good deal as well as the issue of prisons. In the appropriation accounts, I want to start by asking about the asylum process, which is one of Mr. Waters' areas of expertise in the years he has been in the Department of Justice and Equality.

**Mr. Noel Waters:** Yes. Hopefully, it is.

**Deputy John Deasy:** I want to go through some of the figures and some of the policy announcements that have been made recently, particularly as they pertain to fast-tracking the processing of applicants. I will start with that aspect. On doing some research into this, I saw press reports of a fast-tracking process being formulated within the Department having been announced in the media in April of this year. I do not know how many times it has been re-announced and every time there is a media scrutiny and exposure of the refugee crisis that

exists, and that has grown during the past six months in Europe, we hear about the issue of fast-tracking the processing of applicants much quicker. At what stage is the fast-tracking of the processing of applicants process at now?

**Mr. Noel Waters:** What the Deputy may be referring to is legislation that has been a long time in the making, the international protection Bill, which will tidy up the not-fit-for-purpose legislation we currently have in place, which owes its origin to the Refugee Act 1966, which in turn is a time-consuming sequential, not fit for purpose piece of legislation. The new international protection Bill will require people to put all their details on the table pretty much immediately when they make their applications. One of the effects of the current system we are operating is that there are possibly up to five or six, or maybe more in some circumstances, opportunities for people to seek to a judicial review of decisions which have been taken in the system and that has given rise to very serious delays.

**Deputy John Deasy:** There are four parts to the process potentially and then one can pursue a High Court appeal.

**Mr. Noel Waters:** Literally, at every decision point in the system, as it currently stands, people are entitled to go before the High Court. They do that on a regular basis and that is their entitlement. That is the law. A new Bill will remove that aspect. There will be two points of decision in the system, which will remove that aspect immediately. That Bill is a long time in the making. It was part of a wider piece of legislation, which was contemplated for reform of the entire immigration area, and the Minister, upon taking office in May of last year, decided to separate out the protection aspect of it. That has been done, and the publication of that is imminent. I anticipate that the Government will be making a decision on it very shortly. The intention is that it will be published, brought before the Oireachtas and, ideally and hopefully, the Minister - who is on record as having said this - would wish it to be enacted before the end of this session.

**Deputy John Deasy:** What are we looking at as far as people remaining in the system for years and years? I am from Waterford and the direct provision centres are in Tramore. I deal with many people who are in the system, having applied for refugee status. What will we be looking at in terms of timelines when somebody makes an application? Obviously there is an appeals process in place but what members of the public want to know is how quickly will somebody be processed?

**Mr. Noel Waters:** To put some context around this, under the existing system in terms of the first two aspects of the process, people get through it within a medium time of about eight months. When one applies for asylum, one gets a decision. The number of people being granted asylum is on the increase, and is of the order of 12% or 13% of the number of people who apply.

**Deputy John Deasy:** I will get to that aspect and I have the figures.

**Mr. Noel Waters:** I will come back to that. If an applicant is refused in the first instance and then makes an appeal, that decision is ordinarily made in about eight months. The difficulty in our current system is with the process beyond that, where the applicant then makes an application under what is known as subsidiary protection and that, effectively, starts the whole process all over again, and when that process is completed, the applicant can then seek to make an application for leave to remain in the country.

**Deputy John Deasy:** I understand that but what will be different with the fast-tracking of the processing of applicants?

**Mr. Noel Waters:** What will be different in the new system is that people will be required at the very point of making an application to put forward every single ground on which they are claiming protection in the State. They will not be allowed back into the system at a later stage on the basis that a new ground has emerged. They will be required from the outset to put all their information on to the system when making their application.

**Deputy John Deasy:** That will not prevent them from applying. If they put information on to the system, will there be an automatic bar in that respect in some cases?

**Mr. Noel Waters:** Absolutely. There will be a statutory requirement for them to do that and if they do not abide by that, effectively, they will be out.

**Deputy John Deasy:** Can Mr. Waters give me an example with regard to what they will be asked to fill out and what those statutory bars will be?

**Mr. Noel Waters:** For example, if somebody applies for asylum and they claim under the grounds that they are being oppressed because of their religion in their home country and that is found not to be the case, they then make their appeal and it is also found not to be the case, and they then, under subsidiary protection, go on to make an application on the basis that they have a fear of returning to their country-----

**Acting Chairman (Deputy Robert Dowds):** To take the example of an application being discriminated on the grounds of religion, does the Department undertake an investigation of the country from which the applicant has come?

**Mr. Noel Waters:** There is a very large process with a large number of people involved in this. It is an independent process run by the Office of the Refugee Applications Commissioner, who is an independent officer of the Minister and of the Department while part of the Department. That office does what is known as country of origin research in a very large way. The office is also very much a part of the United Nations High Commissioner for Refugees training programme. That has all been very well established and there is a very large amount of information available to people in the Department in terms of documentation and access to the information about the countries. That is very well established. We started off very poorly in that respect ten years ago but by now we have extensive documentation around that process.

**Deputy John Deasy:** What is different with regard to what the Department is now proposing?

**Mr. Noel Waters:** What we are proposing now is that the person making the application will be required to say, "I wish to claim asylum in Ireland on the basis that I am persecuted because of my religion in my country and I also wish to make it clear that I am fearful about returning to my country". The person will be required to do that on the spot, not as two different separate processes. If they do not do that and their appeal is upheld, there is no more room for them to be part of the system.

**Deputy John Deasy:** That is the end of it then.

**Mr. Noel Waters:** Yes, exactly.

**Deputy John Deasy:** So, then, what are we talking about? Are we talking about there be-

ing increased deportations?

**Mr. Noel Waters:** Clearly, that will be a function with respect to the number of people who come through the process but the ultimate gain in this for everybody - for Ireland, for the taxpayer - is that people will be processed through the system far more quickly. Clearly, in cases where they do qualify, they could be processed and recognised as refugees, or they will now be known as protection applicants, within a matter of weeks. That will happen.

I will come to the issue of the people coming here from Syria, by invitation of the Government, and the relocation process. That will happen in a matter of weeks in many cases. In other cases, there is no reason why those applications will not be dealt with and out of the system in a matter of months. Our target around that is that we should be able to do that between six and nine months. That will mean that people will not continue to be housed for very lengthy periods in direct provision. The reason they are there in very many cases is due to the delays in the system because of the sequential nature of it, due to the multiple opportunities people have to apply before the courts.

**Deputy John Deasy:** That is fair enough.

Mr. Waters referred to the rates at which refugee status is granted, and I will refer to them now. The figure I have for 2011 is 3.3%, that for 2012 is 5.6%, and that for 2013 is 11.4%. Could Mr. Waters give me an idea of the numbers for 2014 and 2015 to date? He mentioned a rise to 12.6%. Could he explain this? Why has there been a rise from 3.3% to over 12%?

**Mr. Noel Waters:** The granting rate for 2014 was 12.6%. Essentially, there is no mathematical formula for this. People present themselves and make an application, and they either qualify or they do not. At the finish, it is a function of where people are applying from. Our system in more recent years has seen very many more people applying from refugee-generating countries. That was not always the case. Hence, if people are applying in Ireland and are from countries that do generate refugees, they will obviously-----

**Deputy John Deasy:** The last figures I saw, which were contained in a reply to a parliamentary question and were from the Department, indicated that the increase in asylum applicants was attributable to immigration from countries such as Pakistan and Bangladesh.

**Mr. Noel Waters:** Yes. This is a feature of this year. From late last year, there has been a very large number. I will just go back over the figures for recent years.

**Deputy John Deasy:** That does not quite equate with what Mr. Waters just said.

**Mr. Noel Waters:** We are talking about this year. To the best of my knowledge, up to the end of September about 1,500 people from Pakistan had applied for asylum in Ireland. That would have been approximately 40% to 45% of all applicants in our system at that stage. We are likely to have approximately 3,500, or perhaps 3,800, applicants this year, representing a very large increase over the last number of years.

**Deputy John Deasy:** What is the increase from last year? Is the total 3,800?

**Mr. Noel Waters:** In 2013, it was 950, or thereabouts. Last year, it was in the order of 1,200, and it is now likely to be 3,800.

**Deputy John Deasy:** Is Mr. Waters saying Bangladesh and Pakistan account for 45% of the applications?

COMMITTEE OF PUBLIC ACCOUNTS

**Mr. Noel Waters:** By the year's end, the likelihood is that they probably will.

**Deputy John Deasy:** Let us stick with that. People have intimated to me that some of the individuals coming from Pakistan and Bangladesh have already been processed in the UK system. What they do is come to Northern Ireland, for example, and cross the Border, given the free travel area. Has Mr. Waters encountered this himself?

**Mr. Noel Waters:** I want to talk in general terms because, clearly, people have a statutory and lawful entitlement to claim asylum. I do not want in any sense to be-----

**Deputy John Deasy:** I do not either. That is fair enough.

**Mr. Noel Waters:** -----commenting on any individual application.

**Deputy John Deasy:** I am actually citing the countries that the Department cited to me; that is why I am mentioning them.

**Mr. Noel Waters:** Yes. Let me outline what seems to be happening and what is a concern for us. The applicant cohort in the United Kingdom from the countries the Deputy is referring to tends to comprise young males in their early to mid-20s, or perhaps a little older. One of the benefits of our common travel area system is that we can check with our colleagues in the United Kingdom whether our applicants already have immigration status in the United Kingdom. In many cases, the applicants are people who might have arrived in the United Kingdom as students and whose immigration status has expired. In order to remain within the common travel area of Ireland and the United Kingdom, they come to Ireland, make an application here and, in some instances, remain. In some instances, when their applications are dealt with, they will have disappeared back into the system. It is a concern and-----

**Deputy John Deasy:** Surely it is a huge waste of resources when one considers the applicants have already gone through the UK process.

**Mr. Noel Waters:** They have not gone through the UK asylum process, by and large. They would have come to the United Kingdom through a different immigration route. While I agree with the Deputy, we have a statutory duty to everybody who turns up to claim asylum.

**Deputy John Deasy:** I will tell you where I am coming from. My view is probably shared universally and almost certainly within the Department. There is a refugee crisis in Europe right now and we have finite resources. We have not seen the kinds of pressures that Germany, for example, is experiencing. The city of Berlin is processing 1,000 people per day.

**Mr. Noel Waters:** Yes.

**Deputy John Deasy:** When Mr. Waters says something like that to me, I think about the people who are actually genuine refugees who deserve attention and accommodation and deserve to have governments look at them differently. Frankly, what we are dealing with here seems to be people who are applying for refugee status spuriously in many cases. That seems to have been a hallmark of our system down through the years, bearing in mind the rates Mr. Waters just cited. He mentioned that the number of genuine refugees is increasing. It is reflected in the refugee status granting rates. However, the question arises as to how effective the system will be outside the fast-tracking process. Consider how much money we spend in this area and where it needs to be allocated. When there is an increase to 3,800 from 900, which was the number a couple of years ago, we have a problem. The problem is that the money is



not going where it should be.

**Mr. Noel Waters:** It is-----

**Acting Chairman (Deputy Robert Dowds):** Could Mr. Waters also address the issue of those who have been refused permission to remain?

**Mr. Noel Waters:** I share the Deputy's concerns. It is a difficulty and we are not alone in that respect. All Administrations have such difficulties. From our Department's view, the staff work very hard to try to identify, as quickly as possible, the people who are in need of protection among the large number of people. They try to get them through the system, get them to the far side of it as quickly as possible, move them towards having proper and appropriate lives in the community, and support them as best they can, with all the measures. That clearly has to be the focus. I agree that people who do make applications and use the system for the reasons Deputy Deasy described are a difficulty.

The Government has agreed to take in 4,000 people as a result of the conflict in the Middle East. That is an entirely different situation. While they will be subject to the new process we are talking about, the sense is that perhaps 75% or 80%, or perhaps even more of them, will qualify automatically because they are clearly coming from Syria and the region where refugees are being generated. Therefore, there is no reason they cannot go through the system very quickly. In every sense of the word, they will be the people who deserve our hospitality.

On the question of the Acting Chairman on what happens to people who do not qualify, a much misunderstood part of our system is that when a person has been through the entire process, he is ultimately invited to make an application declaring why he should remain in the State on humanitarian grounds and to put forward a case. This, again, will be gone in the new system. If the case is not accepted by the Minister or, in most cases, officials working on the Minister's behalf, a deportation order is then signed. The order states the applicant must leave the country. The onus is on the individual to leave the country on foot of the deportation order and not on the State to remove the person forcibly from the country; it is an important distinction. Some people do leave the country. By definition, it is very difficult to say how many would at any given time because of the nature of immigrant communities and given the free travel arrangement between Ireland and the United Kingdom. Some people do leave voluntarily but many people do not. If they do not, the Garda is faced with a very difficult task - not a decision - along with our staff of forcibly removing them. That is a very unpleasant duty for everybody to have to do. It would not be our wish to do it but, in order to maintain the integrity of any immigration system, one has to have forcible deportations where warranted.

**Acting Chairman (Deputy Robert Dowds):** What proportion actually leave voluntarily? Mr. Waters probably does not know.

**Mr. Noel Waters:** It is very difficult to say. Four or five years ago, we did an exercise on this. We had approximately 10,000 or 11,000 people on our books at the time who had an application in the system. We did an exercise to clean up the records in this regard. When we had done everything we had to do, it turned out that the actual live caseload was nearer to 6,000, so the other people had disappeared somewhere into the system. More than likely, as the Garda would tell us, they would have left the country and probably would have gone back to the United Kingdom. We have forcible removals and deportations. A number of different categories of people are removed. In the context of the deportation orders that are signed, ordinarily 15% to 20% of deportees are forcibly removed.



Another difficulty will be addressed by the forthcoming protection legislation which is to be approved by the Government shortly. The difficulty arises from a High Court judgment which found that gardaí who enforce these orders have no right to enter a person's private dwelling to seek to remove that person. That has clearly presented a problem for us for a number of months. It is what is known as the Omar judgment and in effect it means that when gardaí seek to enforce an order, the person concerned can argue that the gardaí are in his or her private residence and have no right to be there. This causes practical difficulties but we will address it in the-----

**Deputy John Deasy:** I referred to a number of nationalities mentioned in the responses I received from the Department. Members of the public would ask, in the context of the common travel area and those individuals applying for asylum, how different it will be under the new system. While the figure of 3,800 is not massive in comparison with other European countries, it is growing quite considerably.

**Mr. Noel Waters:** It is growing and that is worrying-----

**Deputy John Deasy:** It has grown fourfold in two years. What will the difference be in the treatment of people who were not fully processed in the UK system but who come here through Northern Ireland once the aforementioned legislation is enacted?

**Mr. Noel Waters:** It will mean they will not have the opportunities they have at the moment. They will not have five or six opportunities to go to the High Court to seek judicial reviews. It would not be unusual, although the incidences have reduced in recent times, for somebody who is literally on the steps of a plane, having been removed by gardaí, to seek High Court relief to stop his or her removal. That was not unusual in the period we are discussing. We can never rule that out. People have a right to go to the courts but we are removing the opportunities for people to do so as best we can.

There is also a wider issue here in the context of what is known as the Dublin regulation. Members will be aware that people are expected and required to make their application for asylum in the first country they enter. If they do not do so, they must be removed but that is not working in any country in Europe at the moment. The arrangements around it are very complex. People have to be given opportunities to appeal. It can work better if a country can detain people but we do not detain people in Ireland. It is a matter of policy that we do not do that save for very short periods pending their removal. When I say short periods, I mean a few days at most. That is part of the process too.

**Deputy John Deasy:** The onus on the individuals effectively to deport themselves is not going to change with this legislation. Is that correct?

**Mr. Noel Waters:** The onus will always be on the person, on foot of a deportation order, to leave the State.

**Deputy John Deasy:** Does Mr. Waters have any idea of the percentage of people who leave the country on foot of a deportation order?

**Mr. Noel Waters:** As I indicated, we did an exercise to try to establish that. It is very difficult, by definition, because people can travel freely. The favoured route at the moment is from the North, across to Scotland and down, as it is on the way back in. Hitherto, it would have been from Dublin on the ferry route or from Rosslare, but those routes are now closed off. We have an added difficulty in that if someone travels from Scotland and to Northern Ireland, he or she

is still in the UK. None of us wants to reach a point where we are introducing border controls at Dundalk or elsewhere. That is clearly not an option. There are practical difficulties in respect of policing that area.

We do not have hard figures on the numbers of people who leave on foot of deportation orders.

**Deputy John Deasy:** Yes, but the Department did an exercise and has a fair idea of the figures. What figure did the Department come up with?

**Mr. Noel Waters:** We did an exercise on it, yes. There were between 10,000 and 11,000 people on our books whose cases still were not processed but when we wrote to them and to their legal advisers, we found that the real, live caseload was between 5,000 and 6,000 people. Most of those would have been outside of the direct provision system.

**Deputy John Deasy:** Is Mr. Waters saying that half of them left?

**Mr. Noel Waters:** That would have been our experience at that point.

**Deputy John Deasy:** When was that?

**Mr. Noel Waters:** This would have been in 2012-2013.

**Deputy John Deasy:** I am going to keep going, given that there is no-one else here.

**Acting Chairman (Deputy Robert Dowds):** In the circumstances, Deputy Deasy can go on but before he moves on, I have a question. When the new legislation comes in, what is likely to happen to the people who have been in the system for six or seven years?

**Mr. Noel Waters:** As you will be aware, Acting Chairman, the Government set up a working group to look at the entire direct provision system late last year and it reported in the summer of this year. The working group came up with approximately 170 recommendations to deal with people in the direct provision system. One of the major issues to be addressed is the length of time people are in that system. The real difficulty with the direct provision system is the length of time people are in it. Our focus at the moment is on the people who are in the system for more than five years, to get them out of it. In an ideal world, when the new legislation is turned on, we will reduce that caseload to the absolute minimum. It would be an entirely unhappy situation for us to be operating two parallel systems, one where people are being fast-tracked through the system and another for people who were logjammed in the system. Each case will be dealt with on its merits.

We are often asked if people should be given an amnesty, but that is a matter for the Government. I have no sense whatever that there will be an amnesty to deal with those cases. There are practical and political difficulties in terms of the European agenda around that issue. No country is in a position to move forward individually on this because a person who gets refugee status in one country in Europe can ultimately move to another country. That gives rise to major difficulties when one is talking about very large numbers of people. There is political agreement that there should not be any general regularisation schemes. Ireland, like other countries, makes decisions case by case. Where a person puts forward a good case on humanitarian grounds as to why he or she should remain, we will look at that. We have done so and continue to do so, with increasing numbers of people in recent months on foot of the working group report, with the aim of ensuring we get out of the direct provision system as quickly as possible

as many people as possible who have been there for lengthy periods.

**Acting Chairman (Deputy Robert Dowds):** Thank you. Deputy Deasy may resume.

**Deputy John Deasy:** Will Mr. Waters give the committee an idea of the position in terms of the prison population and existing capacity? The Irish Prison Service reports that in 2007, the average number of prisoners in custody was 3,300. It peaked in 2011 at 4,390, while the figure in 2014 was 3,915. Where are we now when it comes to the average number of prisoners in custody and what is our capacity? Has the money that was spent on Mountjoy and on building a 300-person wing in the Midlands Prison eased the capacity restraints? What kind of a buffer do we have within the system at present?

**Mr. Noel Waters:** I might ask the director general, Mr. Michael Donnellan, to provide some of the detail on this. I will just give the Deputy a flavour of where our prison numbers have gone in recent years which will illustrate the difficulties we face in the context of the Thornton case. In 2005, the number of prisoners in custody was 3,100 but by 2010 that had gone up to 4,400. By 2015, the number had dropped back down to 3,600. The figures fluctuate considerably and figuring out precisely why this is the case would require a great deal of research. Everyone has a view as to why this might be the case, perhaps related to the wider economy. The Department would argue that the range of options for the courts in terms of dealing with offenders is increasing, in terms of community service orders-----

**Deputy John Deasy:** Is Mr. Waters suggesting that the number of prisoners is directly proportionate to the economic circumstances in the country?

**Mr. Noel Waters:** I am not quite saying that but we believe - this is subject to whatever research is done - there is a relationship between the level of economic activity and the numbers of people in prison in the sense that in the period when the country was doing well the figures suggest the numbers were increasing and when the economy collapsed the numbers in prison fell dramatically.

**Deputy John Deasy:** That is fine. That is what Mr. Waters is saying.

**Mr. Noel Waters:** There may be other factors behind that. The courts may take different views. There is a new range of options available to the courts and they may be impacting on the figures.

**Deputy John Deasy:** Will Mr. Waters return to capacity and the numbers right now?

**Mr. Noel Waters:** Right now we have spare capacity in the system. Let us take Mountjoy which is the pivotal prison in the system though perhaps less so than it would have been at the time Thornton was planned, it is at 88% capacity over the course of this year. In 2010 Mountjoy was at 108% capacity. In real time figures, average numbers in Mountjoy in 2010 were 683 while the capacity was 630. In 2015 to date, on average, the numbers in custody are 490 where capacity is 554.

**Deputy John Deasy:** Generally, where are we nationally in terms of our prisons in terms of capacity?

**Mr. Noel Waters:** Maybe I will ask the director general to respond to that point.

**Mr. Michael Donnellan:** We saw a 30% increase between 2007 and 2011 and since then we have seen a decrease. Overall there has been a decrease of about 20% or nearly 1,000

people since that period. There are 3,780 people in prison this morning and we have a capacity of in or around 4,000. We have two figures. Our inspector of prisons set our capacity at 3,982 and we set it just at about 4,000, so we are under capacity.

**Deputy John Deasy:** But a capacity of 4,400 was reached in 2011.

**Mr. Michael Donnellan:** Absolutely.

**Deputy John Deasy:** So Mr. Donnellan is just saying prison capacity was exceeded.

**Mr. Michael Donnellan:** It was reached because there was doubling up.

**Deputy John Deasy:** Right, I understand.

**Mr. Michael Donnellan:** If we take Mountjoy as an example, the difference between Mountjoy today and in 2011 is that every prisoner in Mountjoy has a single cell. In 2011 there was doubling up and tripling up; similarly in Cork there is doubling up and tripling up. When the new prison comes on stream in January 2016 that problem will be remedied as well.

**Deputy John Deasy:** There is a capacity of 4,000 and there are 3,000 prisoners.

**Mr. Michael Donnellan:** There is capacity. If we take Mountjoy as an example-----

**Deputy John Deasy:** What Mr. Donnellan is saying is that capacity is much better than it was.

**Mr. Michael Donnellan:** It is much better. Not alone that but this morning in Mountjoy we had the D division closed which is being refurbished at the moment. When that comes back on stream later this year there will be an additional 160 cells.

**Deputy John Deasy:** I am just curious. The first line the witnesses came in with today was the revolving door. I deal with this and the country has been dealing with this for quite some time. Let us put Thornton aside for a moment, if we consider some of the crimes that have occurred recently the commentary has been that one criminal has almost got to be released for someone else to go to jail because the capacity is not available. What Mr. Donnellan is saying is that is completely erroneous.

**Mr. Michael Donnellan:** Yes.

**Deputy John Deasy:** That is interesting for me, because it has been cited again and again as an excuse-----

**Mr. Michael Donnellan:** Yes.

**Deputy John Deasy:** -----why the Judiciary does not actually send people to jail. People ascribe the reasons for the non-committal of individuals for custodial sentences as being due to lack of space. Mr. Donnellan is saying that is not the case.

**Mr. Michael Donnellan:** That is not true. Historically in 2011 and 2012 it was true. The numbers were up at 4,600. It was impossible to deal with the population.

**Deputy John Deasy:** Right.

**Mr. Michael Donnellan:** But today with numbers down at 3,700 that is not true.

**Deputy John Deasy:** Okay.

**Mr. Noel Waters:** Perhaps I can illustrate the point. I worked in the prisons area as a junior official when it was a division of the Department before Mr. Donnellan's service was set up. Every Thursday and every Friday from about 2 p.m. onwards an official in the division notified us of new arrivals to the door of Mountjoy. Our job was to select from the prison population people who would be released to enable spaces to be made available for the new arrivals.

**Deputy John Deasy:** Fair enough.

**Mr. Noel Waters:** It was as basic as that.

**Deputy John Deasy:** Yes.

**Mr. Noel Waters:** The system was dealing with very difficult and very dangerous people. We had to have regard to the danger to the community. Sometimes we got it wrong and it was very difficult. As I said at the start, this was completely turning the entire criminal justice system on its head. All the work that was being done by everybody in the criminal justice system was being set at naught. People were back out on the street. We are nowhere near that.

**Deputy John Deasy:** Both witnesses are making the position very clear. I understand entirely what they are saying. The question is whether the Judiciary knows that.

**Mr. Noel Waters:** If I may respond - Mr. Donnellan may have his own views - I would be reluctant to get into a situation where I would be seen to comment on any decisions of the Judiciary. It would be known at this stage that there is capacity in the system. The Judiciary is independent in the exercise of its functions and the sentences handed down. I could not go beyond that in the sense of what might motivate judicial sentences because the Judiciary will have all the facts before it.

**Deputy John Deasy:** In other words, motivating the Judiciary not to give a custodial sentence.

**Mr. Noel Waters:** The Judiciary can speak for itself. We will have seen recent evidence where serious offences have merited very severe penalties.

**Deputy John Deasy:** I agree with the witness. Frankly, I think it came as a surprise to everybody. While we are on the issue of bail, Mr. Waters mentioned the revolving door. Some people would suggest that the issue of cases not being heard for years almost forces the Judiciary to grant bail in almost every circumstance. That is the reason Mr. Waters mentioned one particular case that occurred in the courts recently. Is it not as harmful that the system is that clogged up with cases being heard or not being heard for years in some cases? Is that not as damaging as the revolving door issue?

**Mr. Noel Waters:** I would not go as far as to say that as I do not think the numbers would be of that order. There are constitutional restrictions as to when bail may be refused. I might ask my colleague, Mr. Jimmy Martin, to comment on that issue as he would be familiar with the details.

**Deputy John Deasy:** But Mr. Waters knows the question the public is asking. Why are people on bail continually committing crimes?

**Mr. Noel Waters:** The Deputy will have noticed that a week or two weeks ago the Govern-



ment agreed to set up a second special criminal court and that has been subject to some comment.

**Deputy John Deasy:** Sure.

**Mr. Noel Waters:** The motivation for it has been that very point, that people are awaiting trial for a very lengthy period. In order to move that on and in order to bring people before the courts, the Government decided to do that and steps are under way to make that court function very quickly. That is at the very high end in many cases. Yes, there are issues in terms of bail. Perhaps Mr. Martin would speak about the constitutional issues around bail.

**Mr. Jimmy Martin:** Just going back to the delay in trials, as the acting Secretary General said, the Government is addressing the ones identified by the Judiciary. Our understanding is that in most cases in the Circuit Court it would be seven to eight months before a trial takes place. That is not actually a delay because there is a period for gathering evidence so one would not expect a trial instantly. Where it is identified to us that there are particularly long delays, this can vary from area to area, we try to address the issue. On the question of bail, under the Constitution there are only three grounds for refusing bail: when a person is going to interfere with justice, normally the witnesses; the person is going to flee the jurisdiction; and, there is the constitutional amendment to allow bail where a person is going to commit a serious offence. It is a matter for the judge to decide in each case what the evidence is to support those grounds. There is a long tradition in Ireland for granting bail. It is not necessarily the same in other countries but the Judiciary decides that. We are addressing bail in two ways. We had a particular difficulty with burglary where the evidence from the Garda suggests that there are many burglars who are effectively professional criminals who were committing multiple burglaries. They would be arrested by the Garda, charged, released on bail, commit more burglaries and be released again. There was one incident where it happened six or seven times in one month. Our perception is that the Judiciary did not view burglary as a serious offence. It is listed as a serious offence but traditionally-----

**Deputy John Deasy:** That is a pretty amazing comment. Mr. Martin is telling me that the Department's view is that the Judiciary did not view burglary as a serious offence.

**Mr. Jimmy Martin:** What I am saying is that most burglaries are dealt with in the District Court which, by definition, deals with non-serious offences.

**Deputy John Deasy:** I know what the District Court does.

**Mr. Jimmy Martin:** We thought there was a perception that if it was a District Court-type offence, it was not regarded as being serious.

**Deputy John Deasy:** Without pointing a finger, what Mr. Martin is effectively saying is that the Judiciary has not taken this as seriously as it should have done and things are coming to a head in this country when it comes to burglary and recidivism.

**Mr. Jimmy Martin:** No, I would not like to-----

**Deputy John Deasy:** That is what Mr. Martin did say but go on anyway.

**Mr. Jimmy Martin:** What I am saying is that there was a perception that this may be happening. We do not know because there is no contact between ourselves and the Judiciary-----

**Acting Chairman (Deputy Robert Dowds):** I think the Director of Public Prosecutions is



coming in next week so it may be possible to pursue this issue.

**Deputy John Deasy:** It has nothing to do with the DPP. These are processes that happen well before the DPP.

**Mr. Jimmy Martin:** To avoid any misconception, the Criminal Justice (Burglary of Dwellings) Bill 2015 clearly states that burglary of a domestic dwelling should be considered a serious offence. That is on the basis of the dwelling having a particular constitutional protection so burglary of a dwelling will be perceived as a much more serious offence than burglary of a building other than a dwelling. We hope this gives some guidance to the Judiciary when it is considering bail in individual cases but it is still a matter for it to decide.

**Deputy John Deasy:** Fair enough.

**Mr. Noel Waters:** I wish to add that in no way are we criticising the Judiciary. I want to be clear about that.

**Mr. Jimmy Martin:** We are also introducing a bail Bill to reform bail generally which will put more emphasis on the protection of the public and draw attention to that. It will still be a matter for the Judiciary to decide in each case whether it thinks bail is appropriate or not.

**Deputy John Deasy:** I understand that. The witnesses brought it up. I did not but I will ask them a couple of questions on the topic they raised.

**Mr. Noel Waters:** Could I make a comment before the Deputy asks his questions?

**Deputy John Deasy:** Go ahead.

**Mr. Noel Waters:** In the context of the overall prison population, the variation in numbers and how they change from one to the other, the Deputy put his finger on something relating to bail and concerns in the community about people who have committed offences and who are on bail. It may be the case that a future Government may decide to restrict bail. The Minister has committed to changing the legislation around that but a future Government may well decide to go further. It may also decide to introduce further consecutive sentences in some cases. There is debate around this. There is no question that all those things will have an impact on the prison population. We cannot have a situation where, for example, a person who is committed to a prison in respect of an offence committed on bail ends up dislodging a person who is there on a sentenced offence.

**Deputy John Deasy:** What Mr. Waters is saying very clearly is that if an individual who is a reoffender applies for bail, a judge could deny that application and there would not be an issue with regard to incarcerating that individual.

**Mr. Noel Waters:** Again, it is a matter for a judge-----

**Deputy John Deasy:** Mr. Waters is saying that this would not be the case.

**Mr. Noel Waters:** It is a matter for the judge to make a decision-----

**Deputy John Deasy:** I am just saying the capacity is there when it comes to that aspect of it.

**Mr. Noel Waters:** It is, but if there were a major change in policy in this area, there would be an immediate response required from the Prison Service.

**Deputy John Deasy:** That would affect the prison population.

**Mr. Noel Waters:** Exactly. Again, I touched on it in my opening remarks in respect of the potential use of Thornton Hall. That may well come into play in those circumstances.

**Deputy John Deasy:** My sense is that if that policy changed, the public would have absolutely no problem spending the money. One might be talking about Thornton Hall then.

Mr. Waters brought up the issue of burglary. In recent days it was announced that €5 million of public money was going into Operation Thor. When I heard that, I wondered where this money will go. Will it be allocated for surveillance or, in particular, for overtime, which is the issue in my opinion? What geographical areas will it go to? When one looks at the burglary figures for the past seven years, one can see that they have gone up significantly in many respects and in many parts of the country. They have gone up massively in Dublin. In Waterford in my constituency, they have gone up by 32% in those seven years. In the south east generally, Wexford is at 39% and Carlow-Kilkenny is at 17%. The south east has been hit, not as badly as Dublin, but there is certainly a problem and it is growing. Is the Department allocating that €5 million to the Garda and allowing it to apportion that where it sees the problem and where it sees burglaries arising or will it be spread throughout the country?

**Mr. Noel Waters:** Operation Thor was launched by the Garda Commissioner on Monday and the Minister was there at the invitation of the Commissioner. The figure of €5 million referred to by the Deputy is new money. Ultimately, it is a matter for the Commissioner to decide where to allocate resources that are provided by Government, but in this case it is our understanding that the great majority of that money will be for overtime because, ultimately, addressing crimes of this nature requires visible policing, either policemen and women or other forms of interdiction.

*Deputy John McGuinness resumed the Chair.*

**Deputy John Deasy:** I wish to make a small statistical observation. In any given month in Dublin, the overtime bill for An Garda Síochána could be about €2 million. A sum of €5 million will not solve anything when it comes to overtime. When I look at the overtime figures for about six or seven years ago and compare them with today's figures, I can see that €5 million will achieve nothing. When I speak to seasoned gardaí and new recruits, they tell me the same thing. They say the problem is the rostering. When their shift is over, they take four days off. There is no continuity. When it comes to a crime being committed and the investigative work that is needed, the whole thing breaks down because people have to take a day off. It is not a secret. Everybody who deals with issues like burglaries understands that this is the issue. We stopped Garda recruitment. We are bringing it back slowly but the man hours are not available in many respects to provide for surveillance and to deal with the ensuring investigation and detective work. I put it to Mr. Waters that €5 million will achieve nothing given the overtime bill we had and have now and the scale and extent of the problem.

**Mr. Noel Waters:** The Deputy referred to the fact that a number of years ago when we all had far larger budgets, the Garda overtime budget for the country was a multiple of what it is now. I think in the coming years it will be of the order of €33 million to €34 million. In 2006 or 2005, it would have been closer to €130 million if I remember correctly. Clearly, this has an impact. At the same time, the strength of the force was higher than it is now. Like every other public service body such as the Department and all its areas, the Garda suffered as a result of the need to make very serious cutbacks. As the Minister has pointed out repeatedly, in a recov-

ering economy, what we want to do in our job of supporting the Minister, the Government and the Garda in this is to ensure an appropriate level of resources is made available to the Garda at Estimates time. We have had some modest success this year, and last year. First, Templemore has been reopened, which is a major item. It was closed for a number of years. Nothing was happening there. There are now 560 people at various stages of training in Templemore. The period in which they are being trained has been considerably shortened. They become fully functioning gardaí now after 32 weeks of training. They do go back at a later period. Another 600 gardaí will be recruited next year. There are operational issues, such as the number of cars, equipment and-----

**Deputy John Deasy:** I know that.

**Mr. Noel Waters:** All that is important.

**Deputy John Deasy:** Absolutely.

**Mr. Noel Waters:** I am not denying that there was not disinvestment in the Garda in the leaner years. There was, but our job now is to bring that back up as best and as quickly as we can, and we are embarked upon that.

At the same time, we are working with the Garda and the other agencies that support the Garda to try to create the conditions in which we get more in terms of a policing response and better ways of working - for example, hiring more civilians - and all of the issues that go with doing things differently. There are a number of prongs to this-----

**Deputy John Deasy:** I have all heard all that before, and that is fine. I understand the constraints, where the budgets have gone, by how much they have dipped and so on. Mr. Waters has answered the questions. That money is going to overtime and into those labour-intensive investigations.

**Mr. Noel Waters:** Yes, and high-visibility policing as well.

**Deputy John Deasy:** Where is it going? Is it going to those areas that have seen increases in burglaries?

**Mr. Noel Waters:** Ultimately, that is a matter for the Commissioner, but we are advised that an enormous amount of work has been done in terms of profiling where the crimes are, when they are happening and who is doing them. The Garda has a high-end research capacity, what it calls hot spots, in terms of doing an analysis of when, where, how and by whom the crimes are committed. It is targeting those operations rather than waiting for things to happen and hearing about them. The aim is to anticipate them on the basis of the information it has.

**Deputy John Deasy:** Mr. Waters will find out where the money has been spent. The Garda Commissioner will tell him where the money is spent.

**Mr. Noel Waters:** Exactly, yes. I might ask my colleague, Mr. O'Sullivan-----

**Deputy John Deasy:** Mr. Waters might let me finish this questioning. Is there any time-frame in which the €5 million must be spent, or is it just given €5 million?

**Mr. Noel Waters:** No. The operation is for the winter months, from now until Easter when the clocks go forward.

**Deputy John Deasy:** Fair enough. When Operation Thor was announced, some open questions arose in terms of the detail. Mr. Waters said where the money would go but he said also that efforts were going to be made to disrupt the stolen goods scene. Can Mr. Waters explain what that means?

**Mr. Noel Waters:** Clearly, if people are committing burglaries it is for the purpose of acquiring goods, and those goods have to be fenced or passed on for the value of them to be realised by the criminal community. Part of the operation will be to try to interrupt that to ensure that in market for stolen goods, the people at that end of it, who might not be the guys who are going out breaking into houses, will be targeted also. I might ask my colleague Mr. O'Sullivan, who is familiar with the detail of what the Garda is planning around this, to discuss that.

**Mr. Doncha O'Sullivan:** As the Secretary General said, part of the profiling and targeting - as an operational matter, that will be determined by the Commissioner - will be of the people who are moving on the vehicles or equipment that are stolen around the country. The Deputy will have seen that one of the people at the launch was the head of the Garda analysis service, Gurchand Singh. The Garda has a very strong analytical service available to it now. As the Secretary General said, they are able to profile the patterns of burglary, and that will then lead to the allocation of resources.

There are other components to the strategy as well. The gardaí are also working with the Probation Service and the Irish Prison Service to look at how people are managed in the community, including people who have a history of offending. That is an important part of the process. Another important part of the process is working with the various community organisations such as Muintir na Tíre. There is a very strong relationship between An Garda Síochána and those organisations.

**Deputy John Deasy:** Yes. We all heard what they said yesterday, but after the fact an announcement was made that the intention was to engage in electronic tagging of individuals who are reoffending in this area. Can Mr. O'Sullivan explain what that pertains?

**Mr. Doncha O'Sullivan:** That relates to legislation.

**Mr. Jimmy Martin:** In the bail Bill-----

**Deputy John Deasy:** It was not in the burglary Bill.

**Mr. Jimmy Martin:** The burglary Bill focuses on serial offenders to ensure they do not get bail.

**Deputy John Deasy:** My question was why it was not in the burglary Bill. In any event, can Mr. Martin explain what electronic tagging will mean?

**Mr. Jimmy Martin:** The reference to electronic monitoring refers to the general scheme of a bail Bill which has already been drafted and published. The previous Government introduced a provision for electronic monitoring of people on bail. It was indiscriminate - it could have applied to everybody - and there are several thousand people on bail, so it was not regarded as cost-effective. In the general scheme of the bail Bill there is an amendment to those provisions to allow for the prosecution to make an application for one of the conditions of bail to be that the person is electronically monitored. If there were particular people involved and the Garda felt that one method of preventing them from committing further crimes would be to monitor their whereabouts, they could apply for electronic monitoring in those specific cases.

**Deputy John Deasy:** The Garda would apply in court for someone to be monitored.

**Mr. Jimmy Martin:** Yes. After a decision has been made to grant the person bail, the Garda would apply, and one of the conditions of the person's bail would be that he or she be subject to electronic monitoring.

**Deputy John Deasy:** Would that be subject to a judge's discretion?

**Mr. Jimmy Martin:** Yes, it would be up to a judge. The judge decides whether someone gets bail and the judge decides what the conditions of bail will be.

**Deputy John Deasy:** So if somebody applies successfully for bail, the Garda would then apply in court to have that individual electronically monitored-----

**Mr. Jimmy Martin:** If it felt it was appropriate.

**Deputy John Deasy:** If it felt it appropriate.

**Mr. Noel Waters:** Or for serial offenders.

**Mr. Jimmy Martin:** The electronic monitoring of people on bail, as a general application, is not cost-effective. It is quite expensive. The systems used in other countries-----

**Deputy John Deasy:** How much are we talking about?

**Mr. Jimmy Martin:** It depends on whether one is using a GPS or a phone system, but it could cost approximately €90 a day.

**Deputy John Deasy:** Ninety euro per person.

**Mr. Jimmy Martin:** Yes. It depends on the circumstances, but we have not done any research recently. If we have a significant number of people it is not possible to monitor them on the current basis. The systems in other countries are generally historic. Monitoring is normally contracted out to security firms, which give a report on a next-day basis of what the person did the previous day. It is not live tracking. If somebody has breached a condition of bail, he or she will have to be brought back to court and it is up to the judge to decide what to do about that breach. It is not feasible to use it in a widespread manner. It is not like in the movies where the person is being watched going around, because we would then have to have gardaí sitting in front of many screens. It is only feasible to do that in a small, select number of cases.

**Mr. Noel Waters:** I might be able to help the Deputy. He asked what the cost might be and-----

**Deputy John Deasy:** Sorry, but it is as though the witnesses are advocating this in public but are almost making an argument against it in many respects.

**Mr. Noel Waters:** No.

**Deputy John Deasy:** Mr. Martin's last sentence was that it would only be useful in some cases. Electronic tagging was a big announcement. It came after Operation Thor. Are the witnesses for this or against it?

**Mr. Jimmy Martin:** The Minister is in favour of introducing targeted electronic monitoring. What is on the Statute Book since 2007 is indiscriminate electronic monitoring and we are



saying that indiscriminate electronic monitoring is not cost-effective. Targeting is, and that is what we are planning to introduce.

**Mr. Noel Waters:** Because the costs associated with that would be enormous. Clearly, the gardaí could not do it. It would have to be done by a private company. We are talking about thousands of people who would potentially be subject to electronic tagging. The information would be historic; it would not be live. For example, if somebody who was subject to one of these tags had left his or her home and gone to a provincial town centre, and the conditions were that he or she should not be there on a Saturday night because of a serious assault committed previously, that information would only be available the following day at the earliest, by which point-----

**Deputy John Deasy:** At least it would be known. The whole point of electronic monitoring is that the person knows he or she is being monitored.

**Mr. Noel Waters:** But it could not be addressed in real time.

**Deputy John Deasy:** I understand that.

**Mr. Jimmy Martin:** In an ideal world, the person would be removed from the situation at the point at which it happens. That would not work. This has been done in other jurisdictions, in particular in Scotland, and it has been found after lengthy study that it is not cost effective. In fact, it is more expensive and less cost effective than keeping people in custody, which is an interesting policy issue.

**Deputy John Deasy:** The problem is that people are not in custody, because judges are not putting them in custody. We are back with them being on bail repeatedly. Something needs to happen.

**Mr. Noel Waters:** That is why the Minister is-----

**Deputy John Deasy:** But Mr. Waters has no idea how much this will cost.

**Mr. Noel Waters:** I will give the Deputy a sense of what is happening in the Prison Service where there is limited electronic monitoring in respect of people who are released to attend hospital visits. There was a contract with Chubb Ireland in 2014 amounting to €74,000. I am subject to correction by my colleagues from the Prison Service. In 2015, the average monthly cost of that is approximately €11,500 and the total cost for the year will be €140,000. That will provide electronic tagging for about 47 offenders. That is the cost. I am subject to correction.

**Deputy John Deasy:** It is €11,000?

**Mr. Noel Waters:** For 47 offenders.

**Deputy John Deasy:** Over how long a period?

**Ms Caron McCaffrey:** We actually have ten electronic tags available to us at any time. Since 2014, we have used tags on 47 prisoners. There is a very significant saving to the Prison Service, for example, in circumstances where an offender in hospital is monitored and minded by a number of prison officers. There are very significant costs attached to that. It costs about €12,500 a week to keep somebody whereas with the electronic tag the costs are significantly lower.



**Deputy John Deasy:** So it is a lot cheaper to have an electronic tag.

**Ms Caron McCaffrey:** In cases in which we would normally have somebody under the care of a prison officer.

**Deputy John Deasy:** So in some cases it is cheaper to have an electronic tag.

**Mr. Noel Waters:** When they are in prison custody, the alternative is having a prison officer-----

**Deputy John Deasy:** The witnesses are saying two different things here. The person who is head of corporate affairs for the Prison Service has just said that in some respects it is a lot cheaper to have somebody electronically monitored than not and Mr. Waters is saying that overall the scale of this will be very expensive. It is included in the bail Bill and will be left up to the Garda to make an application when it comes to the electronic tagging of repeat offenders.

**Mr. Jimmy Martin:** It may be helpful to explain that there are different forms of electronic monitoring. Our legislation provides for three different forms. The first is where there is a court order as an alternative to custody and somebody is required to stay at a certain place for a certain period of time. There is provision for electronic monitoring which has not been commenced. That order is limited to a specific number of offences. It has not been used frequently. There is electronic monitoring of prisoners who are on temporary release. There is a significant difference between people on temporary release and people on bail. People on temporary release have been convicted and if they breach a condition of temporary release they can be returned to prison straight away. If a person breaches a condition of bail, there is no provision for them to be arrested straight away. A garda has to apply to the court and bring them back before the court for the court to decide. It is true that in a small number of cases in the Prison Service it is more cost effective to use electronic monitoring but this is based on a small number of specific cases. That is what we are saying in the case of bail. It will be cost effective in a small number of cases but not in every case. That is the difference. Similarly in the prisons, it is not used in every case but in a small number of cases.

**Deputy John Deasy:** I will tell you where I am coming from. Operation Thor was announced with a lot of fanfare and with a very small amount of money, when one looks at the overtime bill. Electronic tagging was thrown in as an afterthought after the announcement was made. In my opinion, it was done to quell concerns about the issue arising from bail and burglaries around the country. It was thrown in by the Department and the Minister. It seems to me that the witnesses are unconvinced about electronic tagging in some cases, the costs involved and the efficacy of electronic monitoring. There is a sense within the Department that it might not be the most effective way of dealing with recidivism and repeat offenders. That is what I take from what the witnesses have said. They have continually said that it is very expensive and other jurisdictions have found it to be unworkable because of that. It is considerably different from what was said a number of days ago.

**Mr. Noel Waters:** With respect, I do not think so. What the Minister has announced and what the Department supports is that in certain limited circumstances electronic monitoring has a role in respect of serious and serial offenders as part of their bail conditions. Our concern at the moment is that if electronic tagging is introduced right now, the system will collapse under the weight of it because of the numbers of people involved. That is what we are saying.

**Deputy John Deasy:** Why was it announced in the first place a number of days ago? Why

was it brought up if that is the case?

**Chairman:** The Deputy will have to ask his colleague.

**Deputy John Deasy:** I am asking the head of the Department.

**Mr. Noel Waters:** I am subject to correction, but this may have been mentioned in an earlier response by the Minister to parliamentary questions. I am subject to correction. Last week was not the first time it was said by the Minister.

**Deputy John Deasy:** The Chairman has asked me to finish. The last thing I have to ask concerns the issue of the foster home that we have dealt with in this committee over the past year. There are policy issues arising from that. It is currently being looked at by a senior counsel. The terms of reference are too narrow. The senior counsel will come back with his report shortly.

The third aspect of this is the release of reports by Resilience Ireland and Conal Devine on these matters. Since the last time this was brought up in this committee, the reasons given by the HSE and others have been that the Department of Justice and Equality and the Garda Síochána have expressed concerns that the investigations into these matters are ongoing. Since this was brought up in the last committee hearing, I have gotten a sense of what those investigations are. They are serious and are being dealt with seriously by the Garda. I know the tenor and substance of them. It has gone on too long. Whatever the Garda is investigating, and I think I know what it is investigating at this point, it needs to expedite this. The Departments of Justice and Equality and Health and Children need to express the view that any current investigations or lingering investigations into this matter need to be dealt with quickly. That is all I will say.

**Chairman:** Will Mr. Waters respond to that? Do not give the Deputy a chance to come back in again.

**Deputy John Deasy:** I will not come back in.

**Chairman:** He is a hard man not to let back in.

**Deputy John Deasy:** I was the only one here for most of the time. Give me a break.

**Mr. Noel Waters:** We have no knowledge of the contents of the reports in question and it is something that we have not been directly involved in. We accept that it is desirable for the information contained in those reports to be put into the public domain as quickly as possible. It is a matter of great public interest and we are strongly supportive of that. Our understanding is that there may be difficulties around publication because of the possible implications for any Garda investigations that might be going on. We have no role in the Department in criminal prosecutions. It is a matter for the Garda and the Director of Public Prosecutions. I will convey the Deputy's concerns to the Commissioner after the meeting that the matter is brought to finality as quickly as possible.

**Deputy John Deasy:** I thank Mr. Waters for appearing here today. I wish him well. He will be in the Department for a while. I think he knows that himself. I wish him good luck. I thank all the officials for coming in.

**Mr. Noel Waters:** I thank the Deputy for his kind remarks.

**Chairman:** Deputy Costello will be our second speaker followed by Deputy Perry. I have

some questions for Mr. Waters. Is the criminal injuries compensation board *in situ*? Has it been appointed and is it doing its work on a day-to-day basis? How does it operate?

**Mr. Noel Waters:** My colleague, Ms McPhillips has specific knowledge of the criminal injuries compensation board. She was secretary of it at one stage in her career. She might be able to give some more detail. The board is sitting. There have been vacancies on it in recent years but it is now constituted again. More recently, the chairman was appointed a judge so there is a vacancy at chair level. We do not believe that this will impact on its capacity to do its work. It is there and it is sitting. The Chairman might be aware of the circumstances in which one can make awards, which are independent. It is subject to cash limiting in terms of what it can do. In 2013, there was a large overhang of awards of the order of €7 million that had not been paid for a number of years. These were addressed by way of Supplementary Estimate and were made available to the committee. While some cases still may be outstanding, it did deal with-----

**Chairman:** This is one question I wished to ask in this regard. For a period, it did have awards it was obliged to pay, totalling €7 million, and that would have brought it up to date.

**Mr. Noel Waters:** Exactly, yes.

**Chairman:** In respect of an application to the board, would it be normal for it to take up to four years?

**Mr. Noel Waters:** Our information is that in the ordinary course of events, it should not take anything approaching that. If there is a specific case, we can establish and find out what are the circumstances but in the ordinary course of events, our information is it would not be anything approaching that.

**Ms Oonagh McPhillips:** Each case can be different, Chairman, because of the nature of the injuries.

**Chairman:** But surely it would not run for four years.

**Ms Oonagh McPhillips:** No, but the tribunal generally would be engaged with the applicant in respect of whatever medical arrangements or loss of earnings he or she had. Sometimes, in the case of serious injury, this can take some time to settle down and a number of years. Consequently, the tribunal would be engaged back and forth with legal representatives. I also should clarify the tribunal is not full-time. They all are barristers and solicitors in their own capacity who have their normal practices and do this on an *ad hoc* basis. There are six members and a chairman.

**Chairman:** Do they get paid fees?

**Ms Oonagh McPhillips:** They get paid on a fee-per-case basis.

**Chairman:** Very well.

**Mr. Noel Waters:** If there is a particular case, we will be happy to follow up for the Deputy.

**Chairman:** I am not sure where this falls but this week I received an e-mail that struck me. It was from an individual who had been summonsed as a prosecution witness in a multiple larceny and drugs case that required a special sitting of the Circuit Court. Present was a judge, a 12-man jury, five gardaí, senior counsel and a solicitor for the State, a senior counsel, junior counsel and solicitor for the defence, as well as four court staff and the individual who sent the

e-mail. However, the accused did not show up. When the person who had been summonsed asked the gardaí, who had worked hard in the case, whether there would be any consequences for this no-show, they replied “No, it is the system”. The sender of the e-mail then asked to be told that someone in politics was leading the charge to change radically the system, as the *status quo* was the most farcical and flagrantly wasteful imaginable. The State would have paid for the judges, the senior counsel and all of that. Is this a regular occurrence in the system? While I could be bordering on policy matters here, surely, were this to happen on a regular basis or even a not-so-regular basis, it should be of concern to the Department of Justice and Equality to ensure that whatever legislation could be suggested to the Minister to change would be suggested.

**Mr. Noel Waters:** I agree entirely. Of course, were it a regular event that the entire criminal justice apparatus was to gather in a court and someone was brought before it charged with a serious offence only for that person to not show up and were there no consequences for that individual, clearly this would have the most serious consequences. It would be negating entirely very good work by other agencies in the criminal justice system. In the finish, however, if somebody is directed to appear in court and does not do so, there is a number of options open to the judge in court, such as directing that the individual be arrested under a bench warrant-----

**Chairman:** While I can understand that, my point is that before assembling this group, which I am sure is a costly affair, there should be some assurance that whosoever was to appear in court would do so.

**Mr. Noel Waters:** Clearly, if the person in question was in custody, the Prison Service would deliver that person to the court and that would be a decision that perhaps would have been taken at an earlier hearing. However, if a person, going back to an earlier decision, had been on bail and was required to present at court to answer the charges, obviously this would be a breach of bail conditions and in itself, would be subject to its own requirements under the criminal justice system. In the finish, however, if a person is summoned and does not appear, if an offence has been committed the Garda will follow up on it and deal with it and it can have serious consequences for individuals. It is part of the criminal justice system that when one is required to attend, one shows up or one faces the consequences and this clearly can have serious consequences for people who do not show up.

**Chairman:** Is it a fact that for a significant number of individuals who received speeding fines and who declare they did not receive them in the post, their cases are struck out in the courts? What is the figure in this regard?

**Mr. Noel Waters:** Yes Deputy, and I am aware the committee has looked at this matter, there are a number of issues in respect of the penalty point system that must be addressed. The first point I will make in this regard, which is not generally known, is that 80% of all penalty points tickets issued for speeding and other offences are paid by the perpetrators of the offence on the spot as penalty points. This is a high number and is up there with international standards and norms. Then one breaks it down and historically or in recent times, in the order of 4% or 5% are cancelled for various technical reasons where they should not have been issued and the committee will be aware of the controversies that arose around that. We have put in place, with the Garda, serious measures to address that including, for example, a requirement that where a garda in receipt of penalty points seeks to claim he or she was travelling on duty, this matter must now be approved by the Director of Public Prosecutions. In addition, there is oversight of the entire process by a retired judge of the Circuit Court at present, Judge Deery, who will make a report to the Minister on its operation. Then there is a situation in which there are difficulties with the service of summonses and we acknowledge this is a problem.

**Chairman:** There is loss of revenue to the State.

**Mr. Noel Waters:** I accept that it is. We probably are talking about approximately 5% of cases or thereabouts where people-----

**Chairman:** Can Mr. Waters put a financial loss on that percentage?

**Mr. Noel Waters:** I am not in a position to be able to do so. Perhaps my colleague here might have a figure on that. We will see whether we can do that. However, it arises from the fact that in Ireland, our system to a large extent requires personal service and if the courts are not satisfied that a person has been personally served, they by and large tend to dismiss the case. We are looking at this, with colleagues, and as the Chairman is aware, the legislation in this area primarily is a matter for the Department of Transport, Tourism and Sport and the Garda and we are in the centre in the criminal justice system. However, we are looking at ways as to how we best can improve the rate of service. However, I am not making any claims to say this would be easy; it is a difficult one.

While this also may have arisen in the committee's report, we also are looking at what is known as the third payment option. For example, when people turn up in court and state they never got the summons, under the third payment option, which we hope - more than that, which we expect - will be rolled out and commenced next year, when a person gets a summons, they will have an opportunity to actually pay the penalty at that point. This will remove the defence of stating one never got it because the court will be able to say the person in question had an opportunity to pay that fixed notice on receipt of the summons, obviously chose not to do so but now is present in court. This changes the system fundamentally but is a very difficult thing to achieve; it might sound easy in saying it here but in terms of getting different computer systems to talk to one another, it is quite a difficult thing to do.

The other piece in this regard, to fill the Chairman in, pertains to cases in which people have not brought their driver licences to court. Again, we are working with the Department of Transport, Tourism and Sport and the Garda to ascertain whether we can resolve that. The Garda has actually commenced taking prosecutions in respect of cases of people who have turned up in court and who have not produced their driver licences. That is work on the way and again, we are looking at an information technology-based system to try to resolve that.

Does Mr. O'Sullivan, who is familiar with the details, have anything further to say on this?

**Mr. Doncha O'Sullivan:** No, just to highlight the third payment option, which probably is the best opportunity to resolve the issue the Chairman is raising.

**Chairman:** To give them another chance.

**Mr. Doncha O'Sullivan:** One gets a third and final opportunity and that gets around the question of people stating they did not receive the notice when they appear in court.

**Chairman:** There is another figure in the accounts. I might call Deputy Costello. It relates to State pathology debtors. An amount of €246,026 owed to the Department in respect of post mortem examination fees from local authorities was written off as unrecoverable. How did that operate? It is figure 6.8.

**Mr. Seamus Clifford:** I am not aware of the specific figure, as I do not have it with me. We had difficulties with local authorities previously due to funding issues. They simply did not



have the money to pay. The system has been rationalised, in that there previously would have been a time lapse before the State pathology lab pursued outstanding fees with local authorities. That process has been tightened up considerably. I will confirm the concrete figures later, but my understanding is that the level of debt has reduced somewhat in recent years. I will revert to the Chairman with specific figures.

**Chairman:** I note from the 2012 accounts that it was €246,026.

**Mr. Seamus Clifford:** Yes, but that is going back to-----

**Chairman:** It was €159,194 prior to 2000, with the balance of €89,832 relating to the 2000-06 period. Why did local authorities not pay? The amounts are dated, but they are Departments in the system that collect money from taxpayers in the form of commercial rates and so on. If I did not pay them my property tax or water charge, which is now with Irish Water, they would raise the issue of penalties and interest, yet the Department believes it is okay to let them off.

**Mr. Seamus Clifford:** Far from it, to be honest.

**Chairman:** Then collect the money. Why should they get off when the ordinary citizen is pestered every day of the week with letters from Irish Water and duplications in collection efforts? If people do not pay commercial rates, they are chased for them, yet local authorities believe it is okay not to pay the almost €250,000 that they owe the Department. I do not care what year the money relates to.

**Mr. Seamus Clifford:** I appreciate the Chairman's point. It is why I stated that, to the best of my knowledge, the system had been rationalised entirely since the write-off.

**Chairman:** Is a list of which local authorities owe this money attached to the accounts?

**Mr. Seamus Clifford:** That is going back to the 2012 accounts. We can get that information-----

**Chairman:** That does not make it any better.

**Mr. Seamus Clifford:** No, I appreciate that.

**Chairman:** Local authorities collect moneys. They get grants from the Government. They are not poor bodies. They have debts, but some have millions of euro stashed away. They can increase the rents they charge old age pensioners by €3 at the drop of a hat. That is no problem to them, but they will not pay the money that they owe the Department of Justice and Equality. It should pursue them-----

**Mr. Seamus Clifford:** The Chairman knows the system.

**Chairman:** -----or name and shame them.

**Mr. Seamus Clifford:** The system has been tightened up considerably, in that we pursue them. To the best of my recollection, some of the write-off to which the Chairman refers dates back a considerable number of years. In fairness, perhaps we did not pursue them as vigorously as we should have. That was allied to the budgetary issue, but the situation has now changed. I will provide the updated figures.

**Chairman:** Is it not funny that, when these authorities discover that they owe money to Revenue, they suddenly front up and pay penalties and interest, yet they do not mind not paying



the Department because it is giving them a soft way out? I would like a list of those that owe the Department money. I do not care since when. Let us see who owed money over the period in question. It might be the Department's fault that it did not collect the money, but this is a poor reflection on local government, in that it expects taxpayers to comply with all of its collection efforts but it will not pay its own bills.

**Mr. Noel Waters:** We will supply the committee with that information. We take the Chairman's comments on board. We do not like writing off a significant amount of taxpayers' money that is owed by another arm of the State, but we must acknowledge how far we can go. We will re-examine the issue to determine whether there are other measures that we can take to get greater compliance.

**Chairman:** I will not prolong this discussion, but how far can the Department go? How far would Revenue go to collect its debt? How far will other agencies of the State go with people who are marginalised, poor or in distress to collect their debts?

**Mr. Noel Waters:** That is a fair point.

**Chairman:** How far will the bank go to collect its debt even though it was bailed out by the taxpayer? In this case, these organisations are only partially within the remit of the Comptroller and Auditor General, as local authorities are not accountable. That is another cop-out. They should be named so that we know with which we are dealing.

**Mr. Noel Waters:** Okay.

**Deputy Joe Costello:** I welcome the officials from the Departments of Justice and Equality and Public Expenditure and Reform. I apologise for not being present for the opening statement, but I read Mr. Waters's statement in detail. Since he concentrated on Thornton Hall, I will do likewise.

Before I do, however, questions arise across the board regarding moneys that have been spent but for which there is no perceivable benefit to the Department of Justice and Equality or the State. It is taxpayers' money, the use of which we are responsible for reviewing. Questions arise regarding the Bridge Project on Parnell Street and Wolfe Tone Street. The officials might comment on it. The €2 million that was spent seems to have gone down the drain. There is the issue of the €3.3 million for the State pathology office when an alternative is now being sought at the Whitehall Garda station. That seems to have disappeared. There are issues with EU social funding for equality for women, in that projects do not seem to have proceeded. Why did that funding lapse? There are issues with substantial overtime payments and extra payments. There are major issues of non-compliance, in that the level doubled between 2013 and 2014. Claims against the State also doubled in that time.

The greatest issue is Thornton Hall, where €50.6 million of State funding has not produced anything of what was sought. The site was purchased at an exorbitant price of €32 million and approximately €20 million was spent on development because it was a backwoods area in the middle of nowhere and there needed to be roads, access points and so on. The site is lying idle. This has been the case since the original decision in 2001 to search for a site until 2010 when the Department suddenly decided that it could rectify many of the issues that had caused it to purchase the site in the first place, for example, the provision of in-cell sanitation and so on at a capital cost of less than €30 million. Work that was estimated to cost at least €525 million was started, yet prisoners' conditions were improved for less than €30 million. The original deci-

sion was taken in 2001, but nothing was done about in-cell sanitation until 2010. Is there not something ludicrous about waiting ten years to deal with a problem?

The report's conclusion on this matter seems to be a serious one. It states: "That decision was underpinned by inadequate analysis of the likely costs of developing a new prison, which appear to have been significantly understated, and the costs of addressing the problems at the Mountjoy complex, which appear to have been overstated." How did all of this happen? Who is responsible for it? Why was it allowed to drag on? A review committee has been sitting for the last 12 months without any terms of reference. It has not reported and we do not know what is going to happen, yet the accounts still have a statement of an historical legacy value of €50.6 million when in reality it is €2.4 million. Surely that is a very serious matter.

**Mr. Noel Waters:** Before I respond to the many points raised, and I might ask my colleagues to join me in doing that, I wish to respond to one or two things the Deputy mentioned in his remarks about specific projects. First, with regard to the State pathology facility, that process or programme is under way in the former Whitehall Garda station, which the Deputy will be aware is on the way to the airport. It is under construction and we expect it to be ready for operation in March next year. There was a little delay in the course of this year in terms of getting the work going, but that has been resolved. It will cost approximately €3 million, of which €1 million will be spent by the Department and €2 million will be incurred by Dublin City Council. We are co-sponsors of that project. It is under way and we expect to have a new facility there in a matter of months, which is obviously very welcome.

**Deputy Joe Costello:** The original pathology project was begun in 2007 and terminated in 2012. Five years passed and now there is the possibility of a new one in 2015, three years later. The Whitehall Garda station has been free for a number of years too. What happened to the money? How is it that all of this was totally abandoned with nothing to show for it?

**Mr. Noel Waters:** The original project was the subject of a report by the Comptroller and Auditor General last year or the year before. It examined what happened in great detail. Essentially, the problem arose because the builder who was providing that project at the Casino in Marino went broke. It came down to that. We then had to move forward in those circumstances. If I may move on to the----

**Deputy Joe Costello:** Yes, but I have a further question before Mr. Waters moves on. Surely there was a backup. This went out to tender, so was there no alternative building contractor?

**Mr. Noel Waters:** In the original project?

**Deputy Joe Costello:** Yes.

**Mr. Noel Waters:** Yes, there was. However, the advice available to us at the time on the nature of the contract was such that we could not take the next contractor on board. We would have run into very serious difficulties. Without getting into the complexities of it, the nature of the contract was such that we did not have that option available to us at the time. It gave rise to the loss that occurred. We greatly regret that, but ultimately had the contractor remained in business that project would have been finished and on time. He did not, and we had to deal with that situation. However, our main concern here is to ensure that we have a fit for purpose State pathology service, which we will have in a matter of months at the former Whitehall Garda station.

To return to Thornton Hall and the issues the Deputy raised, I made a few points about that

at the start of the meeting but the Deputy might have missed them. My essential point was that the Thornton Hall project was driven by the need of the Department and the Prison Service to avoid the effects of the revolving door, of which the Deputy will be well aware, as I know he has had a great interest in these matters over many years. It was an absolute plague on the Irish criminal justice system for many years. People were being brought into the system on foot of having been detected by the Garda, brought before the courts, charged and convicted. They were brought into Mountjoy Prison, because it was the pivotal prison in the system, and then released simply because there was no space for them. People who were involved in this at the time were conscious of that. It was a driving factor for them in terms of developing a new prison at Thornton Hall where the situation would never arise again. That was one of the factors in play.

Another factor at the time was the number of condemnatory reports that had issued in respect of Mountjoy Prison. The then Inspector of Prisons, Mr. Justice Kinlan, since deceased, had requested that Mountjoy Prison be torn down. He saw that it was not fit for purpose. The UN subcommittee on prevention of torture over many years had examined the conditions in Mountjoy Prison and declared that they were not fit for purpose. The conditions were such that the committee was calling into question Ireland's commitment to ensuring that the human rights of prisoners were respected and observed.

Those were all the issues in the background which gave rise to the decision in the first place to proceed with Thornton Hall. Everything that happened afterwards flowed from those basic tenets. I accept that a very large amount of taxpayers' money has been spend on the Thornton Hall project. It was offset to some extent by the sale of Shanganagh Castle, which had outlived its usefulness as a facility for the prison system. It was hugely costly to maintain at over €100,000 per prisoner. At its closure I believe there were 20 to 25 prisoners there. It was no longer useful for practical purposes for the prison system. That sale generated €30 million and it practically paid for the cost of acquiring the site at Thornton Hall. There may have been a difference of a couple of hundred thousand euro. As the Deputy said, another approximately €20 million was spent in the subsequent period.

Of course, it is a very serious concern to us that we do not have a prison or a project there, but ultimately it is a direct consequence of the collapse in the economy. Simply and straightforwardly, it was no more than that. There was no degree of incompetence by the Department, the Prison Service or anybody. The Thornton Hall process was fully compliant in respect of all the procedures that relate to public-private partnerships and the issues around that, including all the procurement issues, had the preferred bidder who was selected from three major companies succeeded in living up to their bid. Ultimately, they were unable to finance their bid because of the changing international situation. They were simply unable to access money markets at reasonable rates. However, had they been able to do that, I have no doubt that Thornton Hall would be built and probably at the point of functioning at this stage.

As I said earlier, there are very significant lessons to be learned from it. Looking at it again, are there other models we could have chosen? Again, with the benefit of hindsight, which is very easy, had we gone for the more traditional State construction using the normal processes with the Office of Public Works, OPW, would we have constructed Thornton Hall and would it have been completed? My answer, and I believe my colleagues would agree with me on this although I was not involved with it at all, is "Yes", a facility would have been built at Thornton Hall if we had taken the more normal route. However, at the time we had just emerged from a PPP project for the Courts Service which was not quite of the same capacity, although not far

from it, and it was equally risky but it had been successful. It was delivered on budget and in time. At that stage, which was the mid-2000s, there was a fair wind behind us in terms of doing that. The Government decided, as it did on at least ten occasions, and the Oireachtas was involved, that Thornton Hall should proceed on the basis of a PPP. Ultimately, that changed in the latter part of 2009 and in 2010. The change was to proceed to direct Exchequer build. By then, we simply had no money to do it. However, that is a lesson for us in terms of the models we use.

Another lesson for us is whether we should be building in future in respect of the age of an institution such as Mountjoy Prison. As the Deputy is aware, it is 170 years old. Should we be building for a much lesser period at, perhaps, much lesser expense? That is a question which we address.

To take things forward, the Deputy mentioned the group that is examining a possible future use. We certainly cannot rule out the possibility that there will not be a prison constructed, or a requirement for a prison to be constructed, in Thornton Hall. That is certainly an issue. It will not happen in the short to medium term, in my view. However, if, for example, a new Administration decided to change the way people who are on bail are dealt with or change the nature of sentencing, that could change. Prisoner numbers have fallen remarkably. It has not happened before on the same scale, but this could change and they may well go up again. This is an issue of which we must be cognisant and consider when making decisions for the future. With regard to the use of the facility at Thornton Hall, the group mentioned has been looking at potential options. Two issues are in play, one of which is that, as the committee may be aware, the approximately 800 people based at the Garda city centre offices in Harcourt Street in Dublin, who work in national support services and a range of activities central to the operation of the police force in Ireland and Dublin, are required to exit this office by the end of next year.

**Deputy Joe Costello:** Which office is this?

**Mr. Noel Waters:** It is the main office in Harcourt Street. It is the Dublin metropolitan area headquarters and the head office of the national support services of the Garda. The OPW is leading the search for a potential new site for these people and all the services. I understand six options are being considered as potential locations, including Thornton Hall. There are issues with regard to its distance from the city but it is certainly being considered. I cannot say at this stage how it will pan out.

The review group has had contact with IDA Ireland, which has indicated it sees the Thornton Hall site as offering significant potential for foreign direct investment. It is fully serviced and is located 1.4 km from a motorway and a couple of minutes away from the M50, so one can see its obvious advantages. I do not believe this is likely to happen in the very near future, but it is a possibility.

We must balance all of this with our requirement in the long term for other prison accommodation and all of the issues that go with this, such as trying to acquire a site and communities objecting to it. We have a site which is ready to go, which is fully serviced with its own access route, and we would be very reluctant to decide not to use it.

**Deputy Joe Costello:** I thank Mr. Waters for his very comprehensive statement on the matter and we have a fair idea of all of this. Despite the description given by Mr. Waters of how it happened, it seems to have been a flawed project from the very beginning. It started not as an extension of Mountjoy Prison, but as a replacement for it whereby it would be demolished.

The cost began at €150 million, and the cost of purchasing it was to be partly met by the sale of Shanganagh Castle. The sale of Shanganagh Castle meant the only open prison in Ireland was closed down. Part of the final recommendations on Thornton Hall was the inclusion of a 200 unit open prison. Shanganagh Castle, which was an open prison, had already been sold off for €29 million. Mr. Waters said open prisons are very expensive, but they are part of the rehabilitation process.

**Mr. Noel Waters:** To be clear, we still have a number of open prisons in the system.

**Deputy Joe Costello:** It was the only juvenile open prison. It would be expected that we have an open process to facilitate the rehabilitation of young people going into the system. This has always been part of the Irish prison culture. It was questionable that the provision of a replacement for Mountjoy Prison was put against the closure of an open prison. At the beginning the cost was €150 million and involved the demolition of Mountjoy Prison. Who in their right mind would have demolished such an historic site as Mountjoy Prison?

**Mr. Noel Waters:** We had no plans-----

**Deputy Joe Costello:** This was the argument put forward at the time, that part of the sale price would go into the process. Then the project went totally out of kilter and became three times the original size, going from 723 places to 2,200 places. I cannot understand who was in charge. The necessity to provide decent sanitation for prisoners in came up in various reports and Mr. Justice Kinlan was strong on it at the time. All of a sudden in 2010, hey presto and lo and behold, we could do this for just a fraction of the cost. As it happens, the analysis of the prison population was also flawed because we see it is decreasing. Perhaps Mr. Donnellan has figures for 2015, but the figures for 2014 show there were more than 200 fewer prisoners than there were in 2013. The curve of imprisonment has shifted.

We have not received an explanation for the purchase of land in a remote area, which required all types of ancillary works to make it accessible, at the expense of an open prison, or for why its cost and size should change so drastically over a period of time, going from €150 million to €525 million and from 723 prisoners to 2,200 prisoners or for closing Shanganagh Castle. Nothing has happened, and this has been going on since the original board was established in 2001. This was called the Mountjoy Prison development group, and Mr. Waters might tell me who its members were. We have been living with this white elephant since 2000 and we still do not know what will happen. The last time we discussed it the review was also considering Harcourt Street.

**Mr. Noel Waters:** No, I do not think so.

**Deputy Joe Costello:** It was stated that a substantial project was being considered for Thornton Hall. Perhaps it was a different project that has gone out the door. It does not seem to have a beginning, middle or end. It seems to be absolutely the wrong way to conduct business. From the beginning there has been no business plan and no proper analysis has been done, and it is still being run as though nobody is in charge.

**Mr. Noel Waters:** I will ask my colleagues from the Irish Prison Service to come in on this.

**Deputy Joe Costello:** I raise the issue because we are speaking about very substantial sums of money.

**Mr. Noel Waters:** I acknowledged that at the beginning. I am not in anyway seeking to



minimise the expenditure of taxpayers' money on this issue. It is worth repeating that had the financial crisis not happened there would now be a prison facility in Thornton Hall. Whether it would have been a public-private partnership or a direct build is a matter of conjecture, but there would be a prison facility there.

I will deal with several of the points and ask my colleagues to come in on the others. The Deputy mentioned the budget had increased from €150 million to more than €500 million. There has been some correspondence on this figure. The figure of €150 million first emerged as a placeholder in a capital envelope for the entire justice family prepared for the Department in conjunction with the Department of Finance. It was produced even before the site in Thornton Hall was bought. It was solely a placeholder budget for a prison that was intended to be produced at some point. At the time, capital envelopes ran for three years, and had we not put a figure in the envelope we would have had no money and we would have gone nowhere on developing a prison. The motivation of the people doing this was the revolving door situation and the terribly bad conditions in Mountjoy Prison, which the Deputy mentioned. The figure was a placeholder budget and was never intended to be indicative of what the cost of developing Thornton Hall might have been. We simply would not have known that.

**Deputy Joe Costello:** On that point, at the time the cost placed on the provision of in-cell sanitation in Mountjoy Prison was several hundred million euro.

**Mr. Noel Waters:** I do not believe so. If I may clarify-----

**Deputy Joe Costello:** It was presented as though it was virtually impossible to do and, therefore, an alternative site was needed, that Mountjoy Prison had to go because of the conditions there and the major considerations related to slopping out and in-cell accommodation.

**Mr. Noel Waters:** They were not the only considerations.

**Deputy Joe Costello:** There were others also but Mountjoy Prison is still there. The capital programme available to address all of that could have been put in place in 2010 and would not have cost more than €30 million. Extra numbers in the region of 2,200 were going to be provided so can the witness indicate why this was not addressed at a much earlier stage? The pressure was on from the European Court of Justice and from Mr. Justice Kinlan to get decent accommodation. Why was it left to drag on with new plans? Mr. Waters may not have been in the Department at the time but the real issue, and what was the cause of it in the first place, has not been addressed.

**Mr. Noel Waters:** That was not the entire issue. Clearly slopping out-----

**Deputy Joe Costello:** It was the main issue.

**Mr. Noel Waters:** With respect to the Deputy, it was not the main issue.

**Deputy Joe Costello:** What was the main issue?

**Mr. Noel Waters:** The main issue was the need to address the revolving door situation in the prison system.

**Deputy Joe Costello:** A 300 cell unit could be built in the midlands in no time.

**Mr. Noel Waters:** In the meantime, and my colleagues here today will have figures for the committee, the prison population increased almost exponentially. As a result, the Prison Ser-



vice was faced with the demands of an ever increasing prison population while having to deal with concerns over conditions. While it was not a big issue, it was certainly an issue in terms of addressing it.

**Deputy Joe Costello:** The in-cell conditions could have been addressed in parallel with continuing with Thornton Hall.

**Mr. Noel Waters:** At that point there was no indication there was going to be a problem in building Thornton Hall. That issue only arose-----

**Deputy Joe Costello:** No, Mr. Waters is avoiding my question.

**Mr. Noel Waters:** I apologise to the Deputy but I am not.

**Deputy Joe Costello:** Why were the deplorable conditions for the prisoners in Mountjoy not addressed at the same time as going on with Thornton Hall? That was a feasible project.

**Mr. Noel Waters:** It was because the entire basis of it was that all those issues would be addressed as part of Thornton Hall. It was believed-----

**Deputy Joe Costello:** However, the issues would then have been addressed *post factum*. Then there is the amount of space required. The figures went from 723 - which was the number of spaces in Mountjoy - up to 2,200.

**Mr. Noel Waters:** There seems to be some confusion. The Mountjoy redevelopment plan, which was led by the then governor of Mountjoy, Mr. John Lonergan, looked at a number of options including the demolition of Mountjoy and replacing it with a new prison to be built on the same site.

**Deputy Joe Costello:** Yes, that was the original plan.

**Mr. Noel Waters:** There was an indicative cost of €400 million to do that. The prison board at the time-----

**Deputy Joe Costello:** The witness is not answering my question. We have gone through all of that. I want to know why the conditions at Mountjoy Prison were not addressed. Mr. Justice Kinlan was saying that it needed to be addressed. The European Committee for the Prevention of Torture was also saying that something had to be done. This was the major pressure but it was not addressed until 2010 and then it could have been done for €30 million.

**Mr. Noel Waters:** I will hand over to my colleague-----

**Deputy Joe Costello:** Extra expansion could then have been done in the midlands or elsewhere.

**Mr. Noel Waters:** The plan all along was that the conditions to which the Deputy refers were to be addressed as part of the Thornton plan.

**Deputy Joe Costello:** How could the conditions in Mountjoy Prison be addressed as part of the Thornton plan?

**Mr. Noel Waters:** It was because we were looking at a 150 acre site which would have had a *cordon sanitaire* around it. This was going to be done on a cost effective basis and prisoners would be maintained there for a lot less than in Mountjoy Prison. The type of prison proposed

at Thornton would be of modern standards. It would not be based on the Victorian principles which are now being replaced around the world. It was going to be an entirely new concept in how we deal with prisoners. That was all to be part of a solution to the wider prison issue at the time. I invite my colleague Mr. Michael Donnellan, director general of the Irish Prison Service, who can provide the Deputy with some more detail.

**Mr. Michael Donnellan:** The numbers in prison rose exponentially between 2006 and 2011. It was absolutely unthinkable in 2010 to close a division of Mountjoy to allow it to be refurbished because the numbers could not have been coped with. As a result the Thornton project was conceived and would have happened, as the Secretary General has said. However, since 2011 we have had one division of Mountjoy closed continuously, and one is still closed today because the numbers of people in prison has dropped by 20% since 2011. This has allowed us to do a whole range of things, not just in Mountjoy but also in Cork. The numbers in Cork have dropped from 330 to 220. In Limerick the numbers have dropped from 330 to 220. The numbers have also dropped in the Dóchas Centre. The drop in prison numbers has allowed us, for the first time in many decades, to address the appalling conditions of slopping out.

**Deputy Joe Costello:** For the duration of the project were conditions just left the way they were until the project was completed?

**Mr. Jimmy Martin:** As part of the assessment by the interim prison board one of the options was to look at refurbishing Mountjoy Prison. An engineering feasibility report was commissioned and was delivered in February 2003. It strongly recommended against investing money in Mountjoy Prison on the basis that it would be lost money because Mountjoy Prison would have needed serious refurbishment if it was to be sustainable in the long term. The fabric of the building is over 160 years old and was in such bad condition that it would need serious renovation. If money was invested to install in-cell sanitation it would have required further investment in another five years, so that was not considered to be a permanent solution nor would it have addressed the other issues.

While the most obvious concern was in-cell sanitation, there was the equally serious matter of overcrowding. We had two or three prisoners in one person cells. And as the director general has explained, it has only been possible to address those aspects and tackle the refurbishment since those figures came down. There was an engineering report that recommended against it. The interim board thought a greenfield site was the more obvious route. It is not true to say there was no analysis of the requirements. Part of the PPP process is that a detailed cost benefit analysis is required for each project and that was done in 2006. It looked at the costs of all the options and it identified the green field site as the most cost effective option. It was on that basis that the decision was made to go ahead with the PPP.

The Deputy asked about the changing shape of the project. The Deputy is correct in that the original project looked at by governor Lonergan and his team was for the replacement of one prison on one site. It was not a long term project. One of the reasons for the choice of the greenfield option was that in addition to improving on what was available in Mountjoy Prison it also allowed for long-term development. However, at that stage in 2003-04 there was no concrete idea of what was meant by long-term development. It was felt that more could be done with more space. When the site was identified then the requirements potential was identified. In 2005 prison numbers started to increase exponentially and at that stage, before the PPP tender was started, it was decided to build a prison with 1400 cells, some of which could be doubled up. That was included in the outline business case which looked at all the options. It was on that basis the Government approved the issuing of a tender and approved the PPP pro-

cess for the preferred tenderer. The Deputy is correct that in 2001 the thinking had changed and it had not really solidified until 2005 when a site was chosen and there were concrete proposals for the particular type and size of prison required.

**Deputy Joe Costello:** Foremost in all this is the ability of the prisoners' families to travel to Thornton Hall for visits. There is no public transport and it would be very awkward for them. In choosing a site in the middle of nowhere with no public transport one wonders how families are going to get there. Measures could be put together, but the travel issue does not seem to have been considered. Egans Cash and Carry, on the boundary of Mountjoy Prison, was purchased. Why could it not have been developed while some of the in-cell sanitation and other conditions were being addressed? As I understand it, it is still in the ownership of the OPW and the Department of Justice and Equality. It was a ready-made alternative for improving the conditions beside the prison. The Department had the site in Shanganagh which belonged to the Department of Justice and Equality, but it sold it. The Department could have held on to it to expand the prison and develop other, broader prison services and it would not have cost a penny.

The downturn in the economy came in 2008 and I presume that, at that stage, the Department had no money to carry out the works at Thornton Hall.

**Mr. Noel Waters:** It was a PPP project which fell asunder at that point. The cost of financing it proved to be unsustainable. The Department and the Irish Prison Service went to the tenderers to ask them to make their best and final offer and they came back with a figure which had gone up by 30%, while the annuity charge went up from €52 million or €53 million to €70 million. It was still within public sector-----

**Deputy Joe Costello:** By 2008 it had all disappeared.

**Mr. Noel Waters:** It was still an option for the Department and the Government which was involved all the way along the line to proceed with the project at Thornton Hall. However, the right decision was made to call a halt to it. If we had gone ahead, the conversation we would be having today would be entirely different in nature. We would not know where we were. Perhaps the PPP might have moved forward or perhaps it would not have. We would, however, be in a quagmire. The Government accepted our view that it should be stopped. As we realised that the situation in Mountjoy Prison was unsustainable, the programme of refurbishment and the measures to deal with slopping out commenced. It has been a very successful programme, carried out at a very good cost. While it prolongs Mountjoy Prison, it has nowhere near the capacity it had many years ago when there were 1,100 prisoners in the complex, but it will not prolong it forever as it does not address the structural issues at the prison.

**Deputy Joe Costello:** That is the case with any old prison such as that in Portlaoise. What are the proposals for Egans Cash and Carry?

**Mr. Michael Donnellan:** Egans Cash and Carry is owned by the OPW which allows the Irish Prison Service to occupy the space. Some of the overflow from Mountjoy Prison is housed there. We added 20 additional beds to the Dóchas women's prison and had to dislodge all of the staff from there, as well as all the locking systems and showers, which are now housed in Egans Cash and Carry. The Irish Prison Service also has a small Dublin office with some 15 staff. The space is being used in its entirety by the Irish Prison Service.

**Deputy Joe Costello:** What about St. Patrick's Institution?

**Mr. Michael Donnellan:** The Minister will be putting through the Prisons Bill by the end of the year, which will see the permanent closure of St. Patrick's Institution. Two of the divisions of St. Patrick's Institution have been redesignated as part of Mountjoy Prison. We have a small pocket in which we house 17 year old children and will continue to do so until the Bill goes through. St. Patrick's Institution will become a full part of Mountjoy Prison, allowing it to be a one prisoner, one cell prison.

**Deputy Joe Costello:** Is Egans Cash and Carry going to be modified in that respect?

**Mr. Michael Donnellan:** It is a very poor build. It is a warehouse.

**Deputy Joe Costello:** I did not mean the building but the site.

**Mr. Michael Donnellan:** Egans Cash and Carry is extremely strategic in terms of a future master plan for the Mountjoy Prison campus. We do not have much road frontage on that side.

**Deputy Joe Costello:** The report indicates that there is no space for expansion but that there is space in St. Patrick's Institution and Egans Cash and Carry which could be used to provide a lot of other facilities such as rehabilitation services.

**Mr. Michael Donnellan:** The total space available at Mountjoy Prison is 20 acres, whereas Egans Cash and Carry is very limited, but it does allow options in terms of access.

**Deputy Joe Costello:** In the context of the review taking place, would it be appropriate to give a proper valuation to the site?

**Mr. Noel Waters:** Our difficulty in that respect is the fact that the site is not for sale and we have no intention of selling it. It is valued on the basis of it being agricultural land, which clearly it is not. We have no intention whatsoever of selling it.

**Deputy Joe Costello:** The Department is not going to develop it for prison purposes.

**Mr. Noel Waters:** I cannot rule that out.

**Deputy Joe Costello:** If the Department were to hand it over to IDA Ireland or An Garda Síochána, would that be the end of it? Would the prison authorities retain it as an option if that were to happen?

**Mr. Noel Waters:** That is one of the issues to be addressed. If we were to build again in a significant way, we would have a ready-made site and dealt with all of the planning issues. We would be very cautious about throwing that card away and would not do it without the Government's agreement.

**Deputy Joe Costello:** It is still an option.

**Mr. Noel Waters:** Yes.

**Deputy Joe Costello:** My final question relates to European social funding for women's equality measures. It is stated a saving of €127,000 was achieved but that this came about because of three existing projects not availing of an extension. As it was for employment purposes, what was lost in these three projects not continuing? How much money was drawn down? Are there other areas where the Department could draw down funding, or where it did draw down funding in the past but is not doing so now? Is it matching funding?

**Mr. Noel Waters:** Yes, it is matching funding. The money has not been misappropriated or anything of that nature.

**Deputy Joe Costello:** I am not suggesting that.

**Mr. Noel Waters:** The issue is whether Ireland was in a position to take up available funding. It is a very complex issue. Communities and NGOs applying for funding have a huge burden placed on them in terms of the requirements to qualify for funding. For example, one must ensure people who are working on these projects produce appropriate timesheets within a margin of error of 2%. During the course of an audit by the central authority on behalf of the European Union it transpired that they had not complied; therefore, we took it back.

**Deputy Joe Costello:** What sort of organisations were they?

**Mr. Noel Waters:** They were community groups who were providing training for women to return to the workplace. They can be in any part of the country. It is clearly something of which we, wearing our equality hat, would be very supportive.

**Deputy Joe Costello:** Will the Department not assist these groups to be in full compliance with the rules?

**Mr. Noel Waters:** Yes, I accept that idea. We are reviewing our processes to ensure we can help groups to meet the requirements. One of the difficulties we had was that, owing to the fact that there were a number of such measures in the Department, our knowledge was scattered. We are, therefore, centralising it in one unit and putting our financial management unit in charge. We will see benefits arising from this and the new arrangements will be in place for the new programme which started last year and will involve a new call for funding. We expect the difficulties that arose in the past not to arise in the future. Under the new arrangements, the applications did pass muster, unlike under the previous measure. It meant that for that measure we were unable to draw down funding of €3 million. I am advised that this €3 million is not lost to Ireland but will be taken up under other strands of the same measure in other Departments.

**Deputy Joe Costello:** Is there a section in the Department that examines what funding may be drawn down from the European Union or is it the case that organisations come to the Department? Is the Department proactive on this issue?

**Mr. Noel Waters:** In this case, it comes under our gender equality division. Part of our difficulty was that it was scattered around the organisation.

**Deputy Joe Costello:** I am not talking about this specific case but generally. There could be a wide range of matching EU funds available for a wide range of activities that would be appropriate to the Irish Prison Service.

**Mr. Noel Waters:** Yes, they would be operating from the Department.

**Deputy Joe Costello:** What structures are in place to examine what might be available so as to begin the process of drawing it down?

**Mr. Noel Waters:** It would be done within the relevant divisions. For example, this issue would be dealt with by the gender equality division. Immigration and integration issues would be dealt with by the Office for the Promotion of Migrant Integration. It would be done in different areas of the Department.



**Deputy Joe Costello:** Is Mr. Waters satisfied there is no EU funding that we are not drawing down?

**Mr. Noel Waters:** We are satisfied. Our problem is - we put our hands up on this - we need to do more in maximising this funding, ensuring we lessen the burden to the greatest extent possible on small communities and small groups of people to be able to access it. That is why we are centralising the process.

**Deputy Joe Costello:** I thank Mr. Waters.

**Chairman:** There was €7.9 million worth of purchases that did not adhere to the rules for procurement. I note that 11 of the items reported had a total value of €3.3 million. Why was the procurement process ignored or not used?

**Mr. Michael Donnellan:** Our 40/02s went down from 187 items in 2008 to 30 last year.

**Chairman:** Will Mr. Donnellan, please, explain what a 40/02 is for those who might be listening and not know what it is?

**Mr. Michael Donnellan:** It is where we have to procure goods without going to tender under the proper procurement rules.

**Mr. Noel Waters:** It has to be declared in a return to the Comptroller and Auditor General.

**Mr. Michael Donnellan:** We examine the 30 cases every month. Most of them are legacy items such as fire alarm systems or locking systems from Chubb. They make up a substantial amount of the sum where we have no choice but to have the systems serviced and procured from the companies involved. We are always looking at ways of taking the number down. We are working on the issue continuously.

**Chairman:** I can understand the contract arrangements for servicing equipment such as this. One is locked into a supplier as part of the original deal. However, it is not all explained under the heading. There are purchases which account for a total of €2.2 million. There are four urgent purchases which came to a figure of €306,000. Within the sum of €7.9 million, there are obvious breaches of the procurement process. Will Mr. Donnellan deal with the breaches of the process, rather than the understandable conditions of a service contract?

**Mr. Michael Donnellan:** These are items the Irish Prison Service requires such as security equipment which we have to purchase urgently. Obviously, it is a category we need to drive down. We need to continuously put all of our purchases through the proper procurement system. I accept that some €2.5 million of the €8 million could be dealt with in another way. We are working with the Office of Government Procurement in ensuring we get it down as far as we can.

**Chairman:** Is Mr. Donnellan saying that within that €7.9 million figure, there is only room for manoeuvre on less than €3 million of it?

**Mr. Michael Donnellan:** Yes, until such time as we find other ways out of contracts. For instance, all locking systems in the Irish Prison Service, with the exception of those used in Cork, are procured through Chubb. In Cork, we have introduced a different locking system which will allow us to break into another supplier. All of the requirements for parts and replacements have to be met through that process. Similarly, our time and attendance system is very expensive. We are developing our own system in-house which will save €1.5 million. Over time, we



hope to take this figure down to around €3.5 million or €4 million.

**Chairman:** There were four urgent purchases with a total value of €306,000. Will Mr. Donnellan give me an example of an urgent purchase?

**Mr. Michael Donnellan:** I do not have the examples to hand, but I can get them.

**Chairman:** There were ten proprietary purchases which accounted for a total of €2.2 million. What were they?

**Mr. Michael Donnellan:** I presume they were blocking and fire systems, essentially bespoke systems.

**Chairman:** Five existing contracts were extended and rolled over. I can understand the process of rollover, but why?

**Mr. Michael Donnellan:** We have lost some of our expertise in procurement in the Irish Prison Service. Our unit has been depleted and we have no alternative but to roll over contracts while we do not have proper procurement people in place. That issue has been resolved and we have now appointed a head of procurement.

**Chairman:** While the State was trumpeting new procurement systems as a great deal, we have come across significant breaches of the procurement process in several Departments, including the Irish Prison Service. What Mr. Donnellan is saying is that the service simply did not have the staff to ensure it could comply with the new procurement rules.

**Mr. Michael Donnellan:** We did have the staff. As the Chairman can see, we have got the number of 40/02s down from 187 to 30. In the past year, we have gone through a very difficult period in procurement and have had no alternative but to roll over some services such as food suppliers and the like.

**Chairman:** Does the Irish Prison Service now have someone to monitor procurement?

**Mr. Michael Donnellan:** Yes, I now personally monitor it. As the Chairman can see, there has been a dramatic reduction. Prisons are very good at stating they are the only ones that can supply it. We have to question this and say there are others we have to test to see if they could supply.

**Chairman:** In the accounts there is a paragraph that sets out all of the figures. I want to get an understanding of each of these figures, including the €3.3 million which includes five contracts which were extended and rolled over. I want to get a flavour of what is going on and why this happened. Will Mr. Donnellan do that?

**Mr. Michael Donnellan:** I can do so.

**Chairman:** Will Mr. Waters remind us of the ongoing tribunals and their cost in 2014 and 2015?

**Mr. Noel Waters:** A number of tribunals have been continuing for several years. There are a number of new tribunals which have emerged in recent times. The O'Higgins tribunal, an inquiry looking into the issues raised in the Guerin report, is sitting. It has a budget of €1.4 million. There is the commission for the location of victims' remains, namely, those who disappeared during the Troubles. It has been sitting for a significant number of years.

**Chairman:** That is €5.16 million in total.

**Mr. Noel Waters:** Yes, in total.

**Chairman:** It might be easier if we take it from the top. The Morris tribunal is first.

**Mr. Noel Waters:** Yes. That is the tribunal that looked into Garda malpractice in Donegal.

**Chairman:** That is running at €66 million.

**Mr. Noel Waters:** We think it will perhaps finish at €80 million. It might not even go that high. We are talking about third-party legal costs that need to be paid on foot of that.

**Chairman:** So it may not go as high as €80 million.

**Mr. Noel Waters:** It may not.

**Chairman:** At the moment the cost is €66.3 million.

**Mr. Noel Waters:** Yes. That is the tribunal that essentially informed the Government's proposal with regard to the Garda.

**Chairman:** I understand what it was about. The Smithwick tribunal is next.

**Mr. Noel Waters:** That tribunal related to the murder of the two RUC officers who had been to Dundalk Garda station.

**Chairman:** Does Mr. Waters think it will end at €14.2 million?

**Mr. Noel Waters:** We think there are further third-party costs coming in respect of that. To date this year, the cost has been €5 million. It is €19 million-----

**Chairman:** So it is almost €20 million as we speak-----

**Mr. Noel Waters:** Yes, almost €20 million.

**Chairman:** -----with possible third-party costs still to come in.

**Mr. Noel Waters:** Yes.

**Chairman:** Further costs.

**Mr. Noel Waters:** The sum of €5 million relates to third-party costs, and there may be more.

**Chairman:** The total is approximately €20 million at the moment. Mr. Waters dealt with location of victims. That is €5.6 million. The other commission of investigation amounts to €2.783 million.

**Mr. Noel Waters:** That is completed. The investigation related to the murder of a prisoner in Mountjoy. The next one under section-----

**Chairman:** The investigation on Roma children cost €80,000.

**Mr. Noel Waters:** Yes; that is completed as well.

**Mr. Noel Waters:** The Ronan McLoughlin commission started last year. We think the cost

will be approximately €500,000 at a maximum. The investigation is on foot of a requirement under European law for an investigation to take place when a person is killed by a member of the Garda.

**Chairman:** We will move on to the Cooke inquiry.

**Mr. Noel Waters:** That relates to the inquiry into the events concerning GSOC. That is complete as well. The next inquiry is by Judge Clarke. That relates to the Garda that died tragically in Donegal. The inquiry is under way at the moment. Finally, there is the O'Higgins inquiry, which is on foot of reports of Garda malpractice in Cavan-Monaghan.

**Chairman:** All in all, to date the tribunals have cost in the region of €110 million.

**Mr. Noel Waters:** A total of €107 million.

**Chairman:** Some of costs are ongoing in terms of third-party costs.

**Mr. Noel Waters:** Yes.

**Mr. Seamus McCarthy:** I wish to make a point about the Cooke inquiry. The main costs will be borne by the Department of the Taoiseach. These are administrative costs of the Department.

**Mr. Noel Waters:** I agree with the Comptroller.

**Chairman:** Bearing that point in mind, will any Department bring the total costs together to present them to the Committee of Public Accounts, or will it be the Department of Justice and Equality? In other words, will we get a full picture of the costs for all of the inquiries, including from any other Department to which a cost was incurred, or is that the only example in which another Department is involved?

**Mr. Noel Waters:** I think it is the only one, and there were circumstances around that.

**Chairman:** Would the cost to the Taoiseach's Department amount to much?

**Mr. Noel Waters:** I think it would be of the order of €300,000, but that is subject to checking. I will come back to you on that, Chairman.

**Mr. Seamus McCarthy:** It might be worth pointing out that a number of inquiries involve An Garda Síochána. There may be internal administration costs in An Garda Síochána that are not necessarily reported even in its own Vote as costs associated with some of those inquiries, and they would be considerable.

**Chairman:** So the ones that we can really stand over are the costs here before us, amounting to €107 million.

**Mr. Seamus McCarthy:** They would tend to be for panels, legal representation and expert witnesses.

**Mr. Noel Waters:** It is important to point out as well that these go back in the first instance to the criminal compensation tribunal in 1974, but some of them go back to 2002, 2005 and 2006, so it is over a lengthy period.

**Chairman:** I still hope we learnt lessons as to how such inquiries are put in place and moni-

tored and controlled, because €107 million is a huge amount.

**Mr. Noel Waters:** I agree entirely, and I think one of the lessons that has been learnt around this relates to the very last one, namely, the nature of the inquiries. There is a balance to be struck as to whether the inquiries are public or - like the very last one mentioned, the O'Higgins inquiry, which is sitting at the moment - not public. The fact that it is not a public inquiry means that the costs tend to be far less. It was introduced under legislation in the mid-2000s, and that changed the entire tenor of those commissions of inquiry. I agree that it is a very significant amount and that, ultimately, we would put proposals to Government to try to minimise the costs. At the same time, we must strike a balance in terms of the public's right to know what is going on when they hear the evidence.

**Deputy John Perry:** Mr. Waters and his team are very welcome. Is there much overlap between the two Votes with regard to the separate Vote of the Garda Commissioner and the Department's Vote, for which Mr. Waters is the Accounting Officer?

**Mr. Noel Waters:** It would only relate to administrative charges. I am not sure what the Deputy is asking.

**Deputy John Perry:** There was a separate Vote for the Garda Commissioner and the Department. How did Mr. Waters find the switchover?

**Mr. Noel Waters:** Deputy Perry might have been in the Chair when the person who was in my shoes was the Accounting Officer for the entire justice family of bodies. That included the Garda, the prisons, the courts, the Department and the Land Registry. That has changed dramatically. We are now down to the Prison Service and the Department. A report published during the week suggests that the director general of the Prison Service should now become the Accounting Officer for the Prison Service. The Department will study the report but as a matter of principal I personally would not have a difficulty with that. I think it would be right and proper for the appropriate accountability arrangements to be in place. Nevertheless, as the Deputy can see from the Department's Vote, there are approximately 60 subheads in it and it covers a huge range of activities from immigration to many other issues in the Department. It is a big Vote and it takes in all issues that are in the justice area.

**Deputy John Perry:** Is there much interaction or discussion on the new formation in terms of the categorisation of the Vote with regard to the administrative role of the Commissioner, the Department and the Prison Service?

**Mr. Noel Waters:** Yes, there is. A major issue that will emerge in the course of next year is the establishment of the policing authority, which will completely change the entire relationship between the Department and the Garda. Effectively, the policing authority is a new player on the scene in the justice area. It will hold the Garda Commissioner and her force to account for the expenditure of their money and it will do it in a very public way, so it will change the entire tenor of how business is done.

The legislation is almost complete in the Oireachtas. The plan is that the authority would function from 1 January. A chairperson has been appointed, Ms Josephine Feehily, the former chairperson of the Revenue Commissioners. A policing authority board is in the process of being selected. We are providing a budget for the authority of €2.7 million for next year. We are meeting with the authority next week to discuss the very issue Deputy Perry raised, namely, how the new arrangement will work. We have had several meetings in the various divisions but

the next meeting will be at the highest level. I will meet the Commissioner and the chair and others to work out a pathway for how we are going to make this new arrangement work.

It is important to point out that the Minister of the day will continue to be accountable to the Dáil for the Garda, which is right and proper. We are very strongly of that view ourselves, in that in any democratic parliamentary democracy the head of police reports to the Minister of the interior or Minister for justice of the day, who in turn reports to parliament. What does that mean in practice? It means that, for example, parliamentary questions will be dealt with by the Department. The Minister will account to the Oireachtas, unlike in the case of the HSE. We have not gone with that model. We definitively decided that we would not go down that route.

**Deputy John Perry:** Why was that?

**Mr. Noel Waters:** We believe it is very important that on matters of policing there is a direct line of accountability between the Minister of the day and the Oireachtas.

**Deputy John Perry:** Given the new policing authority and its autonomy with regard to the management of the Garda Síochána and the Accounting Officer of the Department, who will be before the Committee of Public Accounts? Will it be the policing authority or the Garda Commissioner?

**Mr. Noel Waters:** The Garda Commissioner will be here in respect of her expenditure on foot of the force. She will continue to retain that capacity. The chair of the policing authority will be there in respect of the expenditure of the policing authority, and I, or whoever is in my role, will be there in respect of the Department.

**Deputy John Perry:** I have a final question in that vein on the establishment of accounting procedures and voted allocations in the current extensive Vote which very much impacts on the operations of the Garda Síochána. Is it possible to separate the categorisation, identify what impacts where and who is accountable? Has the Department got personnel in the office of the Garda Síochána to deal with such matters?

**Mr. Noel Waters:** No, but we do have a Garda division in the Department which directly liaises with the Garda. I should have mentioned as well that the policing authority will be holding the gardaí to account in respect of policing but not in respect of security matters.

**Deputy John Perry:** Please explain what is meant by “holding to account”.

**Mr. Noel Waters:** It means, in effect, that the policing authority will be holding meetings with the Commissioner as they do in other jurisdictions. Such a regime is well established, for example, with the PSNI in Northern Ireland. They will be holding public meetings with the Commissioner and her senior team.

**Deputy John Perry:** Will Mr. Waters be in attendance as well?

**Mr. Noel Waters:** No. This would not be something that we would attend, as a Department. Effectively, the policing authority will be the voice of the consumer, in terms of policing and services, to answer the questions that the Deputy and I, and everybody, would be asking of the Garda Commissioner.

**Deputy John Perry:** Mr. Waters could have observer status for the Department.

**Mr. Noel Waters:** Yes. Personally, in terms of my role, I would not be there but the staff of

the division in the Department clearly will ensure that we know what is going on. It is important to ensure that the Minister continues to maintain her accountability functions.

**Deputy John Perry:** What are they? I have huge admiration for the job done by the Garda Síochána in these challenging times where the force must deal with a massive change in crimes and sophisticated technology. What are the Department's biggest challenges in terms of its remit and that of the Garda Síochána? There are always issues and problems. People can easily criticise but we must acknowledge the extraordinary work, dedication and commitment given by the force.

**Mr. Noel Waters:** Of course, they vary from time to time. Clearly, from the perspective of the Department the support of the Garda in its work preserving the peace and security of the people of Ireland is clearly a major role of us in the Department and we would be very strong on that. What does that mean in practical terms? It means negotiating with our colleagues in the Department of Public Expenditure and Reform on the annual budget for the Garda and supporting the force in whatever way we can. Clearly, crime is always going to be with us. Right now it is a very serious issue. The Deputy will be aware of the Minister's announcements during the week and a resource envelope is being made available to tackle crime. That is a very big issue for us.

The immigration area is a huge issue for the Department which impacts on the Garda as well. This is an issue which has resonated around the world and around Europe, in particular, which we see every night. We have to deal with all of the related issues.

We have to support the prison system of course in terms of ensuring that the prison system maintains the safe custody of people. We support the Courts Service in ensuring that justice is administered fairly. We also have a whole range of equality issues in our remit around the Department which we have to ensure we support as well.

In looking at matters in the round, what are we trying to do in the Department? We are trying to ensure that the entire criminal justice system is joined up and over the years that may not always have been the case. When one part of the system does something we must ensure that the implications are known to the others parts of the system. For example, in terms of addressing burglaries at the moment, and the Deputy may have heard the statistic that 75% of all burglaries are committed by 25% of burglars. We want to ensure, and these cases are now being targeted by the Garda, that we have the resources and provisions in place to ensure that the perpetrators are brought before the courts, that they are dealt with expeditiously in the courts, that the law is appropriate - the Minister, as the Deputy will know, is addressing that aspect - and if a person is sentenced to a term of imprisonment that he or she is held there. We have a number of proposals which will be announced in the near future in terms of ensuring that we join up appropriately to keep all of the elements of the criminal justice system working efficiently in order that we have better outcomes for everybody.

**Deputy John Perry:** I am glad that the acting Secretary General has raised that point. He will know about the interfacing of technology at the moment and the Courts Service has done a-----

**Mr. Noel Waters:** Yes.

**Deputy John Perry:** -----fantastic job of consolidating services.

**Mr. Noel Waters:** Yes.



**Deputy John Perry:** I refer to Mr. Ryan of the Courts Service and the administration of courts, the refit, the new buildings and the capacity to deal with courts. As Mr. Waters has said, 25% of burglars cause 75% of the burglaries. We have heard about tagging but there is a simpler method available. Any legal office that is connected to the website of the Law Library can view the whole registry of deeds so lawyers know exactly who they are dealing with. Is it possible where people have a criminal record that such knowledge would be interfaced into the courts through such a web base? It would mean that when a gentleman goes into court that the clerk can say to the judge that he or she has checked the gentleman out and state that he is on the system.

**Mr. Noel Waters:** That is the very point, we are trying to address to ensure that the elements of the criminal justice system do join up, and that we do have one common identifier for somebody who interfaces with the criminal justice system so that when they do turn up in some other element of the system they are known by that identifier. That is a very difficult thing to achieve even though it sounds easy. Strategically, this is where we want to go. We want to ensure that we can do that so that we have one view of the customer, if I can put it like that.

**Deputy John Perry:** I wish to comment on that point. I come from a business background so I imagine that when a guy goes into a court one should be able to gain access to every technological base in the world and scan, etc. A court clerk should be able to check whether the gentleman's name is registered and, for example, state whether he is on probation. Such information should be automatically sent to the Courts Service and it could easily go back to the Law Library. It would mean that when a client goes to his or her solicitor the solicitor can check the system to verify the prospective client's background.

**Mr. Noel Waters:** I would have a little concern about that aspect, Deputy. I have no difficulty and I think it is only right and proper that the elements of the criminal justice system would share the information. Once they go beyond that I would have a difficulty because one is into issues of data protection. One is into a situation where everybody, irrespective of what crime they may be charged with, is innocent until the courts have dealt with them. I think we would be reluctant to go into the aspect of sharing information with third parties.

**Deputy John Perry:** I am not saying that. People are innocent in terms of the charge presented.

**Mr. Noel Waters:** Yes.

**Deputy John Perry:** They are not innocent in terms of charges for which they have been convicted.

**Mr. Noel Waters:** That information may be available publicly in other fora. For the criminal justice system to be actively working to make sure that information is available generally to the public is not something that I think would be an immediate priority for us. Our immediate priority would be to ensure that within the criminal justice system we do share the appropriate information so that we do get the better outcomes ultimately for the citizens in terms of the administration of justice.

**Deputy John Perry:** I wish to comment on illicit trade. We have all heard about the trafficking of illegal alcohol, cigarettes and branded goods.

**Mr. Noel Waters:** Yes.

**Deputy John Perry:** Such trade is a huge issue in the southern six counties at the moment.

**Mr. Noel Waters:** Yes.

**Deputy John Perry:** Illicit trade is a highly profitable business. Branded goods are being sold as originals at stalls and stands. Can the assistant secretary explain how such illicit trade is dealt with?

**Mr. Noel Waters:** Ultimately, that is a matter for the Garda and the Revenue Commissioners in terms of law enforcement around that. The Deputy mentioned the Border area but there are a number of bodies that work jointly to counteract tobacco smuggling which represents a serious loss to the Exchequer every year as well as diesel laundering and fuel smuggling. These bodies work together to the greatest extent possible. The Deputy may be aware that, in the context of the talks that are under way at the moment, there may be further developments around that in terms of ensuring that if there are any gaps there that need to be addressed they will be followed through. Ultimately, it is a matter for the Garda and the Revenue Commissioners and, indeed, the Department of Social Protection, which has been a feature of our system in recent years. For example, there are 20 gardaí assigned to the Department of Social Protection and the question of a continuation is being considered at the moment. They are there for the purposes of ensuring that fraud and issues of that nature are dealt with, that the system is joined up and that people who need to have that information when chasing people down do have it. We know about the number of gardaí. We would all like to have significantly more gardaí visible in our own communities. At the same time, we would strongly support the Commissioner in that, according to the wider interests of the public, gardaí would be assigned to other offices to do work of that nature. It is a good use of resources in the overall sense, for the entire community and for the Exchequer.

**Deputy John Perry:** I have heard an advertisement on the TV and radio which says that once the alarm goes off, there will be gardaí at the back door and the front door. The advertisement is from a certain company, which I will not name. Can Mr. Waters explain to me how that operates, if we are talking about detection of crime and rural crime, if a licensed premises or business is broken into which would have an effective alarm system in place? I have been told that what the advertisement promises is not actually taking place, that the Garda is not notified if the alarm goes off in a premises in Sligo.

**Mr. Noel Waters:** I am not familiar with the particular advertisement the Deputy refers to. I should say that the operation launched during the week, one key element of it is awareness-raising, to ensure that people do know about the vulnerabilities in their houses and know that people can get in the front door very easily and then move on in through their houses. They do need to be made aware of the appropriateness of the locks and systems they have and all that. That is very much a central feature of operation Thor, which is---

**Deputy John Perry:** No, but on the detection of this, which is---

**Mr. Noel Waters:** Is the Deputy talking about monitoring alarms?

**Deputy John Perry:** Yes. Certainly there are commercial companies for commercial properties. It is often the nature of crime, from watching "Crimewatch", that a lot of these alarms are broken into by professionals.

**Mr. Noel Waters:** We may be straying here into operational matters, which I would not have---

**Deputy John Perry:** No, but I am still making a point.

**Mr. Noel Waters:** I take the Deputy's point. These alarm systems are private companies and as----

**Deputy John Perry:** We are talking about joined-up thinking here. Mr. Waters mentioned the involvement of the private service and private companies, and that the whole new approach of the Garda Síochána at the moment involves community. It is about a proprietary interest in businesses.

**Mr. Noel Waters:** I accept that but, at the same time, I think it would be an unwise use of Garda resources if gardaí were to spend their time attending to alarms which were provided by private companies, desirable and all as it might be for all of us. We have to protect the public interest here.

**Deputy John Perry:** I would not say they should do so for widespread private companies, but in major commercial properties that would be identified as being at risk - petrol filling stations, for example. It is very easy to identify the top five types of property that are now being a serious hit on these guys who are coming from Dublin in high-speed vehicles. I am not saying that we would identify 100% of them but that we would take, say, 5% of key suspect properties for which there would be a clear monitor to the local Garda station. These would be a commercial properties with substantial assets on base. It would be one way of looking at the detection rate.

**Mr. Noel Waters:** I agree with the Deputy entirely. Gardaí have very good relationships with the private security industry generally. They have senior gardaí on the board of it. They ensure that the appropriate licences are issued to the people who should be getting them in an industry that historically was not always very clean. That is what they are working very hard to ensure. There are very good relationships there and they do work with them. Ultimately, we have to ensure that we have outcomes which are to the benefit of all the community.

**Deputy John Perry:** I have one final question. We are getting extraordinary value for money for the reserve force and I have seen them operate and they are as effective as the Garda Síochána on the ground. They are an extraordinary vehicle for creating a policing presence. What are the plans for that?

**Mr. Noel Waters:** At the moment as I understand it - I am subject to correction here from colleagues - the strength of the reserve is of the order of about 1,200. I think the Minister has indicated that she would wish to see it go higher. In the coming weeks there will be a recruitment campaign to bring an additional 600 gardaí into the force. As part of that we anticipate some possible further announcements around the reserve as well. It has been particularly useful in terms of recruiting gardaí. People who would have come through the reserve would have a sense of the career they are entering into. I agree entirely. The Department and, I have to say, gardaí, after some initial reluctance on it, have been very firm advocates of the reserve. I know from talking to her personally on this matter that the Commissioner would be a very strong supporter and sees the value it brings in respect of particular elements of policing, crowd control and attending local events. For the ordinary member of the community to see the reassuring sight of that person in uniform - they may as well be a fully-fledged garda. The cost to the State is minimal; I do not have the figure but it is very small.

**Deputy John Perry:** I would like to compliment the Commissioner on her extraordinary

endeavour since she has been appointed and wish her well.

**Mr. Noel Waters:** I will pass the Deputy's comments on to her.

**Deputy Shane Ross:** I had prepared quite a lot of questions for Mr. Waters which are completely out of order. I have now found something which is in order and is useful, which he produced himself earlier. I will discard all the other stuff.

I was just struck by what he said at the beginning and want to probe that a little bit further. Mr. Waters is acting Secretary General now. Does he get paid the same amount as a Secretary General?

**Mr. Noel Waters:** At this stage, yes.

**Deputy Shane Ross:** That is fine. Is he kind of semi-permanent in that sense?

**Mr. Noel Waters:** As I said earlier, I am there until the Minister decides to have a competition and until whatever the outcome of that competition will be. It is not a matter that is in my gift. I want to acknowledge the work of my colleagues in the Department of Public Expenditure and Reform in ensuring that my own personal situation was resolved. I am not sure whether I mentioned it earlier, but I have been formally designated by the Minister for Public Expenditure and Reform as the Accounting Officer under legislation for the Department.

**Deputy Shane Ross:** Mr. Waters did mention that. Has he been given any indication as to how long he will have to sit in that job which he does not want?

**Mr. Noel Waters:** The Deputy is putting me in slight difficulty here. I have not said that I did not want the job. Again, it is a matter entirely for the Minister and what she sees fit. On the original competition, she has indicated that she believed that perhaps the time was not right, given the controversies which had arisen and all the issues that had fallen out of that, and that it was a difficult position - which I can attest to. It was a difficult position, and perhaps in those circumstances people who otherwise might have come forward did not. She has indicated that at some future point she will decide what to do in terms of approaching the appropriate authorities to hold a new competition.

**Deputy Shane Ross:** Based on Mr. Waters's performance today, I do not think he would be lacking in the qualities to fill that position.

**Mr. Noel Waters:** The Deputy is very kind.

**Deputy Shane Ross:** Could he just tell us where the procedure is and what happened? It is quite staggering. Is it not one of the missions of the Department to maintain a secure Ireland?

**Mr. Noel Waters:** Yes.

**Deputy Shane Ross:** It is staggering that the position has not been permanently filled. Could Mr. Waters tell us how the procedure went, when it started, where it is at now, and when it stopped? What happened?

**Mr. Noel Waters:** I am slightly limited. I will share the information I have with the Deputy, but I am slightly limited in that the procedure is not directly run by the Department of Justice and Equality. The ordinary process for filling a Secretary General post - again, our colleagues from the Department of Public Expenditure and Reform might fill in any gaps I might have on

this - is that nowadays an ad is placed in the papers. It is an open competition to the wide world. Anybody can apply. That ad is placed by the Public Appointments Service, which is effectively the State's employment agency. The terms and conditions are set out, and the requirements of the job are all published and are there available to people. People apply online. Ordinarily a group would then be brought together of senior people from within the system and from outside it, and they would assess the applications. Depending on the number of applications, they may decide to invite some people forward for what is known as a preliminary interview. On foot of that, they would recommend those for further interview by the Top Level Appointments Commission, TLAC, which would interview the people and then nominate a person or persons for the Government to decide who should be appointed to the role. That is my understanding of the situation in very broad terms. Perhaps colleagues from the Department of Public Expenditure and Reform who are here with us might be able to add something to that, if I have missed out on something.

**Deputy Shane Ross:** Yes, maybe.

**Mr. Ronan Gallagher:** That is a pretty good description of the process. It is independent and it is confidential, so I would not have any more to say. That is a good outline of the various stages. It is managed by the Public Appointments Service-----

**Deputy Shane Ross:** I do not want any names or addresses or anything like that. What stage did this one get to?

**Mr. Noel Waters:** Again, I am operating from second-hand information, and I think this may have been released under a freedom of information request in recent months. I think it may have got to the point at which the preliminary board met and interviewed a number of people and, on foot of that, were not in a position to recommend that a further interview take place under the Top Level Appointments Commission. I am subject to correction on that, but from my recollection, that is what happened.

**Deputy Shane Ross:** Is that Mr. Gallagher's understanding?

**Mr. Ronan Gallagher:** Yes. My understanding of it does not extend beyond what the acting Secretary General understands or-----

**Deputy Shane Ross:** It only got to a very preliminary stage and then stopped. It did not even get to the stage of the TLAC interview.

**Mr. Ronan Gallagher:** Apparently not.

**Deputy Shane Ross:** When was that?

**Mr. Ronan Gallagher:** To the best of my knowledge, it was October of last year. I took up the role on 2 October last year. As I said earlier, I was doing it on the basis that I anticipated it would be a matter of weeks, and I was doing it to fulfil a statutory requirement that there would be an Accounting Officer in place, but we know what happened subsequently.

**Deputy Shane Ross:** What date did Mr. Purcell retire on?

**Mr. Ronan Gallagher:** He has not retired. He left the Department-----

**Deputy Shane Ross:** He moved. Sorry.



**Mr. Ronan Gallagher:** He moved from the Department in early October or the end of September of last year.

**Deputy Shane Ross:** Sorry; I just want to get this right. Early October 2015?

**Mr. Ronan Gallagher:** In 2014.

**Deputy Shane Ross:** He retired in 2014-----

**Mr. Ronan Gallagher:** No, he moved to another-----

**Deputy Shane Ross:** He moved or whatever happened to him. Let us not-----

**Mr. Noel Waters:** In fairness, Mr. Purcell was a good colleague and I retain his friendship. He was a loyal colleague who suffered personally on behalf of the State. He is a man of absolute integrity and he acknowledged in a very open way to the Fennelly commission what happened with the famous letter. To be fair to Mr. Purcell, it is not quite true to characterise him as having retired. He has moved to another area. He is an honourable civil servant and has served the State well.

**Deputy Shane Ross:** I stand corrected. That is perfectly reasonable and I thank Mr. Waters for that statement. Mr. Purcell moved in October 2014. The vacancy arose in October 2014.

**Mr. Noel Waters:** Yes.

**Deputy Shane Ross:** The advertisements went out in October 2014.

**Mr. Noel Waters:** No, they would have issued in the late summer of 2014, maybe in late July or August. The process tends to be elongated, but, from recollection, the advertisement in that case issued in August 2014.

**Deputy Shane Ross:** It collapsed, in effect. The process collapsed because the right person could not be found.

**Mr. Noel Waters:** It went to a point in the process at which the interview panel was not in a position to nominate somebody to go forward to TLAC for further interview.

**Deputy Shane Ross:** That ceased in October 2014. Since then, nothing has happened.

**Mr. Noel Waters:** The Minister has said repeatedly since then that she felt that perhaps, given the circumstances, people who might have come forward did not do so, but in the meantime she had asked me to take on the role. I took on the role and have continued in the role. I continued until the summer of this year to carry out my functions in respect of immigration, but that issue was resolved this summer and the Minister has said that when she believes that circumstances are right she will go back and seek a fresh competition.

**Deputy Shane Ross:** Ultimately, the appointment is a political one. Deputy Deasy was right; it goes-----

**Mr. Noel Waters:** Terminology is important here. It is a political appointment in the sense that all Secretaries General are appointed by the Government. In that sense, it is a political appointment, but it is not a political appointment in the sense in which a practising politician such as Deputy Ross might understand it. My sense of the phrase would be slightly different - I think my colleagues would share this - from Deputy Ross's sense of it. It is an appointment by

the Government.

**Deputy Shane Ross:** By a politician.

**Mr. Noel Waters:** Clearly, as a member of the Government, yes.

**Deputy Shane Ross:** In my book, that is a political appointment.

**Mr. Noel Waters:** On that basis, every Secretary General since the foundation of the State has been a political appointment.

**Deputy Shane Ross:** Absolutely correct. I agree with that. It is at the discretion of the Government not to appoint or to appoint.

**Mr. Noel Waters:** It is only right and proper in my view, given the nature of the appointment, that it should be a matter for the Government to make that decision.

**Deputy Shane Ross:** We will beg to differ in certain circumstances, but that is fine. Mr. Waters became the acting Secretary General and he took on the powers of Accounting Officer.

**Mr. Noel Waters:** Yes.

**Deputy Shane Ross:** Are there any powers at all that the Secretary General has and that Mr. Waters has not assumed?

**Mr. Noel Waters:** Not to my knowledge.

**Deputy Shane Ross:** None.

**Mr. Noel Waters:** No. I am subject to correction, but there may be some issue, which is subject to legal advice, about my capacity to sack people, but-----

**Deputy Shane Ross:** Does Mr. Waters want that power?

**Mr. Noel Waters:** I do not necessarily wake up every day wishing to sack people, I can assure the Deputy, but if the issue arose, how that power would be exercised would be subject to advice from the Attorney General. I have not been called upon to do that. In all other responses I do exactly the same as every other Secretary General.

**Deputy Shane Ross:** Mr. Waters has the same powers, bar the right to sack people.

**Mr. Noel Waters:** Yes.

**Deputy Shane Ross:** Nobody ever gets sacked in the Department of Justice and Equality anyway, do they?

**Mr. Noel Waters:** They do. This is a wider issue for the public service, but people do leave their posts. I accept that there is a wider issue about non-performance and in a wider sense it is a problem for the entire public service. That is being addressed as part of the entire Civil Service renewal programme. I should mention that I am also part of the Civil Service management board, a new creature that has emerged on foot of the Civil Service renewal programme last year. I am part of that and I subscribe, attend and contribute in the same way as every other Secretary General in every other Department.

**Deputy Shane Ross:** Was any risk analysis done on the dangers of going a year without

filling that position?

**Mr. Noel Waters:** It is filled, in that I am doing it.

**Deputy Shane Ross:** It is not being filled by someone who is permanent-----

**Mr. Noel Waters:** We do have a risk analysis system, a risk register, in the Department. I am in position. I cannot speak for the Minister, but I imagine that if she had a concern about this matter she would take whatever action was necessary. We are a functioning Department. We are delivering across a range of areas. We are responsible for at least one third of the entire output of the Oireachtas in terms of legislation on social policy. One third of all legislation that is debated in the House emanates from the Department of Justice and Equality. We are about to finish the most fundamental reform programme for the Garda in its history. We are dealing with issues across the spectrum: immigration, crime, policing, and so on. We are a functioning Department and I thank and pay tribute to my colleagues on the management board who are supporting me very strongly - some of them are here today - in discharging that function. We have made considerable changes around their responsibilities and roles and they are fully subscribed to that and working well with me.

**Deputy Shane Ross:** I thank Mr. Waters. His replies would indicate to me that he is a bit too robust to be an answer to the Minister's prayers, but I wish him good luck. It sounds to me that he might be in the running for the post. I want to ask him one more question, which I think he touched on. The closure of the Garda stations saved €500,000, apparently, according to the Minister.

**Mr. Noel Waters:** If I can go back on the history of this for a moment-----

**Deputy Shane Ross:** That is what she said.

**Mr. Noel Waters:** I think €549,000 per annum is the actual figure, but the process around this is that the Commissioner, back in 2012-2013, as the Deputy knows, in preparing the policing plan, identified better ways in which to deliver a policing service. As part of that, a Garda station rationalisation programme was devised which ultimately led to the closure of 139 stations. Those proposals were accepted by the then Minister. It is important to note, in case the point is lost in the debate, that in terms of the population, we have a very substantial number of Garda stations - 585 - still in operation. To make a comparison, Scotland, a similar jurisdiction, has only a couple of hundred.

In terms of the rationale for the programme of station closures, it was not merely - I use the word "merely" advisedly - about saving money but also about the Garda, as it is required to do under law, identifying the best policing model it saw fit and delivering that model. In the view of Garda management, a view the Minister accepted, it represented a better utilisation of Garda resources for members to be out on mobile patrols meeting people in communities rather than manning Garda stations, which was soaking up resources. That is the context in which the decision emanated.

**Deputy Shane Ross:** Is the figure of €549,000 correct?

**Mr. Noel Waters:** Yes, €549,000 per station.

**Deputy Shane Ross:** Surely it is not per station. Does Mr. Waters mean per annum?

**Mr. Noel Waters:** No, that is the figure in its entirety, averaging out all the costs. For some

stations, with longer opening hours, the figure would presumably be a lot more. On the other hand, some of the stations that were closed had been opening only for half an hour a day or every two or three days. In many cases, therefore, we are not talking about stations that were functioning 24-7 with a full complement of gardaí.

**Deputy Shane Ross:** Nobody has argued that all 139 stations should have been kept open. Part of the problem, however, is that this was portrayed as being about saving money. To come up with a figure of €549,000, which some people reduced to €300,000, is-----

**Mr. Noel Waters:** I apologise for interrupting the Deputy. The €549,000 figure is per annum.

**Deputy Shane Ross:** That is fine.

**Mr. Noel Waters:** The rationalisation programme was not entirely about saving money. Of course, there was-----

**Deputy Shane Ross:** However, it has not saved any money. The per annum figure is very small in proportion to the overall budget. It seems strange that anybody should describe what we have now as a policing model that is working. Certainly, the incidence of burglaries indicates it has failed in certain areas. I will concede part of the point here to Mr. Waters but not the main part of it. The Central Statistics Office figures that were announced by the Minister last week show that in certain areas where Garda stations were closed, crime, including burglaries, has gone down. That is being claimed as a justification for this particular move. In other areas, however, crime levels have rocketed.

It seems there is no one-size-fits-all solution here. The mistake that was made was to look at the projected overall cost saving and view the issue as an overall problem to be solved. The reality, however, is that whereas certain areas need more resources in a context where we are seeing rampant burglaries - I am thinking of people coming off the M50 and other motorways - in other areas, the closures were justified and crime rates have gone down. That is true generally of the west. However, in the areas where it has gone up, it has rocketed. Mr. Waters knows the areas to which I am referring, such as Stepside in particular, in which I am especially interested. We should not be frightened of reviewing this decision. It requires accepting that what was done was partially right and partially wrong and was neutral in terms of moneys saved. Does Mr. Waters agree that is a reasonable conclusion to reach?

**Mr. Noel Waters:** There is a practical difficulty in all this, apart from the policy aspect. I am conscious we are straying slightly into policy matters.

**Deputy Shane Ross:** We have the figure of €549,000. Let us use it as a hook.

**Mr. Noel Waters:** Ultimately, these decisions were made by the Garda Commissioner. When she comes before the committee, the Deputy might be able to explore the issues with more purchase than he can do with me. Many of the stations have been sold, so whether or not-----

**Deputy Shane Ross:** Stepside station still has a security person in it, which is costing the State money.

**Mr. Noel Waters:** That station is in the portfolio of the Office of Public Works.

**Deputy Shane Ross:** That is correct. It has not been sold.

**Mr. Noel Waters:** As I said, I am conscious to avoid making a comment on a policy matter. It is important to note there was a significant deficit in the resource envelope for the Garda Síochána. Action has been taken to address that, particularly in the past 18 months, in terms of the provision of equipment and manpower. When one looks at the overall situation in respect of stations, one should factor in that there will be more gardaí becoming available to serve communities. The Government is committed to keeping Templemore reopened for the purposes of ensuring we do not find ourselves in a situation where the level of recruitment stops entirely, which it did some years ago, and that we have a continuous flow of recruitment into and replenishment of the force.

**Deputy Shane Ross:** I thank Mr. Waters.

**Chairman:** Deputy Deasy raised an issue about Garda inquiries and the need to apply some urgency in that regard. In recent times, when an issue has arisen, for example, in respect of the Health Service Executive, there has been a tendency to refer it to the Garda for inquiry. This happened in respect of the Comptroller and Auditor General's report into matters relating to the HSE and the management of a SIPTU fund. Once that happens, this committee's investigation into the issue in question has to be parked. It is difficult to understand why a matter that is being investigated by this committee and is subsequently referred to the Garda for investigation is not given priority in terms of a decision whether the Garda can conclude such an investigation. Some way must be found to assign priority to matters that are being debated at or investigated by this committee, and the Garda should be encouraged to deal with them in an urgent manner. I say this to be helpful both to the work we do and the work done by the Garda. If there is a way of dealing with these matters more efficiently, that certainly would be helpful to the Oireachtas committees. I raise this point in the context of the points raised by Deputy Deasy. Perhaps Mr. Waters will raise it with the Commissioner in the course of their discussions.

**Mr. Noel Waters:** I am happy to convey the Chairman's point to the Commissioner after the meeting. I take the point the Chairman and Deputy Deasy have made. I share their view that the public interest requires that when these issues are raised, whatever information should be given to the public is, in fact, put out there as quickly as possible. It is in all our interests to ensure that is done. At the same time, in so doing we should be careful not to cause a further difficulty or jeopardise a prosecution if such is in course. Nevertheless, I take the point entirely.

**Chairman:** I made it having borne all those circumstances in mind. It is important we try to resolve the matter.

**Mr. Noel Waters:** Absolutely.

**Chairman:** In terms of station closures and associated savings, I echo the point made by Deputies Deasy, Ross and others that there is great concern in rural areas about the carrying of firearms, violent raids on commercial premises and assaults on people in their private homes. It is frightening. I encourage the Garda to do whatever is necessary, wherever these raids have peaked, to provide localities with more resources and give comfort and commitment to communities. Gardaí are making the effort to do that but at no stage in the course of doing it should resources become an issue. That in itself would be a kind of defeat in the face of the alarming escalation of burglaries and violence.

**Mr. Noel Waters:** I cannot disagree with what the Chairman is saying. I was struck recently by a remark the Commissioner made in the context of a discussion about the bad things that are happening in rural areas. She indicated her wish to reassure communities they were not being



left alone. That is entirely the way we in the Department are approaching matters. As my colleague said, one of the benefits of our investment in the force is that through the analysis section the Garda is able to pinpoint - I have seen this myself - and examine what might seem to others as random, unlinked events in a community. When they are all mapped onto an IT system and a trained, skilled person has the capacity to analyse that, however, it provides an entirely different picture. The Garda is doing precisely that today now that we have the resources for it to do so in tackling the type of issues the Chairman referred to. That is a big breakthrough for us and we were able to support the Garda with a resource envelope to enable it to maximise that.

**Chairman:** Separately, we did a report on wards of court and made recommendations regarding the Comptroller and Auditor General being able to audit the fund and its performance. I know this is properly a matter for the Courts Service, but our report goes to the Minister for Justice and Equality. Will Mr. Waters comment on or give the committee an idea of when it will receive a reply to that report?

**Mr. Noel Waters:** I have not seen the report yet but there are a couple of points I want to make. I have checked this with our colleagues in the courts. First, at a policy level, we have no objections whatsoever and would support the Comptroller and Auditor General and the committee having sessions on this in terms of the audit. That is a matter for legislation and the powers of the Comptroller and Auditor General. The committee will not find any objections from the Department or the Courts Service to it getting involved in this - far from it. We believe it will give it added validity in terms of reassurance to people.

In respect of the committee's report generally, I had an opportunity overnight to have a look at its contents. I checked this morning with colleagues in the Courts Service and they have set up a provisional implementation group on this report. They are looking at how they will take it forward and what was identified in the committee's report.

From the Department's perspective, I want to make two points in support. There is legislation on Committee Stage in the Seanad at the moment. It is the Assisted Decision-Making (Capacity) Bill which will become law before the Oireachtas rises for the Christmas recess. That will change the entire administrative apparatus around the operation of wards of court. Another piece of legislation, which is quite complex, is the civil liability Bill, although I do not know precisely when it will emerge. It will provide for periodic payment orders. Therefore, instead of the courts making a very large award in one lump sum to a person who suffers a catastrophic injury, as happens, tragically, they will make awards to him or her on the basis of his or her anticipated needs during the course of his or her life. Based on international experience, everybody would agree that would be a far more preferable way of ensuring the needs of people who find themselves in that appalling situation are met throughout the course of their lives. That legislation is coming down the tracks as well.

**Chairman:** Will Mr. Waters comment on subhead 5.2 in the 2014 accounts, entitled "Other remuneration arrangements", where a total of €35,900 was paid to several retired civil servants who were in receipt of civil service pensions in 2014? In addition, €20,716 was paid to four former public servants, and €198,838 to six former members of the Judiciary who were engaged in various roles in 2014 under the same heading. A total amount of €1.226 million was paid through the payroll to 121 individuals.

On 4 November, I saw in a newspaper that €1 million was paid in expenses to judges in six months this year. Is it true that their gowns and so forth are paid through the Department or the Courts Service?

**Mr. Noel Waters:** It is through the Courts Service Vote. Any expenses in the course of their duties are picked up by the Courts Service Vote. The Chairman asked about individuals who were paid. An example of those would be the judge who ordinarily presides over our citizenship ceremonies. He is paid a small stipend for each of those. That is one example. Another example is a judge who is involved in ensuring the telephone and communications legislation is operating appropriately. Therefore, we are talking about people who are involved for relatively small stipends for doing that work, and they are all retired. Then there is a judge who chairs the mental health review body. That involves prisoners who have been found guilty but insane. They have a statutory right to have their cases reviewed, so a judge is involved in reviewing those cases. Those are the types of situations where such people are involved. We have a judge who is the chief inspector of our prisons.

A former senior civil servant is the commissioner for the Independent Commission for the Location of Victims' Remains. Members of the Parole Board are former public servants. It was believed that they would be able to bring something to that board, but they are not entirely public servants.

**Chairman:** No, but they come back because they have the experience. Is that it?

**Mr. Noel Waters:** Yes.

**Chairman:** Then they are given a small sum.

**Mr. Noel Waters:** Exactly, but we do not-----

**Chairman:** What does the other figure relate to, the total amount of €1.226 million?

**Mr. Noel Waters:** Within the remit of the Department there are 121 individuals serving on various boards. For example, these would be the Parole Board, the mental health review board and the Private Security Authority. They would be the normal board members who would be paid the standard rates that every members of a board is paid.

**Chairman:** In total that costs the State €1.226 million.

**Mr. Noel Waters:** Exactly but to be fair, the amounts are of the order of €8,000 to €12,000 and they provide a good service in terms of their contribution to those boards.

**Chairman:** In terms of judges' expenses, I saw the report in the newspaper and I thought it was a significant sum. It said that judges claimed €1 million in expenses in six months of this year.

**Mr. Noel Waters:** Again, that would be paid out of the Courts Service Vote.

**Chairman:** It is not Mr. Waters' Vote?

**Mr. Noel Waters:** No, it would not be out of my Vote.

**Chairman:** The other matters I raised come out of the Courts Service Vote as well.

**Mr. Noel Waters:** Yes.

**Chairman:** Okay, we can deal with that separately.

**Deputy Joe Costello:** Following on from what Mr. Waters was saying about expenses and

payments, subhead 5.3 is entitled “Payroll overpayments”.

**Mr. Noel Waters:** Yes.

**Deputy Joe Costello:** There are reasonably significant overpayments in the payroll year on year. What steps are being taken to address that?

**Mr. Noel Waters:** I accept the Deputy’s point. That is a concern for us, as it is a concern for all colleagues in other Departments regarding people who are overpaid. Both in the Prisons Vote and the Department’s Vote, one of the difficulties is that the regulations governing sick leave were changed so that now people move on to half-pay after three months of sick leave. Our systems are slow in catching up with that. We are also moving or have moved some of our payrolls. Up to recently, these were all done by my colleagues’ operation in Killarney, but we are now moving into a public service payroll centre. We are working with them to ensure we reduce those overpayments to the minimum and, crucially, that we have repayment plans in place for everybody. We are not happy with a situation where people have been overpaid for whatever reason, through payroll error or inputting information, and it is left to gather and there are no repayment plans in place. One of our key objectives is to ensure we have repayment plans.

**Deputy Joe Costello:** How are those repayments pursued at the moment?

**Mr. Noel Waters:** We are getting to the position where people owe us a certain sum of money and we take it off their fortnightly salaries over a period. We try to reach some measure of agreement with people but that is not always possible. Clearly, it is in the entire PeoplePoint system, but for all that, we do not want to cause undue hardship to people where, for example, there may be illness issues or it may have been no fault of theirs. In the finish, however, we are conscious that we need to protect the taxpayers’ interests in this.

**Deputy Joe Costello:** Can Mr. Waters legally deduct at source?

**Mr. Noel Waters:** That is what we would be doing.

**Deputy Joe Costello:** Can Mr. Waters do it at the moment?

**Mr. Noel Waters:** That is what we would be doing. Exactly.

**Deputy Joe Costello:** He is legally entitled to do it.

**Mr. Noel Waters:** Exactly, yes.

**Deputy Joe Costello:** On a final point-----

**Chairman:** Not to rehash the argument, but the Department is preparing to put its hand into the pocket of the employee and take it back-----

**Mr. Noel Waters:** Yes, absolutely.

**Chairman:** -----and it lets the local authorities off with a fortune. That is the problem the citizen has with the State. Citizens feel beaten up by the fact that big institutions can get away with murder but they seem to have to pay for everything. Governments, one after the other, continue to beat people up and take money out of their pockets when the other matter still pertains not only in term of Mr. Waters’ Department, but others. It is not fair. That is the bottom line.

**Mr. Noel Waters:** I take the Chairman's point entirely.

**Deputy Joe Costello:** I agree.

Finally, Mr. Waters will be familiar with the new programme of small areas policing that is being piloted in Store Street under Chief Superintendent Pat Leahy. The idea is that all the local police would be given a specific number of streets and they would have to meet directly all of the residents, collect data on the area and be responsible for the community policing of the area. Public representatives have worked with them on that. Is it intended to introduce that programme throughout the country?

**Mr. Noel Waters:** I spoke to the Commissioner about this matter some time ago. As the Deputy will be aware, she is conscious of speaking to local communities and has picked up strongly that there would be positive support for this in the sense of people in communities getting back to the old model of policing where everybody knew who their police person was. Obviously, there are resource constraints. However, they are reviewing that programme to see what can be done with it, subject to the resource requirements associated with it. The Garda Commissioner is reviewing that and perhaps it is something the committee may wish to take up with her when she is before the committee.

**Deputy Joe Costello:** It is worth looking into. It received a award for best practice in the European Union. Perhaps we might extend it to Kilkenny and Carlow and their environs.

**Mr. Noel Waters:** Indeed.

**Chairman:** Deputy Costello will assist me greatly in my fight to retain my seat.

**Deputy Joe Costello:** We will do that, indeed.

**Chairman:** Is it agreed to dispose of Vote 21, Vote 24 and Chapter 9? Agreed.

I thank Mr. Waters and his officials. I echo what Deputy Ross said in complimenting Mr. Waters, but I am not sure whether he should rush to put that on his CV. I would leave it off for the moment. It probably comes with a health warning.

**Mr. Noel Waters:** I thank the Chairman, the members of the committee and my colleagues.

**Deputy Joe Costello:** The Chairman will give Mr. Waters a reference.

**Mr. Noel Waters:** I thank Deputy Costello.

**Deputy Joe Costello:** I also thank Mr. Waters.

*The witnesses withdrew.*

The committee adjourned at 2.25 p.m. until 10 a.m. on Thursday, 12 November 2015.