

DÁIL ÉIREANN

AN COMHCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

JOINT COMMITTEE ON JUSTICE AND EQUALITY

Dé Céadaoin, 7 Samhain 2018

Wednesday, 7 November 2018

The Joint Committee met at 5 p.m.

MEMBERS PRESENT:

Deputy Colm Brophy,	Deputy Jim O'Callaghan,
Deputy Jack Chambers,	Deputy Mick Wallace.
Deputy Clare Daly,	

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

DEPUTY CAOIMHGHÍN Ó CAOLÁIN IN THE CHAIR.

The joint committee met in private session until 5.58 p.m.

Commission on the Future of Policing in Ireland: Discussion

Chairman: I remind members and guests to make sure that their mobile phones are switched off. The purpose of this evening's engagement is to meet members of the Commission on the Future of Policing in Ireland to discuss its recent report. We are joined by Ms Kathleen O'Toole, chairperson of the commission. I thank Ms O'Toole, personally and on behalf of the committee, for the significant effort that she has made to be with us. We are also joined by Sir Peter Fahy, chairperson of the commission working group on the dual role, that is, State security and civil policing; Ms Helen Ryan, chair of the commission working group on leadership and structures; and Professor Donncha O'Connell, chair of the commission working group on governance, oversight and accountability. I also extend a welcome to their colleagues in the Visitors Gallery.

Before inviting Ms O'Toole to make her opening statement, I draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, they are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or 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 House or an official either by name or in such a way as to make him or her identifiable. I invite Ms O'Toole to make her opening statement.

Ms Kathleen O'Toole: I thank the Chairman and members of the committee for inviting me to meet with them today to discuss the commission's report and to share the rationale behind our recommendations. I am joined by Sir Peter Fahy, former Chief Constable of the Greater Manchester Police; Helen Ryan, a well-known Irish consultant and former CEO of Creganna Medical; and Professor Donncha O'Connell, NUI Galway.

As members are aware, the commission was tasked to undertake a fundamental review of policing in Ireland. We saw our role as charting a vision for the future that would be rightly ambitious for Irish policing and would anticipate future challenges given changes in society, criminality and technology. However, we recognised at an early stage in our work that vision would also need to be grounded in the reality of some significant challenges both for An Garda Síochána as an organisation and for the system as a whole.

The shortcomings we encountered in the course of our work are not merely, or even mainly, a question of resources. They are critical systemic problems related to culture, structures, accountability mechanisms and management processes. There is an urgent need for compre-

hensive and fundamental change. We respectfully suggest that implementation should be a first-order national priority. We have been encouraged by the initial response to our report by the Garda Commissioner, individual members of An Garda Síochána, Government and others, including several members of this committee. The announcement in the recent budget of specific financial commitments to the transformation process, the roll out of the IT mobility project and training needs is welcome. I know that a detailed consultation process is under way at present with the Garda Commissioner and the relevant agencies and Government Departments. This committee will also have a key role in informing the Government's views on our recommendations.

How our recommendations are implemented is, ultimately, a matter for Government and the Oireachtas. I am, however, more than happy to share with members the context for the recommendations we made and to answer any questions they may have. Members will be familiar with much of the detail of the report and will also be aware of our view that it should be implemented as a holistic reform package given the interdependence of key recommendations.

Before we move to our discussions, I am pleased to have the opportunity to share some insights into our recommendations and to highlight some key elements. At a fundamental level given that the purpose of policing is to protect the human rights of all members of society to live free from violence, abuse, crime and fear, we have recommended that An Garda Síochána has a human rights strategy and a human rights unit within the organisation to develop, implement and monitor that strategy.

We also proposed a new approach to policing and community safety that will ensure police are more visible in communities and can focus on preventing harm as distinct from a reactive approach. I understand that the committee's deliberations this term have a particular emphasis on community policing and that it has recently heard a detailed presentation on our proposals in this critical area from Dr. Johnny Connolly of the University of Limerick, who was also a member of the commission. In summary, we have recommended a new overall structure for An Garda Síochána that aligns the organisation with the core ethos of policing, which is service to the community and working with communities. We have recommended an approach at district level that makes local communities the central focus for An Garda Síochána to ensure that gardaí are more visible on the front line. We proposed a new definition of policing to include the concept of community safety and a stronger emphasis on harm prevention. We have also recommended that other agencies work with police in multidisciplinary teams to protect people and prevent crime and that communities should be formally consulted regarding how their local areas are policed. I am pleased that the emphasis in our report on the need for stronger interagency co-operation has been welcomed. We saw clear evidence during our consultation process of the frustrations and gaps in service to the community that can arise where the work of An Garda Síochána and other key agencies intersects. As we are all aware, in many circumstances the gardaí are likely to be among the few public servants on duty outside normal office hours. We have, therefore, recommended that interagency co-operation be underpinned by sharing information, with the appropriate safeguards, about persons identified as being at risk. We have also renewed a recommendation made in 2009 in a joint report by the Mental Health Commission and An Garda Síochána for multiagency crisis intervention teams, the objective being that police and other concerned agencies should be well equipped to handle mental health crises together. Police also need to be trained in the necessary special response techniques required in incidents involving vulnerable individuals.

We also made several recommendations for measures that would deliver a professional,

ethical, modern and effective police service. Ireland deserves a professional police service that is well-managed, cost-effective and properly trained and equipped. The people of An Garda Síochána are its greatest resource. We say very clearly in our report that policing should be seen, and see itself, as a profession. This carries solid implications. A profession requires proper qualifications, robust training, continuous professional development, a commitment to a code of ethics, clear policies, high standards of service, accountability and a culture of continuous improvement. Our report includes important and substantive recommendations in all of these areas. It is vital that An Garda Síochána fosters psychological safety within the organisation and an environment in which people at all levels of the organisation feel able to share ideas on challenges, opportunities, problems without fearing retribution or marginalisation. This new culture must start from the top of the organisation and be embedded at all levels. Our recommendations include a new approach to recruitment and will mean one Garda organisation reflecting the full diversity of Irish society and with sworn and non-sworn members part of a single workforce with a shared mission. We have also endorsed recommendations by the Garda Inspectorate on new entry routes at more senior levels in the organisation and we have recommended recruitment of staff with the necessary specialist technical and other skills.

We have recommended a new approach to education in partnership with higher education institutions, no longer confined to Templemore. We have also recommended a flatter structure than currently exists with much greater scope for local decision making, new ideas and innovation. An Garda Síochána must develop effective management processes supported by technology. We have also been clear about the capacity and skills we believe are required in senior leadership to drive the necessary reforms and to run the police organisation effectively and efficiently. At a fundamental level, we recommended that the Garda Commissioner and leadership team be empowered to manage the organisation so that it can be truly accountable for delivery of its objectives.

To strengthen the internal corporate governance and management of the police organisation and ensure efficient use of resources, the commission has recommended that An Garda Síochána have a statutory board. The purpose of the board is to strengthen the governance and accountability of the organisation. The board will hold the Commissioner and senior management to account for the effective performance of their responsibilities. Its establishment would provide a more appropriate framework of governance between the Department of Justice and Equality and An Garda Síochána than currently exists. This fact was endorsed by the independent effectiveness and renewal group chaired by Pádraig Ó Ríordáin in its second progress report published last month in the context of the structural and governance reforms now being undertaken in the Department of Justice and Equality. The commission's recommendation for a statutory board simply makes sense. It is "corporate governance 101", a term used by one governance expert earlier this year in the context of the restoration of the board of the HSE. It is not a substitute for oversight of policing in Ireland as some commentators have claimed.

I want to be certain that this committee is fully informed on our recommendations on oversight. The commission's report does not recommend the abolition of the Policing Authority or its functions, the abolition of the Garda Síochána Ombudsman Commission, GSOC, nor the undermining of an effective, independent complaints mechanism, nor does it recommend or imply any dilution of oversight or scrutiny of policing. On the contrary, it explicitly recognises the unique nature of policing and the importance of independent oversight in that context. We recommend combining and expanding the work of the Policing Authority and the Garda Inspectorate under a single umbrella oversight body, which we have suggested could be called the Policing and Community Safety Oversight Commission. It could just as easily be called

the Policing and Community Safety Authority. The report is clear that the functions of this body would involve transparent scrutiny of policing, including through public meetings with An Garda Síochána, the opportunities presented by social media and other forms of meaningful engagement. The responsibilities will also include an enhancement of the inspection function, a focus on benchmarking professional standards of policing, and a role in promoting the inter-agency co-operation we believe to be central to the transformation of policing in Ireland. These functions are set out in Chapter 13 of our report.

We have recommended that the responsibility for appointments, including senior appointments, within An Garda Síochána should move to be the responsibility of the organisation itself, under the leadership of the Commissioner and the scrutiny of the board. Our view, as set out in the report, is that it is not appropriate for an agency responsible for oversight to have also responsibility for managing appointments. It compromises the ability of that agency to oversee and scrutinise with complete independence. This is especially problematic when it comes to making senior appointments. The report makes it clear that what we envisaged is a clear and transparent process for such appointments, carried out in line with current common practice in the public sector, which usually involves the Public Appointments Service or other expert recruitment organisations. It is not a regressive step. Also, and as we set out in the report, the successor to the Policing Authority, the Policing and Community Safety Oversight Commission, would have a defined and independent oversight role in making judgments on the integrity and effectiveness of this process.

The commission's proposals for reform of GSOC would significantly strengthen the organisation as an independent and effective complaints mechanism. Under its proposals, GSOC would be renamed. This is not a strictly cosmetic change. Its purpose is to ensure no doubts about its independence from the Garda organisation. Likewise, to underline its independence, the head of the organisation would become the Accounting Officer. This function would no longer rest with the Department of Justice and Equality as it does now. In addition, the new complaints body would carry out all investigations itself. This would mean that police would no longer be investigating themselves, as is now often the case.

The new organisation would investigate incidents as well as individual actions, so that any broader lessons for the organisation could be identified. It would assess all complaints received and make a timely determination whether the complaint was a performance management issue. If this was the case, it would refer the issue back to An Garda Síochána to be addressed under performance management processes, which also require reform.

In the context of oversight and the proper exercise of accountability for policing, we also respectfully recommend a structured programme of meetings between this committee and An Garda Síochána. We hope that such an approach would also enhance the accountability system.

Overall, our proposals in this area respond in large part to the recommendations set out in this committee's report on oversight produced earlier this year. In summary, we believe the time has come to make a clear distinction between, on the one hand, the internal governance of the police organisation, for which An Garda Síochána and its Commissioner must be responsible, and the roles of the Department of Justice and Equality and the oversight bodies, whose independence must be without question to ensure their effectiveness. Let me stress that this approach enhances both the overall accountability of the police and the role of oversight bodies to investigate and scrutinise independently how police exercise their responsibility.

I now refer to the commission's proposals on national security. As we all know, the main

threat to national security in the past has come from domestic groups. That threat has not disappeared and remains the source of concern, particularly in the Brexit context, combined with the non-operation of political structures in Northern Ireland. Today, however, the nature of the threat to national security is changing. Many places that in the past have not seen themselves as targets for international terrorists have suffered attacks. The means employed by terrorists have also changed, as social media and the Internet are used to plan attacks, radicalise impressionable minds and recruit operatives. Against this backdrop, the commission was of the view that the national security function should not be lodged entirely within the police organisation. We considered carefully whether to recommend the creation of a separate agency with powers going beyond analysis and intelligence co-ordination, but we are not convinced that this is either necessary or realistic at the present time.

In light of the changing threats to national security, however, we believe that it is vital now that security intelligence should be co-ordinated at a national level. This is also relevant in a context where it is increasingly important for Ireland to engage in important security co-operation with international partners. We therefore recommend the establishment of a new strategic threat assessment centre, STAC, at central government level, headed by a national security co-ordinator. The STAC would answer to the Department of the Taoiseach. It would bring the various relevant agencies of the State together to pool expertise and information and produce a comprehensive picture of the threats to the State. It would provide a permanent structure to support the work of the National Security Committee and Cabinet committee F, and support the development of a national security strategy. We have recommended that An Garda Síochána should retain operational responsibility for national security and a ring-fenced budget for its security and intelligence capability to enable the necessary recruitment of specialist expertise.

Our report also has important recommendations on cybersecurity. Across the world, government entities and private companies experience attempts to hack into their systems every day. Irish Government institutions, infrastructure and companies are all at risk from such cyber attacks, as are the many foreign companies based in Ireland that are important to this nation's economy. We recommend the early formulation of an updated and comprehensive national cybersecurity strategy.

Ireland also needs to develop its capacity to address the threat, both within An Garda Síochána and in the national cybersecurity centre, and expand work with academia and the private sector. This is a matter not only of resources but also of the security apparatus of Government. The national security co-ordinator should therefore also be responsible for the national cybersecurity centre.

Some of the submissions received by the commission called for a single oversight framework for policing and security, a single set of eyes. I understand that this is an issue that this committee has also discussed. Our recommendations, however, are based on an analysis of international oversight arrangements for security and recognise that the security function of An Garda Síochána sits within a much broader state security framework. This will be reinforced by the establishment of the STAC.

We recommend the appointment of an independent examiner of terrorist and serious crime legislation, with powers to assess the conduct of security operations and to maintain a continual review of how security legislation is being implemented by police and other agencies.

Trust and consent of the people form the bedrock of an effective police service. My sense is that Ireland has done well, despite the challenges of recent times, to retain positive community

relationships. However, community support and trust cannot and should never be taken for granted.

This is my final engagement as chair of the commission. It has been a real privilege to work with my colleagues on a transformative programme for the future of policing in Ireland at such a critical time. I see great commitment by all stakeholders to making it happen, once and for all. There will, no doubt, be hurdles ahead in implementation and delivery, but if all involved - An Garda Síochána, the Government, the Oireachtas, and the policing oversight bodies - really get behind a shared vision, it will succeed. The vital role of individual members of An Garda Síochána and their staff associations in this process cannot be underestimated. We believe it can be done - indeed it must be done - in the interests of An Garda Síochána and the people it serves. I look forward now to discussions with committee members.

Chairman: I thank Ms O'Toole for a comprehensive opening statement which is hugely valuable in the preparation of members' individual contributions. Has Deputy Clare Daly an interest in being taken early because of other responsibilities?

Deputy Clare Daly: No.

Chairman: Fine. Deputy Donnchadh Ó Laoghaire will be followed by Deputy Jim O'Callaghan. If any other members want to indicate, they should do so.

Deputy Donnchadh Ó Laoghaire: Gabhaim buíochas leis na finnéithe as a bheith anseo agus as an obair atá déanta acu. This is a strong report and there is a great deal in it that will be of value to policing in Ireland. There are many things in this report I agree with and a great deal of them fit quite closely with what we recommended in the Sinn Féin submission, such as the police and community safety Act, prevention of harm as a core objective of policing, the importance of local policing fora, legislation on search and detention powers, entry pathways to the Garda, the establishment of human rights units and non-core Garda functions being carried out by the Courts Service, the Irish Prison Service, the Irish Naturalisation and Immigration Service and so on. These are all important things on which I am in agreement.

My time is limited but I want to emphasise that many of my questions will necessarily focus on areas where I might have a different view, or some reservations as to the committee's recommendations. However, that does not mean I do not believe it is a good and a valuable report and a great public service which I want to see implemented. I want to make that clear at the outset.

The first point I want to raise is one I discussed with Dr. Johnny Connolly here recently about community policing. I will deal with this briefly but I am not entirely convinced of the approach. I very much appreciate the emphasis on community policing and the district policing model, but I am not entirely convinced by the approach whereby all gardaí are considered community gardaí. Policing within the community should run from top to bottom in An Garda Síochána but I am a believer in the function of a designated role within districts, in particular, and divisions that would be the key liaison person between the community and An Garda Síochána. Could I get a comment on that? I know there is some talk that there would be a team and different people would have different responsibilities. I think that would work reasonably well on the Garda side but my concern is about whether the community would know who the person would be who would pick up the phone. Currently, this model is not working well everywhere. I pay tribute to the gardaí in Cork. I think they have protected the model better than most, from what I have heard elsewhere. It makes a difference when the community knows who the local community garda is and develops trust, relationships and so on. I am not sure how well that is

going to be maintained under the model proposed.

Ms Kathleen O’Toole: I thank the Deputy and really appreciate the fact he brought that up because it gives us an opportunity to clarify it. I discussed it with Dr. Johnny Connolly and believe we are more in agreement than disagreement here. We do not envisage that there would no longer be specialist community policing people. In our model, there would still be specialists assigned to community policing who would engage regularly and informally with members of the community, participate in multidisciplinary teams, organise community policing meetings and be there to answer the phone when specific questions about community policing arise. We feel that every police officer assigned to a particular district at the local level also needs to embrace the philosophy of community policing and that even those people who get 999 calls need to understand that they have a responsibility to prevent and intervene. It is not just about reaction and enforcement.

In policing studies elsewhere, data show that less than 20% of police work relates in any way to law enforcement and most of it requires providing service to people in need, particularly vulnerable people. It is important it is embedded in the culture of An Garda Síochána that all members, particularly those at the local level, have a responsibility to engage with the community and help it to solve problems. If I am a police officer who is ordinarily assigned to a unit that is taking 999 calls, I am not just going to react to calls for service. If I have time in between, I am going to get out and visit people living and working in the neighbourhood. I am going to engage with them and learn who they are, what their problems and challenges are and how I can be helpful to them. Again, we are talking more about a culture of community policing throughout the organisation. We are not suggesting for a minute that specialist positions in community policing be eliminated in our model. I hope that clarifies it.

Sir Peter Fahy: We are also saying that for that shift to occur, the organisation has to be restructured with a fundamental shift of power and responsibility down to the local level, away from the headquarters and there has to be a freeing up members of An Garda Síochána from lots of tasks which are not police tasks. Generally what happens is community policing gets squeezed out because of all the other duties and, as an organisation, those have to be taken out to free up time. Then there is a need for systems like the performance systems which say that relationship with the local community, the problem solving and working with other agencies is what is really valued by the organisation rather than simplistic statistical targets. The whole thing has to fit together. Our report outlines a whole series of measures which signal to the organisation that local relationship, local problem solving and ability to respond to local need. One can only respond to local need if the power is pushed down so that local commanders understand that their key answerability is to local people and local elected Members.

Professor Donncha O’Connell: There is also an additional issue in relation to esteem. If it is a designated function, it may be merely be a designated function. From speaking with regular members of An Garda Síochána, it was clear to us that in order for community policing to be taken seriously within the organisation of An Garda Síochána, it had to be identified as essentially the pre-eminent purpose of policing.

Deputy Donnchadh Ó Laoghaire: I suppose I am a little bit clearer there. I will take that onboard and consider it further in the context of ongoing discussions on legislation. My primary concern, and I am sure it is the same for others, relates to recommendations 17, 12 and, to a degree, 16 and to the change in structures. I understand the argument that is made as to governance and oversight. I will not read all of the footnote from Dr. Vicky Conway and Dr. Eddie Molloy, but the last sentence reads: “We believe that the solution should be to adequately

empower the Policing Authority while encouraging maturation of the culture of An Garda Síochána concerning external accountability.” That would be my initial view as well but I am open-minded on this and I will listen to the arguments that are made. However, it seems that with the best will in the world, and even with independent appointments to the Garda board, over probably not a long period of time, the institutional loyalty of that board will be to An Garda Síochána rather than to its primary responsibility, being the Policing Authority, and its primary function, being the oversight of An Garda Síochána.

I appreciate the public and community safety oversight commission, PCSOC, structure, the combined inspectorate and Policing Authority, and its responsibility for oversight, but what is to prevent An Garda Síochána disregarding what that body says given that it does not have the same powers over it that the Policing Authority had in terms of appointments and the ability to approve policing plans rather than simply being consulted on them which is my understanding of the recommendation? Things are being moved around. I understand this is not an abolition but rather a merger and a restructuring. I am concerned that the Garda board is not going to offer oversight but will instead be used for governance, and perhaps offer some level of accountability. Ultimately it will be tied quite closely to An Garda Síochána. Meetings will not be in public, if I understand it correctly. The policing and community safety oversight commission, PCSOC, would be responsible for oversight but would not have any powers with which to move An Garda Síochána along; it only would have the powers of exposure, as do we. The approval of policies, oversight of budgets, approval of policing plans and, crucially, appointments, are all important.

Chairman: I would appreciate it if Ms O’Toole could give a very brief reply, because we are going to have to suspend for a few minutes to allow members to vote in the Dáil Chamber; a further vote has been called.

Deputy Donnchadh Ó Laoghaire: Would it be better to hold the response over until after the vote? A few minutes have passed already.

Chairman: If the Deputy wishes.

Deputy Colm Brophy: The vote was called at 6.27 p.m., so four minutes have passed.

Chairman: We are half way there. The witness can add to her reply when we return.

Ms Kathleen O’Toole: It is entirely up to the Chairman.

Chairman: What do the members of the committee think?

Deputy Clare Daly: We might as well start.

Deputy Mick Wallace: I am prepared to stay here and not vote. They already have been waiting for a long time this evening.

Deputy Donnchadh Ó Laoghaire: I would take the same approach.

Deputy Clare Daly: We should do that.

Chairman: How big is the whip?

Deputy Mick Wallace: If anyone wants to go and vote they should.

Chairman: Can Deputy Brophy carry on here?

Deputy Colm Brophy: I think I can. I will ask the question but I should be okay if I stay. There are more than enough-----

Chairman: If there is agreement on that I am willing to continue.

Deputy Clare Daly: Me too.

Deputy Colm Brophy: Let us continue.

Chairman: If there is a gap between the Opposition and the Government it means Deputy Brophy has done very well. He has played his cards very well.

Deputy Colm Brophy: I got four for one.

Deputy Mick Wallace: He is all right.

Chairman: We are now entirely in the hands of Ms O'Toole.

Ms Kathleen O'Toole: Please know that we have great respect for the democratic process and that a few of us at the table are quite accustomed to unexpected developments in the workplace. We are very patient and are willing to stay as long as we are needed.

I will respond as someone who has served as a police chief previously and I am sure Sir Peter Fahy will also have something to say about this. I will then turn over the discussion to Professor Donncha O'Connell, who chaired a sub-group to specifically tackle this issue. We come up through the policing ranks in North America, Europe and elsewhere in the world and are primarily focused on being good police officers and good detectives, but some of us rise to the rank of chief or commissioner without the benefit of education or experience in management, budgets and other issues which require experience to enable to person to manage a huge organisation. An Garda Síochána has approximately 16,000 people and an annual operating budget of €1.6 billion. There is a desperate need to build capacity internally and to promote internally people who have the appropriate business acumen to assist the Commissioner and his team. We believe the board proposal would be particularly beneficial because it would bring people from different disciplines, including those who understand budgets, HR issues, IT issues and other important requirements for an organisation in which a commissioner or a career police person may not necessarily have a lot of experience. I thought the idea of a board was a brilliant one from the perspective of a police chief but I would not expect that a cosy relationship between the board and An Garda Síochána would ensue. I would hope for a strong professional tension, because from such tension good things would emerge. In a similar way to other State boards, if there is a non-executive chair of a statutory board, those people absolutely would hold the management team to account but also would be there to support the team and bring business acumen to the table that does not necessarily exist in a police organisation.

Coincidentally, just after we made the report, I returned to America and attended a meeting of international police chiefs, and had the opportunity to engage with the police executive research forum, with people from the policing foundation and other think-tanks that carry out a lot of international work. The feedback was overwhelmingly positive. In fact, Mr. Chuck Wexler documented his enthusiasm for our report, specifically the notion of having a statutory board. I think it will not only prove to be a good idea here that will enhance governance, oversight and accountability here in Ireland, but it is one of the recommendations I believe is most likely to be replicated elsewhere. Having said that, I would like to hear the perspective of Sir Peter.

Deputy Donnchadh Ó Laoghaire: To clarify, my difficulty is not necessarily the existence of the board *per se*, but rather that it would be given powers that would be more appropriate for the combined policing authority inspectorate body. I am concerned that body does not have any real powers. It has the ability to discuss and shine a light on issues, but it does not have any real powers or teeth when it comes to An Garda Síochána. That is my main issue. Some of the powers it should have have now been allocated to the board.

Sir Peter Fahy: We spent a long time talking about these issues, and the point raised by the Deputy was one of the crucial points discussed. We considered the bite the authority has. The difficulty in Ireland is that there is one police force and no competition with other police forces, therefore another police force cannot be brought in to run it. If there are concerns critical reports can be issued, but ultimately sacking the person at the top is almost the only sanction available. Accountability needs to be woven into the organisation at all sorts of different levels. We believe we have strengthened the role of the PCSOC because it has a wider responsibility for community safety, which is what policing is about ultimately. We also have injected some really credible business acumen and other expertise at the crucial level of governance, the level at which the organisation is run. We felt that there would be a fundamental tension between a body responsible for oversight and for governance. If one is involved in the governance side of the organisation, it would be very hard for one to operate oversight of that governance. The situation is as the Deputy has outlined. The question remains as to what is the sanction. Critical reports can be issued. We debated whether some of the budget could be held back but decided that such an approach would damage the policing side of things. This is part of the difficulty. It is really important that this is considered alongside a series of other measures that make An Garda Síochána more transparent, from the local level with individual officers with body cameras, through every stage. Governance will be improved by bringing independent people into the running of the organisation with the effect that it is not just the police profession that is doing that. The authority will have a stronger role in calling to account the board and other agencies, including An Garda Síochána, for its performance. We discussed that tension.

Professor Donncha O'Connell: Deputy Ó Laoghaire's point is absolutely valid. One of the things we considered was that the level of change we envisaged being implemented is extraordinarily large. We are talking about a very ambitious programme of change which cannot be driven or generated entirely externally. There has to be some stage at which the organisation itself takes responsibility for its own reform and takes that responsibility seriously. While that cannot be entirely externally driven, oversight must be entirely external and independent. A new body called PCSOC might be less focused on governance but instead can be more focused on its main business, which is oversight and holding An Garda Síochána to account. The authority, the inspectorate and GSOC all emerged in crisis situations. They all were reactive developments to crises and we had to consider this when looking at them. We had the benefit of being able to ask what an oversight framework would look like if we were trying to establish one. One key decision was to merge the inspectorate with the authority and create a more deliberative loop that is perhaps less adversarial. There will still be the possibility of holding feet to fire and GSOC will be the new independent ombudsman for the police with significantly enhanced powers, as a result of which it will need to be resourced. There is also, however, a need to create strong, democratic accountability to this committee, which it will meet four times a year. There also will need to be more formal professional oversight arrangements between the PCSOC and the statutory board. If the statutory board ignored something that was said by the policing and community safety oversight commission, it would be dysfunctional. A properly constituted board that is legislated for properly would have to take account of what the commission said. Members spoke of a culture that had not yet demonstrated sufficient maturation in

relation to external accountability but we are not proposing to postpone the process of maturation. We are proposing to enable it, right now. If we want a culture which is comfortable with external oversight and robust internal governance, we will have to provide for it.

Deputy Donnchadh Ó Laoghaire: The board is not my issue in the context of internal governance but I am concerned because we have a lot of paper tigers in the area of oversight in this country, not just in policing. I hope the PCSOC does not become such a body and we need to look at this carefully in the legislation as it comes through.

Recommendation 42 relates to a code of ethics. Is it envisaged that a breach of the code of ethics by a garda will be a disciplinary matter? At the outset, there was concern on the part of the commission over the appointment of a Garda Commissioner in advance of the report being published, though I understand the commission was reassured that it was okay and the Policing Authority proceeded. Was there substantial communication over this? Were the draft recommendations discussed? How was reassurance given to the commission over this matter?

Ms Kathleen O'Toole: The appointment process was not within our remit. We had suggested that the appointment of the Garda Commissioner should align nicely with the release of our recommendations because we thought the timing was important. There was speculation that the Garda Commissioner's appointment would happen much earlier and we thought it might have been awkward but, as it turned out, the timing was much better than any of us anticipated as the appointment preceded our publication by only a few weeks. We engaged with the Policing Authority on a regular basis, particularly the secretariat, and the authority came in to meet us and to present its submission. There were good, strong lines of communication.

Deputy Donnchadh Ó Laoghaire: I also asked about the code of ethics.

Ms Kathleen O'Toole: A violation of the code of ethics could definitely be considered a disciplinary matter.

Deputy Donnchadh Ó Laoghaire: Recommendation 7 is an interesting proposal relating to the strategic threat assessment co-ordinator for the office. It needs a lot of fleshing out and the commission may have deliberately left it open to Government and Opposition to interpret. Would this role have a statutory basis and would it have an entitlement to intelligence, rather than relying simply on co-operation? Would it be entitled to oblige? Would the Garda Commissioner and the Chief of Staff of the Defence Forces be answerable to this co-ordinator? Would the priorities that could be set by this person involve requirements on the Defence Forces and the Garda or would they simply be recommendations? Would the person be responsible for co-ordinating investigations such as data breaches?

Ms Kathleen O'Toole: We envisage that this will be developed on a statutory basis. We see the role as not being an operational one. The proposed national security co-ordinator would not task the Garda Commissioner or the Chief of Staff and the Garda Commissioner and Chief of Staff would not answer to this individual. We see the national security co-ordinator as something of a resource, to the national security committee and to Cabinet committee F. This group would synthesise intelligence and identify potential gaps and notify the national security committee, which would take the appropriate actions. We do not see the national security co-ordinator as overseeing the Garda Commissioner or the Chief of Staff and we do not see the strategic threat analysis centre playing an operational role in the gathering of intelligence.

Sir Peter Fahy: I do not think we left the suggestion vague but we did leave scope for the

role to be developed in line with the nature of the threat. As the nature of the threat which all countries are facing is developing very fast, the capability of the infrastructure in Ireland will need to develop accordingly. We see it as a co-ordinating role but the co-ordinator will be able to look more broadly at the nature of threats and to call in other sources of intelligence and information, as well as to build strong links with academia and the business community. The co-ordinator can develop a different culture and gather new skills, which are needed given that a lot of the threat is carried on the digital infrastructure. The recommendations were driven by the people who came before us and who were already engaged in the national security of Ireland and they felt there needed to be greater co-ordination. They also recognised that the nature of the threat was changing very rapidly.

Deputy Donnchadh Ó Laoghaire: In our submission, we propose a broader criminal justice inspectorate, which would take a broader view than just one of policing. Criticisms have been made, for example, of how the DPP handled the case of Shane O’Farrell. Other bodies could also come into view, such as the Courts Service and the Irish Youth Justice Service. This may have been felt to be outside the remit of the commission but did the witnesses give consideration to an accountability mechanism in the form of a criminal justice inspectorate, which would look at all bodies responsible for criminal justice?

Sir Peter Fahy: That is in the nature of policing, as I am sure Ms O’Toole will agree. We saw in evidence that while policing will always be concerned with criminal investigation and prosecution, the main focus is moving towards looking at wider issues about vulnerable people, recognising that a lot of crime and criminal careers come from earlier stages of disadvantage. The co-ordination that is now required is with other agencies at local level, if anyone. That is why we recommended an increased role for the PCSOC. We felt that was the crucial part.

In regard to criminal justice, the crucial series of recommendations involved removing the prosecution role from An Garda Síochána for a whole series of reasons, not just because of officer time, but because in a democracy it is crucial to separate the two roles. There should be an independent national prosecution service. We did not particularly examine the potential spectra on that side. Those were the two key dynamics we pulled up. It is absolutely right to say that very few incidents are solely about the police and can be solved by the police alone. Therefore, the ability to pull together other agencies and the ability of those agencies to work together at both local and national level are crucial. That is why we recommended this wider role for the PCSOC, for wider community safety and the protection of vulnerable people.

Deputy Jim O’Callaghan: I thank the witnesses for coming in, for the work they did as commissioners, and for producing such a well-written and succinct report. I thank them for coming in because people who write reports are perfectly entitled to say that they were asked to prepare a report and those with questions should read it. They do not have to be probed in respect of it. It is helpful for us to be able to ask questions about it.

I agree with most of the recommendations in the report. They mirror a lot of what was in the submission put in by Fianna Fáil. Like Deputy Ó Laoghaire, I am not going to focus on the parts with which there is no dispute, where I strongly favour what is recommended. I hope the witnesses do not think that by doing that I am being negative about the report. I am not. I wish to probe the other areas where there are issues of uncertainty or dispute.

The report’s ninth principle concerns the oversight bodies. It states that a blame culture has affected the relationships between them. Will the witnesses elaborate? In what way is there a blame culture between the Garda Síochána Ombudsman Commission, GSOC, the Garda Síochána

chána, the Policing Authority and the Garda Síochána Inspectorate at present?

Ms Kathleen O'Toole: When we started our work, we were working in the midst of a very tense environment. It seemed there was frustration all around. It seemed there was a lot of frustration, whether we talked to people in the oversight bodies or in the police. We felt that we could all accomplish so much more if we worked collaboratively. I worked as the chief inspector of the Garda Síochána Inspectorate and felt very strongly that we needed to engage with people and to do so constructively. I also thought there should be a strong professional tension in order for us to be effective. It is a matter of striking the right balance. Everywhere we went, the oversight bodies were frustrated, the police were frustrated and it seemed the environment was counterproductive.

Deputy Jim O'Callaghan: We are aware that on many occasions gardaí objected to and were concerned about GSOC, for example. Is it not the case that GSOC should be in the business of blame?

Ms Kathleen O'Toole: Absolutely. Perhaps that could have been better worded. We were not suggesting that this was due to any particular oversight body. We suggested that there was an atmosphere of finger-pointing on all sides. It was just an unhealthy atmosphere.

Sir Peter Fahy: There is a distinction between the relationships between the different bodies and whether the purpose of a complaint system is solely about blame or about learning lessons. The debate around policing in general, in several jurisdictions, is about moving from looking at misconduct and blame to a healthier culture, one that seeks to learn lessons but still holds people to account for misconduct. In policing, poor professional practice is often merged with deliberate misconduct. That of itself creates a blame culture where individual officers feel they are not able to make honest mistakes or admit to them. They can feel the realities of their day-to-day working conditions are not appreciated by the bodies that hold them to account.

Deputy Jim O'Callaghan: Under the proposal in the report there will be two new oversight bodies. There will be the independent office of the police ombudsman, IOPO, which will take the place of GSOC and will be more efficient in dealing with complaints against members of An Garda Síochána, and there will be PCSOC, which will supersede the Policing Authority and the Garda Síochána Inspectorate, absorbing most of their functions and taking on new ones. Members of the Oireachtas will have a direct role in voting on legislation on the establishment of these new statutory bodies if it comes before us. I understand how the IOPO will operate. How will PCSOC operate? We have had the Policing Authority since 2015. How will it differ from that?

Ms Kathleen O'Toole: We feel that harnessing the resources of the inspectorate and the authority will make it an even more robust body. We talked about breaking it down into three areas of responsibility. The inspection responsibility that currently exists, including the meetings and the public oversight, is very important. There should be public meetings where the police are held to account. We would also like to see an enhanced role for PCSOC in developing strong structures and systems for bridging the national strategy on policing with the local district model we envisage. Right now there is a lot of room for improvement at the local level, especially around multidisciplinary approaches and how best to organise them. I know that Professor O'Connell and Ms Ryan were both involved in these discussions.

Professor Donncha O'Connell: One of the enhancements represented by the policing and community oversight commission is that this new body, authority, or whatever it is called, will

have a much deeper and broader intelligence base. It will draw on knowledge from a more defined role in co-ordinating local policing fora. We did quite a lot of engagement with local community groups, both urban and rural, in regard to this. That will give this new body a sense of the policing priorities on the ground. We know that the inspectorate has an extraordinarily valuable store of information and a bank of recommendations. Because the inspectorate will be within the ambit of this organisation, that will all be integrated into its knowledge base. It will not be limited to using that in its oversight exercises or in conducting public meetings with the Garda Commissioner, senior Garda management or whoever. It can also use that knowledge in benchmarking the standards that it wants to see applied in policing plans and made operational, with reference to international experience.

A huge amount of thought went into this. Even those who disagree with the idea of a board do not disagree with the idea of a policing and community oversight commission or authority, whatever it is called. One of the benefits we gained from talking to communities, police and all sorts of other people is a sense of what an enhanced body, genuinely connected to what is happening on the ground, would look like. It would not necessarily take instructions from every group. We understand that it has to be co-ordinated. There is additional value in knowing what is happening in communities and taking it seriously. It is a clear strand in the three pillars of that organisation. It is not tokenistic. It is not a gesture, and it knits completely with the idea of community policing as the core of policing.

Deputy Jim O’Callaghan: That is helpful. Members of this committee are critical of the Policing Authority, but we liked seeing it holding the Garda Commissioner and senior members of An Garda Síochána to account at public meetings. We have a wide experience of that in this committee in regard to homicide figures and other issues. Obviously it needs to improve. A concern that some members have is whether we are going to do away with that. Professor O’Connell has indicated this is not the case, as the policing and community safety oversight commission, PCSOC, would include the functions being carried out by the Policing Authority and it would have enhanced roles as well.

Professor Donncha O’Connell: Yes.

Deputy Jim O’Callaghan: It will take in the inspectorate’s functions too.

Professor Donncha O’Connell: Absolutely. There is a misunderstanding about that. The idea that there would no longer be a public hearing in Dublin Castle is absolutely wrong. That will continue and our argument is that the body doing it would be better equipped. It would be better informed than we can be under the current position, with a disparate set of arrangements between various oversight bodies. It is critical for it to be understood that the idea of public accountability and oversight will continue as one of the functions of the policing and community safety oversight commission.

Deputy Jim O’Callaghan: The witness mentioned that PCSOC should have an odd number of people not exceeding 11. I presume these people would come from outside the Garda profession. Is the witness proposing there would be an office similar to the way the Policing Authority has staff, for example, and it would appraise issues thoroughly?

Professor Donncha O’Connell: Yes.

Deputy Jim O’Callaghan: The new part is the Garda board. How will it interact with other elements? Would this Garda board be like examples in a State company, which would

have a chairman or chief executive?

Ms Kathleen O'Toole: Yes. It is interesting as when we were in the midst of the debate, the recommendation was made to reconstitute the HSE board. We see it as a statutory board with a non-executive chair.

Sir Peter Fahy: When we looked at other organisations, it was a case of wondering why we had not thought about it in policing before. In some ways it seemed fairly obvious when considering how commercial organisations operate. They bring in people with other expertise to assist and, as Ms O'Toole mentioned, police leaders tend to be very good at policing - as we want them to be - but the organisations are now very complex.

Deputy Jim O'Callaghan: Yes.

Sir Peter Fahy: Bringing in additional expertise strengthens governance, professionalism and accountability in the organisation.

Deputy Jim O'Callaghan: I suppose people may think there is a difference between a State board and An Garda Síochána and that is why it should not be treated the same. I understand the logic of the statement but a police force is not like a company with a board.

Sir Peter Fahy: Ms O'Toole and I would argue that it is. It is a big and complex organisation and in the modern world it must run an information technology department and have human resource practices in line with what is normal in the rest of society. It is often that bit that can almost distract police leaders from concentrating on the core business of policing.

Deputy Jim O'Callaghan: Would the board assist the executives running the police force on management matters, giving them external advice?

Sir Peter Fahy: Absolutely.

Deputy Jim O'Callaghan: I know it is difficult to be specific but we can consider the breath testing issue. What role would the board have played in that respect? Would it have come before the board and would it have known how to deal with it?

Sir Peter Fahy: I hope the board would consider the broader issue, including the culture of the organisation and how other modern organisations shape that culture. It would put in all the practices to ensure that sort of thing would not happen. Again, it would have a very strong risk management process that would point out when there is a risk area. There would clearly be times when it might have to react because something has gone wrong but the main focus would be on how, in a modern and complex organisation, processes can be implemented to identify and manage risk and to inject professionalism into every level. The trouble with police leadership is that it sometimes misses such elements because it can be reactive to the latest crises. The other benefit of the board would be to enable the organisation to consider things more for the long term rather than just reacting to the latest policing operation.

Deputy Jim O'Callaghan: Okay. I suppose we could consider the example of a statutory or semi-State body that would not have a statutory oversight body reviewing it in the same way the Garda would have the PCSOC. I know the oversight body is distinct from the management role to be played by the board but does this not distinguish it from other State entities? On one level there would be an oversight body that is checking the policing organisation, probing it, kicking the tyres and indicating, if we use the breath test example, that matters should have

been revealed earlier-----

Sir Peter Fahy: As policing has particular powers over the rights of the citizen in a very profound way, and particularly with a national police force, it is an absolute reason for a stronger oversight body. As we have discussed, the relationship with other agencies and the wider drive for community safety justifies this role. It is these two elements.

Deputy Jim O'Callaghan: In fairness, the witness is not correlating oversight with management.

Sir Peter Fahy: No.

Deputy Jim O'Callaghan: The new board would be involved with management. PCSOC would be involved in oversight.

Sir Peter Fahy: They are distinct.

Ms Kathleen O'Toole: We see the board and the commissioner being subject to the oversight of PCSOC.

Sir Peter Fahy: I apologise to the committee but I must leave.

Chairman: We thank Sir Peter Fahy but he has to leave at this time. We met all the witnesses during private session in the course of their deliberations and it is great to have all of them back this evening.

Deputy Jim O'Callaghan: I have a final set of questions. Is it correct to say the witnesses do not view the Garda board as being part of the oversight and accountability architecture?

Ms Kathleen O'Toole: I view it as part of the accountability architecture but not part of the oversight architecture. PCSOC and the Garda Síochána Ombudsman Commission, or the newly named organisation, would be the two oversight bodies.

Professor Donncha O'Connell: To be clear, the Deputy is right as policing is exceptional and it is not the same as any other State entity or whatever. That does not mean that because of that exceptionalism, the police should not have a board. It should have a board with a particular purpose. As Sir Peter Fahy pointed out, the careful oversight architecture that has, in a sense, been reconstituted by our recommendations addresses that exceptionalism. When we thought carefully about this, we wondered why we would not have a board for An Garda Síochána. It would not have a board just because of the idea it is like any other State body, and that is not the reason we argue it should have a board. It is about trying to bring clarity to the governance and oversight arrangements. Accountability happens at all sorts of levels, including the political and democratic levels in this forum, as well as with a board and, in a manner of speaking, with oversight mechanisms.

Deputy Jim O'Callaghan: I thank the witnesses for those answers.

Deputy Colm Brophy: With Deputy Wallace's permission, may I ask a question as I am pressed for time?

Chairman: By all means, if Deputy Wallace is happy with it.

Deputy Mick Wallace: Go ahead.

Deputy Colm Brophy: I will limit myself to one question as some of the areas have already been covered. It is really about taking up from where we left off. We cannot divorce what happens in the real world from the accountability of the Minister in the Department of Justice and Equality. It is the one area we have not touched in this regard. The witnesses have spoken about the oversight provision and there would effectively be a board interacting with the Garda Commissioner. I worry that we are at risk of layering on top of this. In reality, there will be direct accountability going back to the Minister. I agree with Deputy O’Callaghan’s comments as I know there is a tendency to say it would be like a semi-State or commercial organisation but it is not and it never will be. We must accept that in terms of accountability. I do not expect the witnesses to be familiar with the old scenario of an RTÉ authority that had a view on broadcasting and control. When we considered how to modernise that process, we created a broadcasting authority but it still comes back to a Minister. Where does that fit in the proposal?

Ms Kathleen O’Toole: It is very clear. Ultimately, in this democracy, all these different components should answer to the Minister and the Oireachtas, which comprises the democratically elected representatives of the people. Not only would the Garda Commissioner and the board be accountable to the Minister and the Oireachtas but so would PCSOC and the new oversight body that will replace GSOC.

Deputy Colm Brophy: I am trying to tease out this issue. It sounds that at one level the board has no teeth. It is almost like a board of directors to advise the management on the day-to-day structure. Where does the board get its teeth?

Professor Donncha O’Connell: The board has a significant function in respect of budgets and the policing plans. The board does have significant powers in so far as it impacts on ministerial and departmental level. One of the aspirations behind the creation of this structure is that if we believe as we clearly do that the involvement of the Department of Justice and Equality in the micro management of policing crises or policing generally is not a good idea, one has to take steps to ensure that is less likely to occur. By creating a board, the Commissioner has an entity to engage with that can assist in the type of issues with which he or she needs assistance and the Department of Justice and Equality, which rightly should be focused on the creation of criminal justice, policing and wider policies on public safety and on relationships with other Departments can focus properly on that business. That might seem high minded or a little too aspirational but that is one of the issues, although not the primary one, that influenced our thinking on this. The Department of Justice and Equality and the Minister for Justice and Equality will always exist; that is legitimate and we are not against that but we need to ensure there is a super structure within which policing occurs and that does not dominate to the extent that it possibly has or does not create problems that ought not to be created, or that the Department itself does not need.

Deputy Colm Brophy: I thank the witnesses for their responses, their work and the commission’s report.

I apologise to the committee for having to leave.

Chairman: I thank Deputy Brophy and call Deputy Wallace.

Deputy Mick Wallace: I thank Ms O’Toole and her team for their report and for coming before the committee. When State bodies come before the committee we have a responsibility to hold them to account. We are not looking to hold the witnesses to account because as far as we are concerned they did their report, are finished their work and are not working for the State.

As other members have said, we agree with most of what is in the report. We read the Garda inspectorate reports of 2014 and 2015 and we would have identified with much of what was said in those reports. We have a disagreement on the issue of the GSOC, the Policing Authority and the inspectorate position. Ms O'Toole states they are being amalgamated and they are changing the name of GSOC. I am not so sure of the reason for the need to change the name. The argument put forward is that it will sound more independent of the Garda Síochána. It is proposed to amalgamate the other two but it does look like a watering down of what they were doing. We would not be the only people to believe that is the case.

Professor Dermot Walsh, professor of law at Kent University, is probably one of the most serious commentators on policing in Ireland and he said:

Despite the recent establishment of the Policing Authority, the Garda has remained largely insulated from effective democratic scrutiny and transparency. The Commission's recommendations for change have the merit of bringing much needed clarity and cohesion to the complex and confusing infrastructure of this vital area. At the same time, however, they seem to entail a significant strengthening of the power and status of the Garda Commissioner and the relationship between the Government and senior Garda management, the latter of course was one of the key concerns that led to the establishment of the Commission in the first place.

We believe, and this is not a criticism, that we have a practical take on how policing happens in Ireland. We also have a take on where we think it is going. Deputy Clare Daly and I have been involved since 2011-12 in dealing with much of what was going on and we were raising issues about the Garda when it was dangerous. We were nearly run out of Leinster House for doing that. Things have changed since then. Forgive me for thinking that the Commission's take is a little more theoretical for want of a better word.

The witnesses talked about the frustration they experienced when talking to GSOC, the Garda Síochána Inspectorate, the Policing Authority and we understand that. We introduced a Bill in 2013 and 2014 to try to address the challenges that existed and to change things. The Government refused to bring in our recommendations and instead brought in bits and pieces. The Garda Síochána inspectorate was frustrated because they were never given the powers that they should have been given. It made more than 500 recommendations over a number of years. The inspectorate had no statutory responsibility for the monitoring of the implementation of recommendations made in its reports, something which I am not so sure the witnesses have dealt with, however, the inspectorate established a process with An Garda Síochána in 2008 which resulted in the publication, without Government help, of status implementation update reports twice a year on the inspectorate's website, but the last such regular update was published in November 2013. When Ms Nóirín O'Sullivan was appointed as Commissioner she abandoned this process. The inspectorate did not have a clue whether any of its recommendations was being implemented after that as it was left in the dark. One can understand the reason it was frustrated. GSOC was frustrated because the Garda had the potential to absolutely ignore what it wanted. The Garda would not give GSOC information if it did not feel like it, or give the information late. The Government would not give GSOC the legislative powers to go and get what information it wanted and would not give it the money to do the job properly. GSOC could not hire the people it needed to do the job properly. We were critical of the Policing Authority too, mainly because we felt the Government should have given it more power, for example it was not allowed to hold the Garda Commissioner to account.

The reason that the former Ministers for Justice and Equality, former Deputy Shatter and

his successor Deputy Frances Fitzgerald lost their jobs and that two Commissioners lost their jobs was because the relationship was too close. One could say that the board might be a buffer between them but I am not so sure that it will work that way. It is being said by the witnesses that accountability for the Commissioner will still go back to the Minister for Justice and Equality, the Committee on Justice and Equality and the Oireachtas. We would not be mad about that suggestion. This committee is not the worst it has ever been but it is the first time the Opposition has dominated. Normally it would be Government dominated and the Government will never make the mistake again of allowing the Opposition to dominate it. It was a serious oversight on the part of the Government.

Deputy Donnchadh Ó Laoghaire: It was democracy.

Deputy Mick Wallace: It was mad stuff. It is unlikely to be repeated. What we are likely to have again is the Commissioner and the Minister for Justice and Equality being almost the one entity. One of them can hardly say “boo” without the other approving. That is where the problems arose for former Minister, Mr. Shatter. Sadly Deputy Frances Fitzgerald had problems in the same area.

I have many things to say, but I cannot keep the members and the witnesses here all night.

Chairman: Does the Deputy have a question?

Deputy Mick Wallace: Two of the members of the Commission on the Future of Policing in Ireland, Dr. Vicky Conway and Dr. Eddie Molloy would have had some of the same concerns that we have in this area. Why do the witnesses think they refused to agree with the arrangement that the other members of the commission agreed on oversight?

Ms Kathleen O’Toole: I am pleased the Deputy mentions that because, as he knows, we have approximately 50 recommendations in our report and there is only one on which we ultimately had any disagreement. This is absolutely remarkable, given the fact that we are 11 people who sat around a table for a year and a half and who represent very different perspectives. The only two of us who had any direct policing experience were Peter Fahy and me. This was similar to my experience in Northern Ireland on the Patten commission, where only two of us had any policing experience. That is a wonderful thing, however, because we had academics, business leaders, people committed to human rights and people committed to victims’ rights and we all came together representing very different perspectives. I am looking at the glass as being 98% full because on 49 recommendations we came to a complete consensus and in this one instance we do not necessarily disagree on everything. We all agree we should include the inspectorate into the authority and we agree that the powers of the authority should be expanded. This is, then, a very small disagreement in the overall context of things. This was an extraordinary team of people and we have great mutual respect for one another. We thought that, in the spirit of transparency and mutual respect, we should include that footnote noting the dissenting opinion of two of our members. Nine of us felt very strongly that this was the right recommendation.

I chuckled a little when the Deputy said it was a little theoretical because I based a lot of my perspective on this and the five to six years I spent as the first chief inspector of the Garda Inspectorate. I stood up and led that organisation for five to six years right in the aftermath of the 2005 Garda Síochána Act, when the first new bodies, GSOC and the inspectorate, were created. Of course, as the Deputy knows, the authority was not created until more recently. I experienced my own frustrations as the chief inspector when we worked really hard to develop

and publish recommendations. I was the one in 2008 who said we needed to create an online tool to show people what happens when we issue recommendations, to gauge progress, to show whether these recommendations have been adopted and implemented. I was the one who put that in place. As someone who was in that position, I feel that combining the roles and the resources of the inspectorate and the authority is brilliant because, as the chief inspector, I can now bring those recommendations into a public forum where the authority holds a public meeting and hold the Garda Commissioner to account as to why certain recommendations have been either implemented or ignored. This was not a tool we had available to us in the inspectorate. We published recommendations, they were presented to Government and we hoped they would be implemented, but we did not have a public forum in which to hold people to account.

Deputy Mick Wallace: I read the Garda Inspectorate's 17-page submission to the commission, which I thought was very good. Why did the commission not decide to give the Garda Inspectorate the tools it needed to do its job properly, give it the power of inspection, including unannounced inspection, and give it the authority to actually follow up on how its recommendations were going? Why did the commission not give the Policing Authority these extra powers, which would make it more effective, rather than amalgamating the bodies?

Ms Kathleen O'Toole: I think that by harnessing their resources they can be stronger and more efficient. By the way, there is nothing in our report that criticises the work of the Policing Authority or the inspectorate. Both organisations have done important work during their existence. I want to underscore that. We did not criticise anything. We think we will make them stronger. We think that by harnessing those resources and bringing people together it will be a much more powerful oversight organisation.

Professor Donncha O'Connell: May I make just two points? In the context of the legislative process that may ensue, in the creation of a policing community oversight commission or authority it is of course possible to make those proposals and to have them considered. One thing I would like to double back a little on, for the record, is what the Deputy said about GSOC. We are certainly not suggesting a merely cosmetic change of name. The reason for changing the name is that a GSOC survey indicated that the public perceive the commission to be a Garda organisation and not an independent organisation. We wanted to underscore or put beyond doubt its independence. If the Deputy looks at our recommendations on its powers and functions, he will see they are greatly enhanced-----

Deputy Mick Wallace: Yes, I see that.

Professor Donncha O'Connell: -----by what we propose. Yes, this involves significant additional resourcing. We have been really clear that this cannot be done on the basis of meagre resources. In fact, if the Deputy sees what GSOC itself has proposed and suggested to the Department by way of legislative reform, we are substantially *ad idem* with it on what is needed. I am just concerned that there might be a perception that we did not suggest quite radical reform of that organisation.

Deputy Mick Wallace: No. We actually recommended some of the same things the commission is seeking to bring in so we are completely on the same wavelength as it in that regard.

I will move on a little as I know the witnesses do not want to be here all night. Recommendation 18 states: "We recommend the urgent introduction of streamlined processes for decision making and procurement approvals within An Garda Síochána." I got the impression that the commission had perhaps not taken into consideration just how bad the problems in this area

of An Garda Síochána are. To give the witnesses a small taste of it, in 2016 alone An Garda Síochána paid Accenture, the IT management company, which is kind of taking over this area, €26.5 million. It gets a lot worse than that, however. An audit by the Garda internal audit section into Garda information and communications technology, ICT, payments for 2016 and completed in August 2017, which RTÉ's John Burke got from a freedom-of-information request, found serious problems with its contract with Accenture. The aim of the audit was to examine the payments process and so on, but the audit found no assurances that public procurement requirements were being complied with and that this represented a high risk. The Garda contract with Accenture, which was provided to the audit, was dated August 2009. The audit stated that as this contract had not been renewed since 2009, it was not satisfied that An Garda Síochána complied with the procurement obligations. The audit notes that Accenture staff are the only external IT contractors who do not record their attendance in hours on an electronic clocking system. Not only are these problems with the contract and the staff, but the audit also found that An Garda Síochána had been paying Accenture in advance before the work was done. I was surprised the commission did not go there. Was this outside its remit? It is such a problem area for them.

Ms Kathleen O'Toole: Our job was to focus on the future. We certainly followed the stories of the day in the news. I followed some of the media coverage of Accenture and that contract. We talked about creating the model for the future that will prevent such situations from developing in the future. If one has in place internally in the organisation the right management team that includes not just police but also people with business acumen who know how to manage businesses, and then if one has the board with similar business acumen which can question them to ensure they have the right risk registers in place and that they are operating and managing the business appropriately, we think that will address many of those issues and prevent such weaknesses developing in the future. Ms Ryan has a lot of experience in business and has served on a State board previously.

Ms Helen Ryan: One point I will add to what Ms O'Toole has said is that we were aware, in looking at the current environment by way of deciding what was best for the future, of some of these things. We were, however, equally aware that there was a need for a very significant step-up in the IT infrastructure, particularly to get mobile enabled, which is common in most other police forces at this stage, and that the current process that was being run around those newer technologies was very cumbersome and required a level of specification of the system that, in our view, needed to be looked at differently to enable these things to happen in a reasonable period. A number of those systems are crucial to the organisation being able to operate more effectively and efficiently. That is what that was about. It was particularly about the procurement of IT systems, not IT support, but new systems that are needed.

Deputy Mick Wallace: I have two more points to make and then I will be gone. On the issue of the board, Ms O'Toole stated:

... the Commission has recommended that An Garda Síochána should have a statutory board. The purpose of the board is to strengthen the governance and accountability of the organisation. As is routine in good corporate governance, the Board would be comprised of external members from the business and professional sectors with expertise in human resources, labour relations, criminal justice, financial management, IT and other areas of management.

We have boards in Ireland that are stacked with these people left, right and centre. We have had enough of them. Why not include someone from the Irish Human Rights and Equality

Commission, the Ombudsman for Children, the Data Protection Commission and even someone from the Traveller community? One does not have to be a rocket scientist. People who do not necessarily have all these management skills have a lot to bring to the table, and we believe much of that is missing.

Ms O'Toole was making the argument that the Garda was like a commercial organisation, but I do not buy that. Commercial organisations are 100% driven to make a profit. It is all about making money and making sure it works. That is not what we want from the Garda. We might have a different perception of it but I have an entirely different idea as to what our Garda should be doing and what it should look like. I find it hard to see treating it like a commercial organisation as the way forward.

Ms Kathleen O'Toole: I totally agree with the Deputy. I would not want to see it being treated as a commercial organisation. The board's interest should be the stakeholders, and the stakeholders in this instance are the people the Garda serves.

Professor Donncha O'Connell: On the composition of the policing and community oversight commission, it is interesting that its board is very representative and does have that concern about communities, human rights and their visible presence on that board, bearing in mind that that will be the oversight mechanism, if the Deputy looks at what we said about the composition of the commission itself.

Deputy Mick Wallace: This is my last point. I will read a short quote from Conor Brady. In an article he wrote shortly after the report came out he said that the political establishment and its civil servants have nothing against An Garda Síochána as a community police force but their desire for a strong blue line of defence for the State is greater. He further stated that that imperative, along with the ambition of rolling back external scrutiny, is threaded through this report to a degree that is surprising and disturbing. What comments would the witnesses make on that?

Ms Kathleen O'Toole: I have great respect for Mr. Brady. He was involved in our commission very early on and made a personal decision to step away. We had great respect for him early in the process and I am sorry his voice at the table did not continue. The Deputy mentioned another academic earlier for whom I have great respect. I have actually presented at conferences with him but I have not had the opportunity to sit with either Mr. Brady or the other academic the Deputy mentioned to have a discussion about the rationale that eventually led to some of these recommendations. I look forward to doing that at some point.

Deputy Mick Wallace: Mr. Brady is referring to the security element. That was a big call to make, and we can see the pluses and minutes of it, but many people would think differently about it. I know it is what the Garda, and the Government, would want. It is probably an area on which we would like to have seen a more fresh approach taken. Did the witnesses consider doing it differently or were they adamant from the word "Go" that they would keep security separate and out of sight of any oversight bodies?

Ms Kathleen O'Toole: No. One of the things we recommend is an independent overseer,-----

Professor Donncha O'Connell: An examiner, yes.

Ms Kathleen O'Toole: -----or examiner who would be responsible for reviewing arrangements and also compliance with security legislation. We recommend an independent examiner

in the security space.

Deputy Mick Wallace: However, the witnesses would not like to see him or her coming under the same oversight structure as the Garda.

Professor Donncha O'Connell: No, because it is not purely a policing function. We recognise that there are other agencies involved in this - the Defence Forces, the Revenue Commissioners or whatever. In taking that into account and the evolving nature of the security threats, some of which we cannot possibly even imagine, we suggested a different approach to that but not by any means confirming any monopoly for An Garda Síochána in respect of policing. We argued clearly for the creation of a new strategic threat analysis centre in the Department of An Taoiseach, not in the Department of Defence or in the Department of Justice and Equality, and an actual security co-ordinator and all that goes with that. Sir Peter chaired this group, and he is not here, but we would argue that that is a very innovative approach that has learned from what has and has not worked elsewhere. We were very clear that there would be oversight of that through the appointment of an independent examiner. Given the different task of overseeing security issues, there are sensitivities that would not apply in respect of regular policing oversight, and there are national interests at stake, etc. There was a careful consideration of what should be done and what we suggest is a very significant change in terms of security arrangements for this State.

Deputy Mick Wallace: We would still be of the view that the politicians' paws are strongly wrapped around too many of these issues.

Professor Donncha O'Connell: That is a perfectly valid view.

Deputy Mick Wallace: I thank the witnesses.

Chairman: Our final contributor is Deputy Clare Daly.

Deputy Clare Daly: I thank the witnesses for coming in. It is important to state that we are meeting late in the day to avoid interference with Dáil business and that the witnesses' attendance is appreciated. This is an important part of the process in the Dáil deliberations on what will happen with this report. I am a member of the Business Committee and I know there is a desire to have us discuss the report in the Dáil Chamber. However, the other Deputies wanted us to discuss it in this committee first because the witnesses can come into this Chamber and therefore their voices would be heard first inside the Houses of the Oireachtas, with the rest of the discussion taking place in the House. It has been very beneficial to have that, and it is part of that jigsaw. It is important to state that.

Following on from what Deputy Wallace said, in some ways we may look at this a little differently. My grey hair comes from our long-standing desire to have Garda reform. When we say there is stuff in the report that is not new, we mean that much of it is very good but that it was identified some time ago. In that sense, when Deputy Wallace said that GSOC is not new, the newly called GSOC is everything we, and GSOC, have been requesting for years. It could have been in place a number of years ago. In fact, it could be in place this year as much of what is contained in it was part of this committee's recommendations, if the political will was there. We welcome what is being proposed now. Everybody welcomes it, but it is not new. Even though it would be my view that one of the reasons for the establishment of the commission was a political decision to head off a lot of political dialogue around the clamour for reform, that does not mean we are saying it was a waste of time, that the witnesses did not do the job

they were asked to do or anything like that. They have had a very good role in engaging in that dialogue throughout the country and having the conversation, to use the buzz words. I genuinely believe that everybody talking about these issues and bringing them into the report collectively is very important. I refer to reducing the task of the coroners, not prosecuting in court, serving summonses, prison escorts, the INIS stuff, the procurement, and all of that good stuff that was out there. It is important to say that because much of the discussion has centred on the points of disagreement or lack of clarity, which I will deal with now. The other stuff is good and important.

On the other stuff, and it could be the lateness of the day, but I am even more concerned now about this idea of the board. I jotted down a couple of reasons we need it and a couple of points. One of the things was that gardaí come through the ranks and one could not expect someone who started off as a garda, sitting in a station, drinking tea and scratching himself or whatever, to rise through the ranks and suddenly be able to run an organisation. I found it a little derogatory to some of our people who are at the top of the Garda. The point was made that, at a certain point, the internal drive has to come internally at a certain point. Do the witnesses not think that has begun and is in place internally already? What do they think Commissioner Drew Harris should be doing that he has not already indicated he is going to do? Are there no gardaí who have been able to run a police force? It seems strange that that would be put forward as a reason. It has been put forward as a management thing.

Professor Donncha O’Connell: Let me explain.

Ms Kathleen O’Toole: I will clarify that myself, maybe, because I started that conversation, and I apologise if I created that impression. I was referring to Sir Peter Fahy and myself. We have been very fortunate to benefit from good educational opportunities earlier in our lives but we still rose through the ranks of policing and I was referring to ourselves in that context and not necessarily to members of An Garda Síochána. It is typical. Our experience is not dissimilar to police services elsewhere and, I would suggest, probably the police service in Ireland. Once a person focuses on his or her police career, traditionally that focus has been primarily in the area of policing, investigations and security and, as that person comes up through the ranks, those are the things he or she learns as part of the police craft. That needs to be supplemented.

I remember being put into a position, after being a Boston police officer for many years, where I was suddenly responsible for the whole justice portfolio in the state of Massachusetts and I had responsibility for 20 agencies, more than 10,000 employees and an operating budget of in excess of \$1 billion. I needed to surround myself with people who had serious business acumen and experience in areas of finance and HR because I was not an expert in those particular areas. I was the policing and public safety expert and, as a team, we needed to be a cohesive team that included people with a variety of skill sets. I have great respect for the many very smart people in An Garda Síochána. I am just saying that the entire team has to be a diverse team of people representing different skill sets and, traditionally in policing, most of us who have risen to the position of chief or commissioner have focused primarily on the police craft. I would never intend to insult. I was referring to my own, personal experience and Sir Peter Fahy has concurred with that in the past. I thank the Deputy for allowing me to clarify that.

Deputy Clare Daly: In fairness, it is also sort of implied in the report that the expertise is not there internally with somebody who came up through the ranks. The point I am trying to make is that we would all agree that the organisation should be run better, run well and managed properly. No one is going to be opposed to that, but that is a bit of a red herring in terms of this discussion in some ways. The Garda has a director of HR, a finance operator and so on. That is

who is getting up to speed on computers. There was never before a director of IT in An Garda because there were no computers years ago. Society evolves and An Garda needs to manage, but it has nothing to do with oversight and accountability, and yet the text of the document is proposing that An Garda is firstly accountable to this board. They are the people who deal with appointments and my concern is that this is resulting in more control internally. It is an internal board that is making the appointments and decisions and, in essence, that is where the clout is.

Ms Kathleen O'Toole: I think that adjective “internal” needs to be addressed.

Professor Donncha O'Connell: I addressed this earlier when I spoke about taking ownership of a change agenda that is as ambitious as this. It cannot be entirely externally driven. Given the scale of the organisation, what has to be done and the political context it exists in, and should exist in, it cannot avoid that. That is a democratic reality and one has to augment what is there. All the people who exist at the senior management level, or HR or whatever, are members of An Garda Síochána, whether civilian or sworn, but this board is not. The board would be people who are not members of An Garda Síochána, and it would have a non-executive independent chair. It is not that they are going to be sitting there, as a board, making these appointments day in, day out. They will use the facilities that exist for making appointments through the Public Appointments Service, or some other independent mechanism, and then deal with those recommendations. There is nothing to say, for example, that if a board was being constituted to make particular appointments, that somebody from the Policing and Community Safety Oversight Commission, PCSOC, could not be on the board. That is the way these things happen all the time and they would simply approve them in that setting. Again there is nothing to suggest that a board would not adopt very transparent processes. The way some State boards operate, their minutes can be read and detailed or whatever online. We need to be careful not to caricature what is being proposed here. It is a serious attempt to address the complex issues and it is offered in that particular way.

It is also a link to the suggestion that the Commissioner is the CEO and should be empowered as such, but if he or she is empowered to act as a CEO, that also means that he or she has to be accountable properly and has to be responsible for the exercise of his or her powers, but they also have to be resourced. We are not saying that somebody who comes up through the ranks will not have all of the abilities to be the Commissioner. Clearly she or he will have those abilities, but they have to be augmented with this level of assistance that is not the assistance one gets from one's management team, which is part of one's team. That is truly internal. This is at arm's length from what is going on internally and is the proper proximity, but the proper distance as well, from the operational detail of policing.

Deputy Clare Daly: I have no desire to caricature this board. I actually do not understand it and I understand it less now because it smacks of a halfway house. On the one hand, the witnesses have spent a lot of time dealing with the fact that it is internal, it is management, governance and all that good stuff that is, as the witnesses said, for the people to whom I referred, like the directors of HR or whoever, their day-to-day bread and butter. There is this other crowd who do not do that day-to-day stuff but who might include the HR director of some multinational or whatever, and they tell the Garda that it could be doing this differently or they will have an input on that. The problem is this is being used as a justification to take powers from the external oversight body. We have the new PCSOC, the amalgamation of the Policing Authority and the Garda Inspectorate, but with a lot of the functions of the Policing Authority not transferring. This internal board is getting a lot of powers, particularly the power of appointments.

Do the witnesses not think that the expertise they talk about exists in the Policing Authority

in Northern Ireland, for example, that it has that broader expertise that the witnesses are talking about transferring to the board, and it has an influence over appointments and a better balance than what we are proposing to do now? Maybe this could be built in, because it must be seen in the context of where we have come from. I would like the witnesses to make a point of reading the observations in the report of Mr. Justice Charleton. It is not the witnesses' faults if they have not had a chance to read it, and I am not blaming them, but his conclusions were very illuminating and this is an individual who has been involved since the time of the Morris tribunal. He talked about the need to change the culture and said the mistake that had been made was in the setting up of structures and responding in structures. That is kind of what the witnesses done here. I am not saying, in terms of the controversial bits, that there is not a lot of other good stuff that will help.

Why do the witnesses think the culture is as bad as it is? The witnesses can disagree, but I think one of the reasons is because appointments were made internally and related to who was pally with the Commissioner, who came up through the ranks and people were getting appointed to senior level not on the basis of merit but rather on who they knew. This was done internally, and there was too much of political influence between the Department of Justice and Equality and the Commissioner. We had moved a bit of the way to give the Policing Authority the power to begin the job of oversight, but that is all we gave it. We did not give it the full package because many appointments were made before it was set up. We did not give it the chance to deal with the Commissioner, but the basic structure was in place. Instead of taking that to its logical conclusion to develop an authority with teeth, the expertise the witnesses are talking about and accountability over the Commissioner, we have taken it from the authority and given back that power to the Garda Commissioner and the Department. In fairness, the Toland report made the point that the Department has never used its powers to hold the Garda to account. Why did the witnesses choose to go that way? I know I have thrown quite a few questions at them. They say the new policing and community safety oversight commission, PCSoc, has greater powers of oversight. What are they because I cannot see any-----

Professor Donncha O'Connell: The effectiveness and renewal group that exists on foot of the Toland report agrees with us on this matter.

Deputy Clare Daly: On which matter do they agree with the authority?

Professor Donncha O'Connell: On the creation of a statutory board. They agree unequivocally with us in their second progress report published a week or two ago. That derived directly from the Toland report. Ms O'Toole was a member of the Toland review group.

There is a lot in what the Deputy said. To try to unpick some of it, our starting position is that governance and oversight ought not to be located in one entity. That is what informs our view that we locate oversight properly and effectively in PCSoc. One of the governance functions is the making or approving of appointments, which again can be done properly at one remove from a board in accordance with normal public sector practice. I do not believe that was the most important thing the authority did. The most important thing it did since its foundation was to implement its oversight function regarding policing externally. In that context, therefore, that is the rationale for what we propose.

It appears to the Deputy that we are transferring a good deal of power to the Commissioner. If a Commissioner does not have powers, how can he or she be accountable for something for which he or she does not have power? If we are telling a Commissioner that he or she must now lead an organisation in respect of which there is a significant change agenda, which is am-

bitious, he or she has to be empowered and resourced to do that but, equally, held accountable. If we are saying we do not want this cosy relationship with the Department or one that is too involved, the board must create an accountability mechanism independent of that. That creates, we hope, a functioning accountability platform for the Commissioner in that sense so that he or she is accounting for what he or she does, but he or she is also empowered to do it. To date, that has been something of a difficulty. That is our rationale, as I see it, for this proposal.

Deputy Clare Daly: The Commissioner is being empowered to appoint his own management now when that was a job for the Policing Authority. Who is appointing the board? Is he selecting the board or is the Government selecting the board?

Professor Donncha O’Connell: If the Deputy considers the tasks of any person who is a chief executive officer of an organisation, it is vitally important that that person can have some say in the selection of his or her team. He or she can appoint people with whom he or she can work effectively, and all of those people work subject to their own accountability mechanism. They have to be able to do their jobs, etc. If the Deputy’s view is that everything can be driven externally by a body that is doing oversight, regulating the police and running the police, we respectfully disagree. We say the police, through its own entity, has to run An Garda Síochána, be accountable and have oversight. That is the coherence of our view.

Deputy Clare Daly: Professor O’Connell believes the Northern Ireland policing authority-----

Professor Donncha O’Connell: We have not commented on arrangements in other jurisdictions. We have looked at arrangements in other jurisdictions.

Deputy Clare Daly: Does Professor O’Connell believe there was a problem with the appointments made?

Professor Donncha O’Connell: We are looking at the future of policing in this jurisdiction and what we genuinely believe works in this jurisdiction.

Deputy Clare Daly: I am trying to understand but given that we have started a new process and that the Policing Authority was involved in senior appointments and so on, is Professor O’Connell saying there was a problem with those appointments in that it led to a difficulty? It seems bizarre that appointments would be made that the Garda Commissioner could not live with or anything like that.

Professor Donncha O’Connell: No.

Deputy Clare Daly: My point is that the Commissioner being accountable to the board rather than the Minister is more democratic.

Professor Donncha O’Connell: We certainly do not criticise any appointments that were made. We are saying that, standing back from the different context in which each of those oversight bodies was brought into existence and looking at it afresh, what would we do to make them more effective. In that context, and taking the view that oversight and governance are, and ought to be, separate functions, that is the rationale for our thinking. That does not imply criticism. It implies that things could be done better and more effectively. It is not in any sense a comment on any appointment made by the authority.

Deputy Clare Daly: There would be a view that there is a difference between oversight and

holding people to account. We can say, “That is desperate, lads. You’ve made a holy show of yourselves there”, but the lads can say, “You can give us a bit of lip but we will do what we like because nothing you say will make any difference”.

Professor Donncha O’Connell: If there is a properly functioning board and it is doing its job and if PCSoc has issued a report based on a public hearing with the Commissioner that is critical, it will ask the Commissioner what he is proposing to do in response to what it said because at the next PCSoc hearing, it will ask, “What have you done? What has your board told you to do or how has your board responded?”. It is not at all the case that this will in some sense diminish the level of effectiveness. Our view is that it will enhance the level of effectiveness.

Deputy Clare Daly: Is it not the same point? If we had a properly functioning Garda executive, and the oversight body made the point that it would respond anyway-----

Professor Donncha O’Connell: I do not understand what the Deputy means by Garda-----

Deputy Clare Daly: If we had a properly functioning Garda executive, hierarchy or whatever answerable, say, to a policing authority, is it not the same point?

Professor Donncha O’Connell: Have we had that?

Deputy Clare Daly: Have we had that?

Professor Donncha O’Connell: Yes, in the experience of the authority to date.

Deputy Clare Daly: The point is that it was well flagged before the establishment of the authority. In fairness, the authority was given inadequate legislation to do that job and be in a sufficiently strong position to carry out that mandate. We were very critical of its establishment precisely because of that. Had it been properly armed and if we had a real policing authority - Deputy Wallace proposed legislation on two occasions to properly arm a genuinely independent policing authority, which would mean breaking that link with the Minister for Justice and Equality, particularly at Commissioner level - it could have gone the next step further. There is a view, including among senior gardaí, that the authority was doing a pretty good job, given-----

Professor Donncha O’Connell: We would argue that it will continue to do so as PCSoc and that that presents a perfect context for those kind of insights to be provided for in legislation. If there are deficiencies in the authority legislation now, they can be corrected when legislating for a policing and community oversight commission.

Deputy Clare Daly: Not if half their functions have been given to an internal board under different legislation.

Professor Donncha O’Connell: It is not half its functions. Its primary function is oversight. That is our view.

Deputy Clare Daly: There is a difference between oversight and accountability. It has been quite good at oversight but An Garda Síochána being held to account has been a lesser success.

I refer to Mr. Justice Charleton’s view of the structures. The witness may not have read the report.

Professor Donncha O’Connell: I have read more about the report than the report itself. Mr. Justice Charleton’s argument was that culture is the problem, that it is not just about struc-

tures and that if it was only about structures, we should not have this problem. We do not disagree with that. We do not suggest it is only about structures. That is not an argument for not changing the structures. Our view is that it is holistic. It certainly is about culture and we are clear on that. In fact, culture is the first issue mentioned in the issues itemised by Ms O'Toole at the beginning, but structures must be addressed as well. It was part of our terms of reference. However, by no means would we ever say that if the structures are dealt with, everything would be right. That would not make sense.

Deputy Clare Daly: Why is the culture so bad? Is it not linked to the fact that people were appointed by their friends and that in that incestuous, internal relationship they were allowed to do whatever they wished, internally and without scrutiny?

Professor Donncha O'Connell: We were the Commission on the Future of Policing in Ireland. We all have our views on the reason for where we are but our task was different from those of Mr. Justice Charleton and others. It was not to examine the past but to map a future. We all bring an awareness of the past to our job but it is not necessarily our job to comment on that.

Ms Kathleen O'Toole: It is important to underscore that we certainly do not look at a model ahead where the Garda Commissioner or the Garda senior team would tap their friends on their shoulders and appoint them to positions. Any process into the future for appointment and promotion should be professional, legitimate and fair, and it should be supported by the Public Appointments Service or a similar entity so the process is legitimate. It is a huge blow to morale if people think that a promotion appointment process is not legitimate.

Chairman: Does Ms Ryan wish to make a further comment?

Ms Helen Ryan: I believe we have addressed all the issues that most influence culture. On the point Ms O'Toole is making, it is about the recruitment of the right people, proper training of those people, proper performance management of those people and proper objectives being set. If there is a good performance management system in place, one uses that as a means by which to decide on promotions. That is a gap at present and it definitely must be strengthened. That is one of the key matters that can change culture.

Deputy Clare Daly: I have a brief question on the security issue. Perhaps I misunderstood or it is due to the lateness of the hour but is the independent examiner under the security piece different from the co-ordinator?

Ms Kathleen O'Toole: Yes. That would be a position that would oversee-----

Deputy Clare Daly: Where does it fit in? Who is the boss? From reading it one would think that the co-ordinator can only call a meeting, and people can say they will not attend. There does not appear to be a power to do a great deal. The examiner has that power.

Professor Donncha O'Connell: The examiner is based on a similar model in the UK under which a legally trained person, typically a Queen's Counsel, would make the assessment and report to the Prime Minister on those matters. It is an independent officer who would make a call on those questions. Clearly, the normal guarantees of independence would have to be put in place for that. That officer would have access to all sorts of material and documents that would not be generally available to other scrutineers or overseers. We met two former holders of that position in the UK. The current holder, Mr. Max Hill, has just become Director of Public Prosecutions in the UK. We met Mr. David Anderson and I cannot remember the name of the

other individual we met. We had lengthy encounters with them about how their powers and functions worked and how they were exercised. It seemed to be a fairly effective mechanism. They are high profile people who take very independent stances as to the rights and wrongs of the matters they are tasked with examining.

Deputy Clare Daly: I thank the witnesses for attending the meeting. There is a lot of material that has long been sought by the Garda Inspectorate in its excellent reports that could be brought in. There is the GSOC suggestion, whether or not one agrees with the name change. All the other material has been long demanded and there is a desire to move on much of this material as well. We had to concentrate on the points on which we need more clarity and they will be teased out further as we proceed.

Chairman: I note from the foreword to the report, Ms O'Toole, that the commission met senior Government figures. My question is in the context of implementation. If this tome were to rest on a shelf and nothing were to happen, it would be not only disrespectful to the work done and the effort applied but would also leave us in a very poor position for many years to come. It is important to note that across all the members' contributions there was an acknowledgement of agreement with and acceptance of a great deal of the work, although not all and some of that has been highlighted. However, there is a definite welcome for and endorsement of much of what has been recommended in "The Future of Policing in Ireland". Will Ms O'Toole elaborate a little on the commission's indication that it met senior Government leaders? In her closing remarks, she said that if all the recommendations were implemented, Irish policing would not only regain the ground it had lost compared with other policing jurisdictions but would be at the forefront in the evolution of policing internationally.

We are all political players, not just in this institution but also in the State, and we are all well aware of the unfortunate silo nature of government. I listened to Sir Peter Fahy earlier when he was focusing on the other agencies of the State that have a responsibility to step up to the plate, which is not currently the case. Nine to five from Monday to Friday does not deal with the variety of mental health issues, child welfare issues *et al.* Gardaí are invariably the line of contact and the first responders in many of these cases, which are not necessarily in their particular area of expertise although some would have acquired considerable expertise through experience, improved training and so forth. Can Ms O'Toole give us any indication from those the commission has met, who are not specified in the report, that it is more than just a Department of Justice and Equality consideration and that the Department of Health, the Department of Children and Youth Affairs and other Departments would have a role in or responsibility for ensuring the implementation of the new reality we want? Can she give us a sense of that? As this is her last engagement in this capacity, as Ms O'Toole exits the stage, does she have confidence regarding the implementation of the report? Does she have confidence that it will overcome the silo mentality that has dogged governance in this jurisdiction over the years? What are her expectations?

Ms Kathleen O'Toole: Our engagement process, including our public consultation process and the consultation process with other Government Departments and agencies, was very robust, and necessarily so. Policing cannot be left to the police alone. As I mentioned earlier, more than 80% of what the police do has nothing to do with law enforcement. It is addressing community needs and the needs of the most vulnerable in communities. We will only develop successful policing strategies if we work with multidisciplinary approaches. We worked our consultation process around that. We engaged with many other Departments and, indeed, received submissions from them. In our reports we have provided a list of the Departments and

people with whom we engaged. We are in the process of publishing, with the appropriate redactions necessary under the law, all of the submissions received. Those who review them will have an appreciation of the very broad input received. I would not have spent the last year and a half working on this initiative if I had not truly believed there was an appetite for change. For me, to some extent, it was unfinished business because when I left here as chief inspector, I was frustrated. We had put a lot of great ideas on the table, but the Government at the time necessarily became distracted by the economic crisis and police reform was placed on the back burner. In recent years it became apparent that something had to be done and this is the time to do it.

The commission had no agenda other than getting this right and we worked to get it right. The report is a reflection of what we heard, including from people in this building and people who lived and worked in communities throughout the country. On my reference to Government leaders, I use the term broadly, but we met all of the parties. We also encountered colleagues of many committee members at the public meetings we held throughout the country. The Ceann Comhairle hosted a reception in order that Members of the Houses of the Oireachtas would have an opportunity to meet and talk to us. We accepted written submissions from most parties. I hope most will see our work as a reflection of their input and feedback. While there are still some questions to be answered and clarification is required, I am heartened by the response which I did not expect to be as universally positive as it has been. I attended a meeting yesterday with representatives of eight Departments which had come together in the early weeks following publication of our report to determine what each of them would have to contribute in the implementation of the report. For me, that was reassuring. I also worked with the Patten Commission in Northern Ireland and we had to wait for a year or two before we saw any progress because of the political position at the time. Thankfully, people seem to be digging in and following up very soon after publication of the report. As I said, I am sure my esteemed colleagues and I would not have spent all of this time on the report unless we believed it was an important time, that we could make a significant contribution and that the report would be received and implemented. I am very optimistic.

Chairman: Ms O'Toole's final remark is a good one on which to end the meeting. I am heartened to hear that so many Departments were directly involved in the most recent engagement. It is important that it be recognised and accepted that implementation of what is recommended is not just the responsibility of the Department of Justice and Equality alone. If we are to see real change, an embrace across government will be required. There must be fundamental changes to the employment reality, particularly the arrangements for the employment of people with particular skills and expertise who are not part of policing but who should be first responders post-5 p.m. and at weekends such that we will no longer depend on the Garda to intervene.

I thank Ms O'Toole for her leadership of the commission and its work and also for her engagement with the committee which also comprises 11 members. I noted with interest the statement that there was not always unanimity among the membership of the commission. Yesterday and earlier today I worked with the clerk to the committee on a report to be brought before the committee for adoption on which I am sure there will not be unanimity. The committee has been very lucky in seeing the adoption of a lot of its reports, but I do not expect that it will be able to sign off on this report unanimously. We will have a different set of recommendations. Our respective roles mirror each other to some extent. I again thank Ms O'Toole and all those who have served on the commission for their work. I wish her, Sir Peter Fahy, Ms Helen Ryan, Professor Donncha O Connell and all those who have served on the commission good luck and the very best for the future.

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The joint committee adjourned at 8.15 p.m. until 9 a.m. on Wednesday, 14 November 2018.