

DÁIL ÉIREANN

AN COMHCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

JOINT COMMITTEE ON JUSTICE AND EQUALITY

Dé Céadaoin, 20 Meán Fómhair 2017

Wednesday, 20 September 2017

Tháinig an Comhchoiste le chéile ag 9 a.m.

The Joint Committee met at 9 a.m.

Comhaltaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	Seanadóirí/Senators
Colm Brophy,	
Jack Chambers,	
Clare Daly,	
Jim O'Callaghan,	
Mick Wallace.	

I láthair/In attendance: Deputy Donnchadh Ó Laoghaire and Senator Grace O'Sullivan.

Teachta/Deputy Caoimhghín Ó Caoláin sa Chathaoir/in the Chair.

Child Protection Audit: Dr. Geoffrey Shannon

Chairman: We will commence the meeting in public session. Apologies have been received from Senators Niall Ó Donnghaile, Frances Black and Martin Conway. I ask everyone present to switch off all mobile phones, please, as they interfere with the sound recording system in the committee rooms. I officially thank Senator Grace O’Sullivan for her attendance here this morning to establish the quorum. Go raibh míle maith agat, a Sheanadóir. The purpose of today’s meeting is to meet the special rapporteur on child protection, Dr. Geoffrey Shannon, to discuss the findings of his audit on child protection published earlier this year, with specific reference to the role of An Garda Síochána.

On behalf of the committee I welcome Dr. Shannon and thank him for his attendance. The format of the meeting is that he will be invited to make an opening statement and this will be followed by a question and answer session. Before we begin I have to draw the attention of our witness to the situation in relation to privilege. He should please note that he is protected by absolute privilege in respect of the evidence he is to give to the joint committee. However, if he is directed by it to cease giving evidence on a particular matter and he continues to do so, he is entitled thereafter only to qualified privilege in respect of his evidence. He is directed that only evidence connected with the subject matter of these proceedings is to be given and he is asked to respect the parliamentary practice to the effect that, where possible, he should not criticise or make charges against any person or an entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable.

Before I invite Dr. Shannon to make his opening statement I also welcome Deputy Donnchadh Ó Laoghaire, our new attendee, who is replacing our former attendee, Deputy O’Brien. Fáilte romhat anseo ar maidin. I now invite Dr. Shannon to make his opening statement.

Dr. Geoffrey Shannon: I will commence by expressing my gratitude for the opportunity to articulate the findings of the audit. The measure of any democracy is the manner in which the needs of the most vulnerable are considered and met. What I propose to do is not to read through the opening statement which members have before them but to outline in summary form the issues I have addressed so as to provide sufficient time for me to answer questions on what is in the audit report.

It is my view that when a child is taken into the care of the State, the State is saying it can do a better job than the parents, and if the State fails the child a second time, that can have devastating consequences for the child involved. What the audit provides is a unique window into what happens when parents fail children, when the State fails children and children are allowed to drift rudderless. Child abuse can often be invisible to families and their communities. What the audit does is to shine a light on unpalatable truths for society about how life is lived by some of its members. The audit also indicates that the prevalence of domestic abuse - it may not necessarily be physical violence - it is sad to say, has not abated.

The audit was commissioned by the Garda Commissioner in the aftermath of two cases which were the subject of much discussion in the public domain involving the removal of children in Athlone and in Tallaght. I received commendable levels of co-operation from members

of An Garda Síochána in the conduct of the audit. The audit is unique in its comprehensiveness as a systemic review because it is the first audit on a worldwide basis to look at the exercise of emergency child protection powers by a police force. It provides us with very valuable insights.

In terms of the international approach, I have spent virtually every weekend over two years looking at this at a practical and theoretical level. I had the audit peer reviewed, which is something I normally would not do. Given the significance of the audit, I wanted to make sure it was internationally validated. To give the committee a sense of what people have said internationally, I will cite Professor Laura Hoyano from Oxford who said it breaks new ground in empirical techniques in the field. I have gone through the complete document. She talks about the audit employing very sound empirical methodology and says it was carried out with admirable thoroughness, is very well written and the findings are all borne out by the data reported. The other reviewer talks about it being an outstanding piece of work and an extremely well written and careful report. In terms of the report standing up internationally, I am told it is the largest worldwide audit on the exercise by a police force of its emergency child protection powers. In that case, the findings are more important and more significant.

The overwhelming finding was that gardaí commit great efforts to treating children sensitively and compassionately when they exercise their section 12 powers. The audit demonstrated numerous instances of Garda members staying long beyond their rostered hours to organise the care of a child removed under section 12. One of the principle objectives of the audit was to examine the proportionality, appropriateness and legality of section 12 removals. The audit found that members of An Garda Síochána exercise their powers following a period of careful consideration of the circumstances and available evidence. The most frequent circumstance encountered by members of An Garda Síochána requiring section 12 removals is some form of failure by a parent. Gardaí demonstrated a significant degree of critical sophistication when exercising their section 12 powers. In all of the cases examined, the audit found appropriately restrained use of section 12 powers.

The audit found no evidence that racial profiling influences the exercise of section 12 powers. That said, this finding must be tempered by the finding that certain ethnocultural demographic information does not appear to be routinely documented on the PULSE system. I found the PULSE system not to be reliable in terms of the data that was documented. I outlined the methodology for the audit because I tried to examine the PULSE data relative to an independent method of collecting data, which was conducting a survey. The methodology for the audit involved first a forensic examination of the PULSE data. With the focus on 2014 and 2015, the years in which the Roma and Athlone cases occurred, I looked at over 500,000 fields of PULSE data with a number of colleagues, one of whom, Cian O'Connor, is present in the Gallery. That shows the extent of the scale of the audit. Having then drafted and circulated a questionnaire to members of An Garda Síochána who exercised their powers in 2014, it was possible to compare the results from the questionnaire against the data gathered on PULSE. That was very instructive in shining a light on inadequacies in the PULSE system. It is commendable that I got a full response rate from members of An Garda Síochána for the 2014-2015 period, which makes any finding even stronger. I then randomly selected cases from September 2015 to get a contemporary understanding of how the section 12 power was being exercised. We then interviewed a large number of gardaí throughout the country. It was an opportunity to look at the environment faced by children when subject to section 12 powers, while very strongly of the view that no child should have to spend a lengthy period of time in a hospital or Garda station, because we associate Garda stations with criminality. Finally I undertook some focus groups with senior and junior members of An Garda Síochána. The committee can see the multiple

methods employed: examining 5,000 fields of PULSE data, full questionnaires from 2014-2015, followed by a random audit of September 2015, followed by interviewing the gardaí to get an understanding of why they exercise their powers, and then focus groups to further drill down into that information. That is the methodology.

One key finding is there is no routine gathering of ethnic data. In the aftermath of the audit, I had correspondence from Pavee Point expressing strong support for the recommendation in the audit on the need to have an ethnic identifier in order that we know definitively what the position is relating to children subject to section 12 powers. I reiterate there was no evidence of racial profiling from my extensive review. In the future, what we need to do is definitively have an ethnic identifier.

One of the biggest challenges facing Irish society is the adverse consequences for the welfare of many children posed by alcohol abuse. This is something I addressed before the committee on the last occasion. Drug and alcohol abuse by parents has a very damaging effect on their ability to consistently parent their child. Failure on the part of Irish society to comprehensively address the alcohol problem as a major threat to the proper functioning of individuals and communities leaves the child protection system dealing with insurmountable consequences. Anyone who reads chapter three of this report will be struck by how prevalent a feature is alcohol abuse. It is a call to action on the part of the Government. There has been a certain degree of delay in legislating in this area. I wonder if that is influenced by vested interests in the area. When one looks at this report it is very clear it is a call to action to deal with this issue.

I have been watching some media over the last number of days. We talk about it in an adult context but it has absolutely devastating consequences for children. We, as a society, need to address the issue robustly. Allied to that is that the audit shines a light on a truth with which Irish society is somewhat uncomfortable, which is that some parents for various reasons fail their children. It is then the responsibility of members of An Garda Síochána to protect those children. That is why I strongly argue that the section 12 power is an essential tool in the broader child protection infrastructure. The audit found inadequacies in the operation of the Garda PULSE system. The Garda PULSE system was not in a position to provide a clear and accurate picture of the use of section 12 powers by members of An Garda Síochána. An Garda Síochána has confirmed that systemic reform of PULSE is under way and this process of reform is clearly to be welcomed. It is important that when An Garda Síochána exercises what is an exceptional power without warrant and without court oversight that the process is accurately documented on the system. The audit suggests a template for how the PULSE system should be redrawn, ensuring these data are entered accurately. The audit found little evidence of discrete training on child protection. We found a deep-seated culture of privileging on-the-job training and learning over and possibly to the detriment of formal training. As Irish society changes, it is of enormous importance that our gardaí are fully trained on the changing nature of Irish society. This is not confined to issues relating to children but applies generally, so that we understand the changing nature of Irish society and that policing reacts to that changing nature.

It is also essential that agencies operating under the umbrella of child protection services can share information relating to vulnerable children and their families. We found in seeking the data that confidentiality is sometimes used as an argument for not sharing information. That can be a bogus barrier. The audit found poor inter-agency communication and co-operation. It found inter-agency co-operation overwhelmingly inadequate. It is essential that children do not slip through the net and get lost; it is essential to pull them back from the brink. There must be much greater co-operation between agencies. This requires fundamental reform not just of the

policing system, but also of the child protection system. I will turn to that in the recommendations. The key recommendation relates to co-location. We must start co-locating agencies so they can co-operate with each other rather than inhabit silos. This report demonstrates poor inter-agency co-operation, and this is common to other reports. That co-operation exists, if at all, within the higher echelons of the individual organisations and bears little reality at the coalface.

The other issue that emerged was mental health. Next to alcohol abuse, mental health issues feature prominently. The system fails many children experiencing psychological or mental health difficulties. The failure to recognise mental health issues at an early stage can have a profound impact on the family. Warning signs must be treated with sufficient seriousness and referrals must be timely and appropriate. If there is no seamless co-operation between agencies, a child's diagnosis gets delayed and that can have profound consequences for the child. The critical theme that emerged repeatedly throughout the audit is that notification is not communication. The fact that one fills out a form and passes it on does not mean that one has satisfied the duty to co-operate. It must be far more robust. We examined a number of models. I visited a state-of-the-art centre in the Bronx which has introduced a cutting edge method of dealing with this. I also looked at the English model in Oxfordshire and the multi-agency safeguarding hub, MASH, in Manchester. There is also the role model in Belfast, a number of miles up the road. We can embrace a number of models of co-location. I welcome the fact that the Minister for Children and Youth Affairs, Deputy Zappone, has issued an implementation plan for the report and I understand she intends to visit some of these centres. The key reform this report points to is co-location. That involves fundamentally changing our system.

Another issue to emerge is the lack of out-of-hours service provision. It was the subject of considerable criticism. Child protection is a 24-7 function, not a 9 a.m. to 5 p.m. function. The audit pointed out that many children suffered because a service was not available. Children had to be criminalised or pathologised to avail of the necessary welfare and support services. I acknowledge the fact that a new out-of-hours service has been established since 2015 but my view is that it continues to be systemically inadequate. We need a service available throughout the country that is accessible to every child. The response to the audit has been that the service is available where the demand exists, but that has the potential to create geographical injustice. A child living in a less populated area is entitled to the same service as a child living in a more populated area. If we are committed to the principle of equality and treating all our children equally, one is entitled to get the same service regardless of where one lives, who one is or the social stratum one comes from.

The audit found very positive evidence on the operation of the specialist child protection units in An Garda Síochána. That supports my thesis on inter-agency co-operation and co-location. When one locates agencies together, one builds up trust. That is what we must seek for the future. Nothing predicts like the past. Those who are not aware of history are bound to repeat it. One of the key messages to emanate from the almost 100 reports published over the past 20 years is the lack of inter-agency co-operation. I am hoping this will be the last report in which this issue will have to be highlighted. What is required now is fundamental reform. When a child is the victim of abuse or neglect, it is incumbent on State agencies or statutory services to provide a timely and proportionate response. We see that the system fails children with emotional or behavioural problems. Those children are perhaps most in need and that is why we must prioritise them. Intervention, when it arrives, must not be too late to vindicate the right of the child to have his or her welfare secured.

Many challenges remain to be resolved before we can say we live in a society where our

children's rights are fully vindicated. It is always a work in progress but it demands new perspectives, such as what I have outlined on co-location, renewed efforts and real energy. A system designed to protect children must do that. The system must be accountable, consistent and always strive to minimise the risk to the welfare of the child. The right service at the right time is crucial. We must get it right for every family and child. I always conclude by saying that the manner in which society treats its vulnerable citizens reflects not only its qualities, but also its sense of social justice, its commitment to the future and its ambition to enhance the human condition for the next generation.

Chairman: Go raibh maith agat, Dr. Shannon. Before I call my colleagues, I wish to commend you on a significant piece of work. It is a forensic examination - 318 pages addressing the process and procedures adopted by members of An Garda Síochána in carrying out their duties and powers under section 12 of the Child Care Act 1991. It is a mighty tome and I thank you for it.

A number of members have indicated that they wish to pose questions or offer views on the report and your opening address. I call Deputy Clare Daly.

Deputy Clare Daly: I thank Dr. Shannon for attending the meeting. We should contextualise this. We are still dealing with the scars of the past in terms of how we dealt with children and the lack of child protection. In that sense, it is appropriate to say that we are privileged to have something that does not happen very often in this State, a world class project that is ahead of anywhere else. That should be registered. If we have an analysis conducted which is peer reviewed and unrivalled anywhere in the world, we must take what that body of work says very seriously. I was struck by the similarities in some of the points regarding training and PULSE with what gets the headlines for the Garda, such as the breath tests. We have seen the headlines about how inadequate PULSE is, but this is child protection which in many ways is even more serious. Some of the trends Dr. Shannon has highlighted in the report feed into that background.

I have many questions so I will probably intervene again. Dr. Shannon highlights PULSE very well and the problem it poses. He says there is a number of significant anomalies in the information and documentation. Perhaps he will go into more detail on what that means. The statements in the report are quite damning, for example, that PULSE is unable to provide a consistent and accurate picture of section 12 use. That is very serious. The report states that the practice and working ideologies of child protection fall well short of international best practice and refers to numerous gaps, flaws and variations in data practice. I ask that that be explained further. It is eight months since the report was published. What progress has been made on this issue? When one reads the report, the recommendations made for dealing with some of these issues are not just general suggestions of reviewing policies or reviewing guidelines. The witness has actually gone to the trouble of designing a new PULSE system to capture the information that his scientific, forensic study says needs to be captured. Has the Garda implemented that new PULSE draft to capture the type of information that the witness has told it is necessary?

The witness highlighted the area of training, which was striking. The figures were stark. Some 53% said that they had no training at all and 77% said that they did not have sufficient training in child protection. The point the witness made was that this reflected a deeper systemic problem of inadequate training inside the Garda and that on-the-job training was elevated above the training in Templemore. The attitude of, "Don't worry what they told you in college, this is the way we do that here", seems to be a feature of many of the reports that have been done. I would appreciate more detail on that.

We are often - correctly, in my view - identified as criticising the Garda, but the good thing in this report is that the individual gardaí have come out of this incredibly well and have dealt with their responsibility in child protection, as individuals, as best they could in very difficult circumstances. Perhaps that is something that we can highlight. The system is deficient, but the members of An Garda Síochána have responded excellently. I will not repeat these points.

I would like to know a little bit more about the level of co-operation the witness got. On the one hand it is striking that he got 100% co-operation. Assistant Commissioner O'Sullivan got seven replies to the map tests. The witness obviously has some influence that he does not have. On the other hand there is a contradiction, because the witness was looking for information and was hoping to complete this in January. He had to write a couple of times and go through much of his work more than once to get this information. Was there a frustration there?

The witness has identified really serious problems here. The report came out eight months ago. What has actually been done in terms of his suggestions? We need to look at this as a committee. Given that the problems are there, and given that the witness had a level of co-operation from the Garda, would it be fair to say that there was a worse response from Tusla than the Garda? There are two sides in this equation, and we often pinpoint the Garda, but Tusla seems to have been pretty poor in this as well. Perhaps that could be expanded upon.

Dr. Geoffrey Shannon: I thank the Deputy. I will bundle the issues she has raised into two categories. The first is around PULSE and the second is around training.

In terms of co-operation, my only experience is in relation to child protection. I have to be careful in saying this. I did not deal with any other division apart from meeting the Garda intercultural and racial office. I met those to get an understanding of what was happening in terms of ethnicity and training in that area. In terms of the child protection unit, the two people I dealt with, Detective Superintendent Declan Daly and Inspector Lynch, provided outstanding co-operation. I want to put that on the record. It must have been frustrating because I am the type of person who just does not let go when I am looking for a piece of information.

That links into the next question, concerning PULSE. We were provided with a huge amount of data. To put it in context, I had a full room of material that was generated. I had a very small team, and this was probably the most cost-effective scheme ever undertaken. It consisted of Cian, myself, Hilary Coveney and a psychiatrist, who was really helpful in terms of trying to ascertain her understanding of what it feels like to be a child subject to section 12. The consequences from a mental health perspective enabled us to analyse that issue.

When it came to PULSE it was quite clear that there was a problem with it. To elaborate on the Deputy's point, if we turn to pages 55 to 56 of the report, we can see that we had looked at the PULSE system. I had devised a system whereby we looked at all the PULSE data and worked back to reconstruct a picture of every child subject to section 12, and I cannot emphasise enough how difficult and time-consuming that was. However, by doing that we were able to identify fairly conclusively the deficiencies within the PULSE system. As a result of that process, An Garda Síochána changed what was the public figure of 557 valid instances in 2004 to 560. We were able to determine that the figures were not accurate because of the fact that some had been wrongly classified. I put together a template to make sure that this cannot happen again. Appendix six sets out all the data required to ensure we have a complete picture. As I said at the outset, when the State takes a child away from its parents, it is exercising the greatest power it has, and when it is done without a court warrant, we must have a comprehensive paper trail detailing why that happened. One of the most important pieces of paper to emanate

from this audit is the recasting of PULSE to ensure there is a degree of transparency within the process. I found that in all the cases I looked at there was an appropriately restrained use of section 12 powers, and it is important to say that.

This ties into the Deputy's later question regarding other agencies. The rank and file gardaí do a very good job, in my view, and we were struck by that as we travelled around the country. This was not just a passive audit. We did not just sit there and look at a piece of work. We travelled the length and breadth of the country to talk to individual gardaí about what it felt like to exercise section 12 powers. One of the consequences not reported in the public domain is that gardaí are now even more reluctant to exercise section 12 powers. We need to make sure that gardaí are confident, when a child is at risk, to exercise section 12 powers. In the west, one garda said to me that where before he was doubly cautious, he is now triply cautious. That is a pity. My view is that hundreds of children are protected because we have this power, and until such time as we have a 24-7 out of hours social work service and co-locating agencies, this is an essential tool in broader child protection infrastructure. It is not just a question of looking at this issue in isolation but rather looking at it across all the agencies. That is why it needs a whole of Government response. It is not just one Department. The Minister for Children and Youth Affairs, Deputy Zappone, in fairness to her, has published an implementation plan. This needs to be fully monitored in terms of its implementation.

On the issue of training, I travelled to Templemore and met all the appropriate people there. I reviewed the documentation, and it is my considered view that the documentation is not adequate to reflect that we now have a referendum placing children at the centre of our Constitution and that we now have much more robust child protection systems. It is important. I recognise that there was a moratorium on the recruitment of gardaí for a period, but we now need robust training. Training is hugely important. As Deputy Daly said, it is not just about on-the-job training. As legislation changes, the requirements of An Garda Síochána change, and they are changing all the time. We expect more from our gardaí and we need to make sure they are properly trained. A body of work needs to be undertaken. I received a letter over the summer inviting me to participate in some of that training. I am more than happy to assist but there must be a complete review as to how that should happen.

Coming back to the PULSE system, and the Deputy referenced a letter in January, what I have tried to do in a transparent fashion is outline what happened. We received all the information in December. Once I had the opportunity over a large part of the Christmas period to examine the documentation, it was apparent to me that there were anomalies. There were 31 cases that I could not locate having undertaken this process so I decided to write back to members of An Garda Síochána and ask for an explanation as to the reason these anomalies might exist. In terms of what happened, I got the entire set of data again. That involved starting *de novo* a complete further review of the PULSE system. That is why I am very confident that the conclusions I have reached are fairly solid and conclusive.

Chairman: I thank Dr. Shannon. If Deputy Daly wanted to come back-----

Deputy Clare Daly: I have a supplementary on that in the sense of-----

Chairman: Very briefly. I will allow the Deputy back in after I have called some of her colleagues.

Deputy Clare Daly: On the redesign of PULSE, has the Garda been back to Dr. Shannon? Does he know if it has done that?

Dr. Geoffrey Shannon: I understand and have been told that An Garda Síochána has accepted the recommendations from the report in their entirety. I am presuming this has taken place. I met representatives of An Garda Síochána subsequent to the audit but it is a question the Deputy will need to put to a member within An Garda Síochána. I have been told it has happened but beyond that, I cannot answer.

Chairman: That opportunity will present very shortly. I call Deputy Chambers.

Deputy Jack Chambers: I thank Dr. Shannon again for an excellent presentation. He spoke earlier about the children's referendum and putting children's rights at the core of our Constitution but that was not reflected by the practical considerations for children across the State who are left in a very vulnerable position. As Dr. Shannon said, he revealed many unpalatable truths across Irish society.

I have a few questions, the first of which relates to the PULSE system and follows on from Deputy Daly's comments. In Dr. Shannon's view, is it possible to rectify PULSE as it is currently constructed in terms of its foundation and so on? Throughout the report and in his presentation today, it appears there are core systemic problems with PULSE. What is Dr. Shannon's gut view? Does he believe it can become best practice around section 12 cases and child protection because it seems to be failing children in that vulnerable scenario? If it is not there to capture the data, it is not achieving its purpose.

My other question is on Tusla. Dr. Shannon mentioned the mystification and the lack of feedback and follow-through by Tusla officials. Has that been rectified or has there been any follow-through by Tusla in his interaction with it? I would say that is a concern for members of An Garda Síochána who are left in a vacuum where they do not know what has been the follow-through. I know anecdotally that in certain instances, Tusla has not acted as it should have when gardaí referred cases on to it. If gardaí are left in that vacuum and there is not a cycle and follow-through, even when a section 12 power has been used appropriately, that is a serious concern. Has there been follow-through in the interim period before we see best practice in co-location occurring?

Dr. Shannon referred to alcohol being one of the main issues around child protection. We have a number of items of legislation coming before the Oireachtas but what legislative measures would he wish to see prioritised or initiated that are not currently on the legislative priority list? We have the Public Health (Alcohol) Bill and other legislation but on a legislative basis what specifically would help in terms of the alcohol issue?

I have some concerns about Dr. Shannon's reference to the reluctance by An Garda Síochána to use section 12 powers and how they have gone from a double to a triple reluctance in that regard. That is very worrying. We should have a framework that gives confidence to members of An Garda Síochána to act when they know a serious situation is occurring and there is a deficit in training and child protection. At least they will know how to follow best practice and utilise a particular code but if they are left in a vacuum in respect of a lack of education and training, there will be a reluctance and doubt on their behalf on when to use it or act appropriately. Have there been changes in the training in child protection and the deficit Dr. Shannon mentioned in his report?

Dr. Geoffrey Shannon: I will address the questions one by one. The first one was on confidence in the PULSE system. PULSE documents information as it arises. It is hugely important that we have confidence in the integrity of the information placed on the PULSE system. That

can only happen where we have mandatory fields where every garda must fill in set fields of data. That has to be a mandatory requirement because that gives us an on-the-spot understanding as to the event as it unfolds. That is the reason I have outlined in appendix 6 a very detailed framework as to how that can be undertaken. If a system like that existed and it had to be filled in by every garda, I would have confidence that it would give us an accurate picture.

In terms of the PULSE system as it currently exists, there are very rich narratives by some gardaí and then far less detail by other gardaí. The concern is around accountability and whether there is a reluctance to put in a detailed narrative because of issues in respect of accountability and a fear of being held to account if they say too much. That is understandable but we need to have a system now that militates against that. That is what I am suggesting.

Regarding the issue of Tusla and the mystification, I had a certain degree of sympathy for many gardaí. If I am asked for the solution, it comes back to co-location. We need agencies working seamlessly together and sometimes confidentiality is used. I characterised it as being a bogus barrier because while data protection is often raised as an issue, data protection may not necessarily be a barrier if one is not disclosing the identity of the parties. What we need to do is have some reflexive learning and that reflexive learning can only occur where there is feedback as to whether a section 12 power was correctly exercised.

Regarding alcohol, it has been one of the single biggest factors. I have had the experience in that I chaired the review of the cases of the 196 children who died in State care. That is another broad systemic review. There are common themes running through both of those. One is poor inter-agency co-operation and the second is alcohol abuse. We know the issues. We now need to robustly tackle the issues.

I was listening to Kenneth Egan's account on "Claire Byrne Live" on Monday night, which I thought was particularly compelling in terms of what we need to do. We have been talking about the Public Health (Alcohol) Bill for some time. We now need positive action because of the fact that this has a real impact on children. Children are not passive bystanders in all of this but we sometimes see them as passive bystanders.

On the issue of the reluctance to exercise a section 12 power, I have found the gardaí do extraordinarily well in very difficult circumstances. Sometimes it is not popular to say this, but credit where credit is due, the audit found that rank and file gardaí do an outstanding job in protecting very vulnerable children. That needs to be said. We need much more robust systems to ensure that the paperwork exists to back up this very important child protection safety mechanism. That is how I would respond to that.

Deputy Jim O'Callaghan: I congratulate Dr. Shannon on the report. It is a template for how reports should be produced for the State. He set out his methodology and what he was asked to do. Most importantly he set out 72 examples of how section 12 comes into effect and how gardaí are asked to exercise their power in this respect. He also set out conclusions and recommendations. I want to repeat what the Chairman and Deputy Daly said about section 12. When one thinks about it, it is an extraordinary power. When we put somebody through Templemore, he or she is out very quickly and we then give that person the power to take a child away from a parent. I agree with what Dr. Shannon has said. It is an astonishing power. I think he will agree that it is a power that the State must have because of the examples he has set out in his report.

What Dr. Shannon has said about gardaí doing an excellent job in exceptionally difficult

circumstances is important. Many of the examples he has set out are of situations in which it would not be that difficult to make one's mind up, for example a situation where a garda comes to a house and sees a child in a destitute condition while the parents are nowhere to be seen, so the garda has to exercise section 12. There must be examples, however, which are more borderline. I would be interested to hear of those borderline examples in due course. The problem in that situation is that if a garda gets it wrong and something subsequently happens to the child, the State turns around and criticises that garda. Does Dr. Shannon think that anything more needs to be done to give such gardaí more encouragement to know that they should not be too hesitant about exercising section 12? Of course, at the same time, one does not want them overdoing it. That is the first issue I would like Dr. Shannon to consider.

Second, this report obviously arose from a request from the Ombudsman for Children arising from case of the Roma child. Dr. Shannon mentioned in his report - and I think it is good news - that there is no evidence of racial profiling in respect of section 12, but he also went on to say that there would be a benefit in recording ethnocultural information on the PULSE system. I am interested to know why he thinks that is important. Has he derived ethnocultural information from the PULSE system? Is it partly to do with people of different cultures who have come here and have different attitudes as to how children should be reared or looked after?

I note that Dr. Shannon sets out the specific details to be recorded on the PULSE system in appendix 6. That is helpful. Rather than the report simply saying that information needs to be put in he has said exactly what needs to be done. Is he satisfied that all of that information is necessary? What is the benefit of it? I want to probe that a bit because gardaí are obviously putting a lot of information on PULSE. They could spend their day sitting around and putting information on PULSE. What is the benefit of it? What is it used for? Is Dr. Shannon telling us that if that information was on PULSE we would have much more information in respect of the exercise of section 12 and that would be to the long-term benefit of being able to deal with it as an issue?

Finally, I will echo what Dr. Shannon and others have said. He talks about the consistency with which he has seen alcohol abuse being a problem in the reports he has written. Every time this committee deals with issues such as domestic abuse, mental health or violence in the street, alcohol and drug abuse come up as enormous contributors. People who are perfectly placid, normal people get into problems and difficulties because of alcohol and drug abuse. That is a much bigger question which we will have to deal with, but does Dr. Shannon believe that there is anything further we should be doing as a State to warn people about the dangers of alcohol and drug abuse?

Dr. Geoffrey Shannon: I thank Deputy O'Callaghan. It is important to come back to the reluctance of some gardaí to exercise their powers, which was the Deputy's first question. One of the issues which was not discussed at the time is the nature of the power. It is a subjective power. When a garda arrives at the house, generally chaos greets him or her. If one reads through some of the examples, the treatment meted out to some of our children is shocking beyond words. The garda must ask him or herself what they should do. If one puts oneself into the same position, it is not an objective power. At the time of the Athlone case and the Tallaght case, this issue was not discussed. From a legal perspective that is hugely important because the garda has to make up his or her mind having regard to what he or she believes is a fact. That links into the Deputy's later question on why this information needs to be documented because we need a contemporaneous record of what the garda was feeling at the time so that we can then assess whether that subjective power was properly exercised.

The Deputy's question was on providing reassurance to gardaí. I have tried to look at this and have come up with a solution. My recommendation in the report is that a laminated card, which I have prepared, be sent to every garda throughout the country. This card is in appendix 4. It could be condensed even further but this could be provided to every Garda station and every garda. It is not high-level to the extent of other reports but I have tried to make it as practical as possible. If the lead person who has responsibility for training in this area decided to supply every garda with a copy of the laminated card - which outlines what a section 12 power is and what needs to be considered - then as a garda is heading off to what he or she believes may be a situation which will require the exercise of section 12, he or she would have an *aide-memoire*. The garda could read through it very quickly to see whether he or she thinks it meets the threshold. It is a very practical suggestion which should be implemented. Coming back to Deputy O'Callaghan's question, that would give confidence to gardaí that they are properly exercising their powers.

The Deputy raised a really important point on the ethnocultural data. The audit had two key findings and it is important to come back to them. The overwhelming finding is that gardaí commit great efforts to treating children sensitively and compassionately when a child has been removed under section 12. The second finding is that no evidence could be found that racial profiling influences the exercise of section 12 powers. However, in the context of the changing nature of Irish society, the public needs to have full reassurance on that. We need to start documenting the information. It is quite a complicated issue. If one looks at some of the figures, it would appear to be that certain ethnic minorities are overly represented but there may be a reason for that and sometimes the public explanation is too simplistic. I have tried to outline why it is so much more complicated and nuanced on page 109 of the report. I state:

this statistical trend does not in itself establish a practice of racial profiling in relation to section 12 ... In the context of the operation of the child protection system in ethnoculturally diverse areas, recent literature indicates there may be other factors that can explain at least some of this over-representation. For example, part of this over-representation may be attributable to different cultural norms in relation to the disciplining of children. While all cases examined by the audit involving removal of children from Nigerian and Romanian families appear to have been justified, part of this over-representation may also be accounted for in a higher level of policing of those communities. However, on this latter point, it should be emphasised that the audit did not find *any* evidence of a distinct policy or practice of policing the family lives of immigrant communities more heavily.

That brings me back to a key point, that of training. We have to train our gardaí because of the issue of unconscious bias. We all have some element of bias and we have to guard against that. That can only happen if there is robust training, not just on child protection but also on ethnocultural issues. That has to be a priority. What is the benefit of the information? It is a subjective power and, in the interests of transparency, it is my view that the State has no greater power than for a garda to walk into a family and to remove a child. That warrants a proportionate response, which is the comprehensive documentation of the circumstances that led the child to be removed and placed in the care system. That is why I suggest that there be a fairly comprehensive record. The other reason that led me to that conclusion is the fact that the data which appeared on PULSE showed that some gardaí went to exceptional lengths.

Some narratives were akin to a mini-article on why they exercised their section 12 powers, while, in other cases, it was a mere line. We want consistency. This is an extraordinary power

which is unparalleled in any other area of the law. We want to make sure that when the Garda exercises this power, it is justified.

Coming back to the point Deputy Daly raised, if it is a child protection issue, the proper avenue to deal with that is through the courts system. We want to ensure we are not bypassing the courts system in the interest of expediency. That is why we need to have a pretty comprehensive picture as to why the Garda might exercise these powers. That may take longer, but this power is truly much more exceptional than any other power that An Garda Síochána exercises. It is for that reason it is necessary.

I share the view of Deputies O’Callaghan and Chambers on the issue of alcohol abuse. Deputy Chambers also raised the issue of gambling on the previous occasion. I often struggle with the alcohol issue because I believe there is a strong vested interest in this area. What politicians need to do is take on those vested interests and to say that child protection has to take precedence over big business. I wonder at times at the delay in introducing legislation to tackle this issue which is concerning and has consequences. Anyone reading chapter 3 of the report will be left in no doubt that it has resulted in shattered lives for children. Those childhoods cannot be regained. The time for action is now.

Deputy Donnchadh Ó Laoghaire: I thank Dr. Shannon for his presentation. I am glad to continue our engagement following on from the Committee on Children and Youth Affairs. I said at that stage that his report and audit is an extraordinary piece of public service and a real addition to our work and the work of both Departments. I also stated at the time that it highlights the need for fundamental reform of our child protection systems. This audit focused on a discrete area relating to section 12. However, all these issues need to be revisited regarding section 13 of the Child Care Act 1991 and a much broader range of issues because we have a deeply flawed child protection system. With section 12, there is clear evidence of the frustration of many gardaí in dealing with those services.

It is important to note individual gardaí have shown a high standard of commitment and compassion, which is to their credit. It is also important to note, however, that An Garda Síochána, as an institution, is not beyond reproach in this regard. The issue of PULSE and data has been dealt with. However, it is worth emphasising that it is not an abstract or technical issue. In page 43 of Dr. Shannon’s report, he stated, “Particulars with regard to prior or subsequent history on PULSE for children were not included in 31 instances.” As far as I understand it, when a child is removed under section 12, the only record the Garda has at the time of that incident is what is entered on PULSE. What that says to me is that there are 31 children for whom we cannot pick up the thread. I may be misunderstanding this but it seems to me there is a gap which potentially is putting children who were at serious risk of abuse at further risk and creating a situation where the Garda, social services and Tusla are unable to pick up that thread. That is a significant concern and highlights the seriousness of the deficiencies. While Dr. Shannon has recommended improvements, the PULSE system is clearly not fit for purpose from a child protection point of view.

Dr. Shannon detailed the ethno-cultural data. It is vitally important to get that issue right. The issue of racial profiling could become one of significant debate. In Britain in recent years, there has been significant criticism of the over-representation of black people in stop-and-search instances, with black people six times more likely than white individuals to be stopped. I am glad Dr. Shannon found no evidence of racial profiling. However, if we are to ensure lessons can be learned from other jurisdictions, we need to have proper information on the data entered into PULSE.

One of the most significant conclusions Dr. Shannon made was how inappropriate it was to bring children who were taken from situations of abuse and neglect to police stations or hospitals and to keep them there for several hours. What is the safest place to where these children can be brought? What should be the proper procedure for the Garda when it removes a child? It relates to the whole area of inter-agency co-operation and co-location. One of the most disappointing and frustrating findings in the report was how gardaí were contacted by Tusla late on a Friday evening informing them of child protection situations and leaving them to pick up the pieces over the weekend. That is dreadful and obviously inter-agency co-operation needs to be improved significantly. What is the building block for co-location? Should it be primary health care centres, family resource centres or Garda stations?

The Minister of Children and Youth Affairs and her Department produced an implementation plan to deal with the child protection failings in Tusla. Is there an equivalent implementation plan that An Garda Síochána has put in place?

Dr. Geoffrey Shannon: On the omission of 31 instances, the issue is accountability. If we are not accurately documenting what is on the PULSE system and if we do not record the incident as it occurs, that raises questions as to whether we have sufficient transparency and accountability. What I believe may have happened is that these instances were filed elsewhere. However, the reality is that there is not a proper paper record. I agree with the point made by Deputy O’Callaghan, namely, when this power is exercised, there needs to be a paper trail. It caused me concern that there was not a proper paper trail for those 31 instances. I have been given explanations. However, I come from the show me the data school rather than the explanation. I have been told that perhaps these ended up being filed elsewhere. However, with such an exceptional power being exercised by the State, unless there is a comprehensive paper trail as to why it was used, then it raises significant issues.

That is why we need a PULSE system that accurately records the narrative for every child in a consistent fashion. It is just not a case of it being recorded in one area but consistently throughout the country. That ties into the training of gardaí on how to enter data into the PULSE system and ensuring consistency in how those narratives are entered in respect of all cases.

In respect of the lessons to be learned, it comes back to training. The audit found training was inadequate. Unless we have proper training on the issue of child protection and the threshold required to exercise those powers in section 12, then it is going to be extremely problematic. That is something on which we are going to have to redouble our efforts.

I absolutely agree with the Deputy on placing children in a police station or in a hospital. Children associate police stations with having done something wrong and criminality. That is not to take away from the fact that the gardaí who exercised these powers were enormously compassionate. I was really struck by their sense of public service. Gardaí see themselves as first responders and they displayed a degree of humanity which was hugely impressive.

A hospital bed is no place for a child to be placed. We talk at the moment about having a health crisis yet we are placing children in valuable hospital beds which are needed by people who are genuinely sick. We need to look at that issue again. Children associate hospitals with being sick and that has a detrimental effect. We had a lengthy discussion on this with the psychiatrist, Dr. Imelda Ryan, who is very experienced in this area. Her view is that this is a hugely traumatic incident. It is not just the legal issue. Sometimes we get paralysed by talking about the legal niceties, but this has a huge human cost for children. When one takes a child in such traumatic circumstances, the consequences may not only be short term but may in fact be long-

term in effect. That is why we need to come up with a new model.

There are a number of models we could follow. I mentioned three. There is the role model in the North, the MASH model in Oxfordshire and Manchester, and the Bronx model of child advocacy centres where everybody works together and the child is taken to a very child-friendly place. I have seen these centres where one has a room that is child friendly and very different from a police station where one has prisoner traffic coming through. We need a neutral venue. The member raised some interesting suggestions around family resource centres. Even the Tusla main office could have a very nice child-friendly room to which one could take a child. It is not beyond us or something that requires the expenditure of a huge amount of money but it would make a real difference for children.

The graphs demonstrate that children can end up spending significant periods of time in these settings. When I travelled to one of the rural stations, a garda told me that when the child was subject to section 12, he ended up having to travel with his colleague because one has to travel with another person. We must look at the consequences of that for policing. If it is a small rural station and two gardaí have to travel with the child, something has to suffer. That may very well be that there will not be a checkpoint that evening. It is something that has a knock-on effect elsewhere. Using gardaí to perform a child protection function is not without consequences. It impacts on other areas of policing. Sometimes we forget that.

The issue the member raised around getting a call on a Friday evening is a worrying one. It emerged in the case that a garda got a call at 4.45 p.m. on a Friday to be told a child needed to be cared for. We must be careful here. We do not know and need a complete audit to know why that happened. If it is a child protection issue which has been festering during the week, it should be dealt with as a child protection issue. We have a child protection system under the Child Care Act which means that if one is concerned, one seeks a number of more proportionate orders, including a supervision order. One can apply to the District Court for a supervision order or, if one is sufficiently concerned, an interim care order followed by a care order. We must ensure that due process is followed and that child protection issues are dealt with in a child protection context. That means action occurs in a child protection case when the threshold is reached. That will need to be monitored.

In terms of implementation, I have been told by members of An Garda Síochána that the recommendations have been fully accepted. My understanding is that an implementation plan exists but I have not seen it. That is all I can say.

Deputy Mick Wallace: I thank the witness for coming in. He is probably bored of being told how wonderful his report is, but if I do not compliment it, he will be giving out about me. It is incredibly comprehensive and covers so much that is relevant. Hopefully, it will not suffer the fate of many of the reports which are prepared in this country and then allowed to collect dust without being acted upon. Given that Deputy Clare Daly and I have spent over five years complaining about An Garda Síochána, it is great to hear that the rank and file on the ground have had such a positive attitude in this area. They deserve even more credit when one takes into account the fact that training leaves so much to be desired and that the lack of resources is an ongoing issue. On top of that, the rank and file have had to deal with very poor management, which issue has been very much at the core of our policing problems.

The report is eight months old. Dr. Shannon says gardaí have accepted it lock, stock and barrel but what is happening? Eight months is a long time when we are discussing children who are at risk. Dr. Shannon highlights the need for proper data collection and management through

a proper PULSE system or an alternative. He says that would introduce transparency and accountability. The fact that nothing has really been done about PULSE for a long time is very worrying. It is two years since the Garda Inspectorate told the State in 2015 that the PULSE system was not fit for purpose and should be stood down but nothing has happened. It is eight months since Dr. Shannon's report came out and I wonder if he is getting any feedback. There are so many problems with the PULSE system across the board that it beggars belief that it is still in place. It has been poorly updated. It was invented by Accenture which currently has 11 contracts with An Garda Síochána and is taking in serious money. Nevertheless, it is standing over a failed system. Has Dr. Shannon received a real response about where PULSE is going and what is being done about the lack of proper data collection and management around information relating to section 12?

Dr. Shannon said the audit found evidence of the repeated removal under section 12 of some children from the same family circumstances. While it is great that children are being rescued when they need to be rescued, is Dr. Shannon saying that not much is changing thereafter and that there are not enough positive results in what happens for those children who need help? We are now into the area of Tusla. While section 12 is very much linked to policing, we cannot unlink it from the role of Tusla given that these children are very often transferred to its care. Is Dr. Shannon happy with the performance of Tusla? He might think it is a bit strong, but is Tusla fit for purpose?

I do not want to bore Dr. Shannon with my questions, but he made the point that the out-of-hours service was still pathetic and a big problem. He also pointed out that in a lot of cases, particularly having regard to the out-of-hours service, the only option is a private provider. His report points out that the private provider tends to be selective and is probably becoming more so about the children it takes into its care. In other words, the private operator may see a child it has seen before and decide the child is too much hardship for it and that there are better things it could do with its time. Given that it is a private entity, we cannot really tell it what to do. The State entity has responsibilities for every child but it is probably difficult to say to private sector providers that they have no choice but to take the child. They are able to say that they do not have to take the child. What happens the child then? Would one not think that State reliance on the private sector to deal with children with problems and in difficulty is not good enough?

I will leave it at that. There are so many answers in Dr. Shannon's reports and there is so much there for us. He really has answered most of the questions on the area. I hope he gets the credit he deserves for this wonderful report.

Dr. Geoffrey Shannon: Deputy Wallace raised some interesting questions. I will start with the last question. I share his view on State reliance on private providers. There is a heavy reliance on private providers. I am not making any criticisms of the private providers but child protection is the responsibility of the State. If there is a gap in our capacity to deliver on child protection, the gap needs to be filled by the State and not private providers. The fact is that children with emotional or behavioural problems sometimes need intervention on an emergency basis. What I found troubling is that on occasion such children have been refused the service because of their behaviour, which throws sand in the face of our commitment to treat all of the children of the nation equally. This is not a criticism of private providers and I found no evidence of wrongdoing on their part but, in terms of our reliance on private providers in this area, it is not desirable that the vast majority of cases my colleagues and I examined placed a heavy reliance on private providers. This comes back to having a child protection system that functions 24-7, 365 days a year. That is what we need.

I have confidence in Tusla. There are issues that Tusla needs to address and the Deputy has outlined them. I agree with his analysis of the out-of-hours service. There may be differences between myself and Tusla on what is our vision. However, my vision for an out-of-hours service is that every child in this country should have access to an out-of-hours service regardless of where he or she lives. Tusla has stated publicly that there is a full service in four counties. My view is that the service needs to be available throughout the country. Otherwise it becomes a geographical injustice in that the service one receives is dependent on the area in which one lives. I believe that this is not in keeping with the aspirations of the Irish people when they voted in a referendum to protect all our children and not just those in highly populated or more densely populated areas. I agree with the Deputy's analysis in that regard.

On the repeated removals, Deputy Ó Laoghaire has called for a full audit of the child protection system. I want to be careful in terms of drawing conclusions. This was a Garda audit. It involved me examining the section 12 powers. I do not want to overly extend myself in making conclusions. I have based the conclusions on the evidence available. However, I found a number of cases where children who had been subject to section 12 powers were returned to the family only to be subjected to section 12 again within a relatively short period of time. There could be a number of reasons for it. One could be whether the risk assessment was robust enough. Thinking of one case in particular, the garda who articulated this to me was very concerned that the child had been returned and wondered why it happened. It comes back to the issue raised by Deputy Jack Chambers around mystification. We need to ensure that members of An Garda Síochána understand why a child is being returned. That can be done on an anonymous basis. We need to learn from the experiences and the practices to see if things can be done more robustly.

On the PULSE system, I had a very positive experience with the unit with which I dealt. I am not saying this is representative. I need to be honest. The two people I dealt with were Detective Superintendent Daly and Inspector Michael Lynch, who are very good at producing the information. I do not know if that is representative. However, I found that the PULSE system is inadequate. There is no doubt. Whether that is replicated throughout the system or is symptomatic of broader problems with the PULSE system, what I found is that if I had relied on the PULSE data as a basis for this research I would have struggled to make conclusions and I wonder whether the conclusions I would have arrived at would have been accurate. I was able to cross-check the PULSE data against the other data I had collected and interrogate those PULSE data. What I found was that the PULSE system is not reliable. We need a system that is robust and it needs to be properly documented. I am not too concerned about what we call it but it needs to be there. As I said, a parent whose child has been taken into care needs to know why that happened. Parents have constitutional rights. If we intervene in family life and do not provide a justification for it, we risk being vulnerable to constitutional challenge for interfering unjustly in the right to respect for private and family life. That is why it is important, when I answered Deputy O'Callaghan's question, that we have a robust paper trail as to why the section 12 power was exercised.

In terms of my report, which was published at the end of May, I have not received any implementation plan. I am told that there is one. I presume that this committee will have an opportunity to deal with this issue in another form. I hope that is helpful.

Chairman: Before bringing in Deputy Daly, I have a couple of questions myself and then we might have short, specific single points to wrap it up. Did Dr. Shannon have a specific period to address in terms of section 12? A significant part of the work references 2014. In his

opening remarks he speaks also about the period going into 2015. Was there a specific period in time and was that his determination or something that was preset in terms of reference?

Dr. Shannon has indicated that the report was published in May but the sign-off was in January, as the document states, but he concluded, published and presented it. To whom did he present the report? I presume it was to the Office of the Garda Commissioner and the Minister for Justice and Equality. Will Dr. Shannon elaborate on that and let us know to whom the report was presented? Our awareness of it arose out of a previous presentation on Dr. Shannon's own behalf. It is clear that its importance and relevance, particularly the whole section relating to the PULSE section, was apparent to the members of this committee. We welcome the opportunity to tease that out with him today.

Apart from the answers he has given, Dr. Shannon is aware or is being told that an implementation plan has been prepared or is in preparation. Does he have any other evidence that anything has changed in terms of his role as special rapporteur? Has there been even anecdotal feedback from people such as someone in a child carer position or from NGOs in this regard? Is there any evidence that actions are being taken on foot of his recommendations given that it is now September?

There were 595 reported incidents in 2014. I think a small number of those would be repeats. That is what I have noted from the report. However, the greater number - more than 500 - were individual cases. It has been referenced by colleagues here, but 31 children are unaccounted for on the PULSE system since being taken from their parents or guardians under section 12. I say that both in terms of their pre-history - before the section 12 being exercised - and since. Dr. Shannon states in his report that no subsequent history was noted of them being removed by members of An Garda Síochána. In the case of that particular cohort, have their stories or circumstances been followed up in any particular way? Has Dr. Shannon initiated inquiries through An Garda Síochána about these cases? From reading the report, it strikes me that these children are missing. I do not mean to be alarmist in using that language but section 12 was exercised and, to the best of our knowledge, these children's current whereabouts have not been recorded on the PULSE system and are, therefore, not identifiable.

Thirty-one children is a significant number. In my view, one child is too many but 31 is incredible. Has Dr. Shannon any information to indicate that the PULSE system on these cases has been updated? Did he have the opportunity to identify why this particular group of 31 children was not included in the system? Is there a common denominator in their cases? Were they particular to an area, a region or a city? Was there another common denominator regarding their personal profiles? Why did 31 children have no prior or subsequent historical notes recorded?

Is there anything else that Dr. Shannon would like to add in respect of this part of his report? He laid a powerful emphasis on the importance of inter-agency co-operation and comprehensive training in child protection as an integral part of the training for new Garda members coming through Templemore College. He indicated he has engaged as a potential participant in that regard. Is that something he expects will be part of the programme of training in the near future if it is not already? What about training the large number of existing members of An Garda Síochána in the whole area of section 12 of the Child Care Act 1991?

Dr. Geoffrey Shannon: The review of PULSE was from 2008 to the end of 2015, with a focus on 2014 and 2015. The reason I selected 2014 and 2015 was that these were six months prior to the Athlone and Tallaght incidents and six months subsequent to them. It was to get an understanding as to how the power operated prior to its invocation and the powers exercised by

the Ombudsman and her subsequent report to see whether the system had changed. It involved a forensic review of between 5,000 and 6,000 cases. I looked at all cases from the time we started keeping records. It was an opportunity to look in summary fashion from 2008 and in detail during the critical period in question.

What comes from this audit is a reassurance to the public that when gardaí exercise their powers, they do so proportionally and there is no evidence of racial profiling. That is what I wanted to determine. However, what the audit unearthed was problems with PULSE, with training and with the subsequent removal of children.

The report was presented to the Garda Commissioner in March 2017. In terms of it being a contemporary picture, I continued to update the report with new data right up until the time of submission. This is a pretty contemporary picture as to how the system operates.

In terms of changes, I have met Detective Superintendent Daly and Inspector Lynch on several occasions. They are committed to the child protection system. That does not take away from the systemic difficulties which need to be addressed. My experience of the Garda Síochána child protection unit has been positive. Tusla has an implementation plan and it has invited me to present to its board at the end of September.

The net conclusion from this audit is that agencies need to work together. It is not good enough to inhabit our silos. Child protection is everybody's and every agency's responsibility. That is why the co-location model needs the broad fundamental reform that follows from this report. I share Deputy Wallace's view and I am not naive about reports gathering dust. I hope this report does not gather dust and the big picture of reform it advocates, namely, co-location, is implemented. That will involve real change with agencies having to concede territorial ground in terms of their own individual professions. What struck me about the Bronx model was that after a time it became seamless. What initially looks challenging actually produces results for children. When doing the cost-benefit analysis of the Bronx system, I was told by the New York City Police Department, NYPD, that it makes a saving of \$1,000 per case. This means it is less expensive because one is pooling the resources of the agencies. I would liken it to what happened when creating specialist units in the health system. Why can we not have centres of excellence for children?

The 31 instances caused me some concern. In my correspondence of January 2016, I highlighted 31 instances in an attached table in which additional data and other instances relating to the children were not included in the data for section 12 children. In these cases, when a search was undertaken for the particular PULSE field relating to the specific section 12 incident in 2014, it did not feature in the section 12 children all incidents worksheet. There were no other PULSE entries relating to the child in that worksheet.

The explanation that has been advanced is that these cases may have been misclassified. Nonetheless, when one exercises such an exceptional power, it is important that it is done carefully and that regard is had to the fact that there is the potential of trampling on parents' constitutional rights. It is also important it is treated not just as a paper exercise but as a record of one discharging one's statutory and constitutional responsibilities.

I passionately agree with the Chairman on continuing professional development. It is important we train our gardaí and that this training does not stop once they leave Templemore. My vision for a force that exercises such exceptional powers is that there should be mandatory continuing professional development for members of An Garda Síochána. The legislative

landscape is changing dramatically. Accordingly, we must ensure that members of An Garda Síochána understand these new powers and responsibilities imposed upon them. That can only be achieved through training.

Chairman: Just for clarification on the cases of 31 children, does Dr. Shannon have any concerns as to their current status? Maybe he did not have the opportunity to examine whether there was any common denominator or any similarity in their respective make-up as individuals, or maybe nothing was apparent to Dr. Shannon. I do not know. Is there anything Dr. Shannon can add? Would he dismiss that entirely?

Dr. Geoffrey Shannon: I need to be absolutely honest with this committee. The explanation I have been given is that there seems to have been a misclassification. This raises question marks over the PULSE system and how we input into it. I was asked whether I was concerned. I am reassured by the fact that I had the opportunity to look at such a large sample but the question is very significant and it is troubling. I found that, in all cases which were examined, the powers were exercised proportionately.

Deputy Clare Daly: People often say, “I have never seen anything like that”, but we have really seen nothing like this report, in Ireland or the world. It would be criminally negligent if its recommendations were not implemented. Dr. Shannon’s statement that he would not have been able to do this by relying on the data in PULSE alone is utterly damning and sums up the systemic problems we have seen in other aspects of policing with which this committee has been dealing. I can picture Dr. Shannon in the room with all the files and without his obsessiveness we would not have got here. The timing is important because An Garda Síochána will be before us next week, although not on this matter.

Chairman: It is the week after next. Next week it is the Policing Authority.

Deputy Clare Daly: I will come to it in a minute. If we cannot ask the Garda representatives about this matter, could we write to them to ask questions? We spoke about co-location and the fact that the Minister for Children and Youth Affairs, Deputy Katherine Zappone, is moving but a number of the suggestions for PULSE could have been brought in in January, such as laminated cards, risk principles, guidelines and the suggestion for the changeover in car seats. The fact that Dr. Shannon does not know the answer is not an indictment of him but of the lack of follow-up within the Garda. We need to know about the annual review and we should put on the record that the study showed it to be an exceptional power, only exercised once in the lifetime of an average garda. It is not too onerous to have the level of data reporting which he outlined.

Deputy Wallace made a point about outsourcing and third party providers. Dr. Shannon raised serious legal questions about the legality of the Garda transferring somebody to Five Rivers or a third party provider. There may not be a lawful basis for this so has there been any feedback from Government about correcting the anomaly? If there has not been an answer, it would be very poor.

My last question is about the Policing Authority. We have been to the fore in saying the Policing Authority has been disappointing and is not sufficiently equipped to challenge gardaí. Has Dr. Shannon given his report to the Policing Authority? What feedback did he get? The authority should be flagging the systemic failures in child protection which he highlighted but I have heard nothing from it in that regard.

Chairman: In reply to an earlier question of mine, Dr. Shannon said the report was presented to the Garda Commissioner in March. Can he tell us who all the recipients of the report were?

Dr. Geoffrey Shannon: The work was commissioned by the Garda Commissioner so I sent it directly to her. My understanding is that it was sent to the Policing Authority but I have had no contact from it in response.

Deputy Clare Daly: There has been no contact from it in the six or seven months since then. I think that is absolutely shocking. I cannot believe it. When the Policing Authority comes before us next week, it will be one of the first things we will deal with. This is supposed to be what they are for. This is child protection, which is at least as important as breath testing.

Chairman: For clarity, is it that Dr. Shannon presented his report to the Garda Commissioner and she, in turn, forwarded to the Policing Authority, rather than being sent directly by himself? He was commissioned by the Garda Commissioner to carry out the audit.

Dr. Geoffrey Shannon: Yes. I was requested by the Garda Commissioner to carry out the audit and I furnished her with a copy of the audit report. I have been advised by the child protection unit in An Garda Síochána that a copy of the report was sent to the Policing Authority. I did not send the report to the Minister for Justice and Equality as I felt that, with it having been commissioned by the Garda Commissioner, it would not be appropriate for me to do so.

Chairman: I thank Dr. Shannon for that clarification. Perhaps he would deal with Deputy Daly's questions.

Dr. Geoffrey Shannon: The Deputy raised an important question around the legality of the power. It will be seen in the report that I have forensically examined the section 12 power. Pages 277 to 293 deal in detail with the legality of the section 12 power and my view is that legislative clarity is required. It is required in the context of the definition of custody. The concern is in relation to children with emotional or behavioural problems and whether, in fact, the temporary carer has the capacity to parent a child with emotional or behavioural problems. My recommendation is that this issue needs to be looked at as a matter of priority. My understanding is that the Department of Children and Youth Affairs has sent the extract in question to the Attorney General's office and I have no further information on the issue.

Deputy Donnchadh Ó Laoghaire: Dr. Shannon mentioned his belief that legislative changes may be needed to the *in camera* rule in care proceedings. Can he expand on what changes he thinks may be necessary?

Dr. Geoffrey Shannon: It is important there is public accountability while at the same time protecting the anonymity of the child. This would be important in any proper public discourse on child protection. We need a provision that balances the privacy rights of parties as well as providing us with an accurate picture of how the family and child protection system operates.

Chairman: Does Dr. Shannon wish to make any closing comment?

Dr. Geoffrey Shannon: I wish to express my deep personal gratitude for the opportunity of presenting the audit findings to this committee. There is a reference in my concluding remarks to the fact that the challenge and task of members, as policy makers, is to consider and reflect on the findings of the audit. They are to examine how, working together, the welfare of children, in the difficult circumstances which prompt members of the Garda Síochána to exercise section

12, is placed front and centre.

Chairman: I thank Dr. Shannon for his work in preparing the report. He acknowledged Cian in the Visitors Gallery and other colleagues and I thank him for that. I also thank him for his presentation and for his forthright and thoughtful responses to the questions and contributions of members. This will not be the last time that this committee will address his report and its findings and recommendations and we will have the opportunity to address Ms Josephine Feehily from the Policing Authority this day week. The following week, on 4 October, the acting Garda Commissioner and his team will be before us.

The joint committee suspended at 10.50 a.m., resumed in private session at 10.55 a.m. and adjourned at 11.25 a.m. until 9 a.m. on Wednesday, 27 September 2017.