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***An Coiste um Chuntais Phoiblí***

**Tuarascáil ar an gCóras Próiseála Muirear Seasta  
agus ar Shaincheisteanna gaolmhara maidir le  
Sábháilteacht ar Bhóithre.**

**Deireadh Fómhair 2014**

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***Public Accounts Committee***

**Report on the Fixed Charge Processing System and  
related Road Safety Issues.**

**October 2014**



**Foreword by the Chairman of the Public Accounts Committee, John McGuinness, T.D.**

I welcome the publication today of the Committee's Report on the fixed charge processing system and on the related issue of improving road safety. The Report covers the inappropriate cancellation of fines and penalty points which came in for major public scrutiny in 2014. In addition to addressing this issue, our Report also examines the weakness in the overall system that has resulted in only 70% of fines being paid and where many offenders are evading penalties.

The Committee, cognisant of the need for robust systems to collect fines and also the need to ensure that public confidence in law enforcement is maintained, has made a number of recommendations which will help the Garda Síochána to do its job to the best of its ability. In addition to improving systems, the Garda Síochána must improve the way it deals with whistle-blowers and must put an independent process in place to deal with internal complaints. I firmly believe that the whistle-blower [Sergeant Maurice McCabe] who gave valuable evidence to the Committee on the operation of the fixed charge processing system is a catalyst for change and that must be welcomed.

I want to thank Sergeant Maurice McCabe and I also want to express my appreciation to all witnesses who gave evidence to the Committee on the subject matter of this Report.

I commend the Report to Dáil Éireann.

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**John McGuinness, T.D.,**  
**Chairman,**  
**Public Accounts Committee,**  
**2<sup>nd</sup> October 2014**

**Public Accounts Committee**

**Report on the Fixed Charge Processing System and Related Road Safety Issues.**

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# Public Accounts Committee

## Chapter One

### Overview and Executive Summary

#### **Introduction**

State authorities take a number of measures to make our roads safer including tackling non-compliance with road traffic legislation and increasing the capacity of public authorities to detect such non-compliance. At an overall level, indicators such as the drop in road accident fatalities show that actions by the State authorities, principally an Garda Síochána, are working. As has been iterated on a number of occasions, the fixed charge processing system is not about maximising revenue to the State but about improving driver behaviour. However the Comptroller and Auditor General [C&AG]<sup>1</sup> details the extent to which those that want to evade paying fines can do so without difficulty. In addition the actions of certain Gardaí who cancelled fines became a cause of concern in 2013. Two Garda whistle-blowers were instrumental in highlighting these concerns. These issues were examined by the Committee and are now addressed in this Report.

In examining issues highlighted in Chapters 7 and 8, the Committee held meetings with

1. the Garda Commissioner on 24<sup>th</sup> January, 2014<sup>2</sup> and the Acting Garda Commissioner on 10<sup>th</sup> July, 2014
2. the Garda-wistleblower [Maurice Mc Cabe] in private on 30<sup>th</sup> January 2014
3. The Accounting Officer of the Department of Tourism, Transport and Sport and the CEO of the Road Safety Authority on 19<sup>th</sup> June, 2014<sup>3</sup>
4. The former head of the Garda Traffic bureau [Mr John O Brien] also on 19<sup>th</sup> June, 2014.<sup>4</sup>

The Committee notes with concern that many of the systemic weaknesses have been known to the authorities for many years, having been highlighted in previous reports of the C&AG. A lot of money that could have been collected has been lost as a result. Legislation that was enacted in 2004 and 2010 to address some of these systemic

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<sup>1</sup> [Chapter 7 of the C&AG Report on the Account of the Public Services 2012- \*Management of the Fixed Charge Notice System\*](#)

<sup>2</sup> [PAC meeting 10/07/2014](#)

<sup>3</sup> [PAC meeting 19/06/2014](#)

<sup>4</sup> [PAC meeting 19/06/2014](#) (p.50)

weaknesses was not successful and there is now a criminal justice working group examining these systemic issues. It was the actions of the whistle-blower that galvanised activity into fixing some of the problems that emanated from within the Garda force itself.

The evidence given to the Committee also supports the contention that more needs to be done to tackle those who are detected but who escape from paying a fine other than when they are cleared of charges by a court.

### **Accountability Issues Examined**

The Accountability issues that are dealt with in this Report are:

1. The need to address the systemic weaknesses that lead to high levels of fine evasion and the non-endorsement of driving licences with penalty points in the aftermath of court decisions
2. The use of discretion and the inappropriate cancellation of fixed charge penalties by senior Gardaí
3. The need to enhance the system for handling complaints from whistle-blowers
4. The need to get a better return from the use of the privatised (Go-Safe) speed detection cameras

Chapters' two to five of this Report examine these accountability issues and in Chapter six, the Committee outlines its findings and recommendations which address the weaknesses that have been identified.

## Chapter 2

### Systemic weaknesses leading to non-payment of fines.

#### Introduction

Based on the evidence given to the Committee, it appears that the current system works well in dealing with the 70% of motorists who pay their fines and who are allocated their penalty points. Under the current system those who commit a motoring offence whether detected through intercept (at check point for example) or by non-intercept means (speed cameras where the driver is not stopped) have twenty eight days in which to pay the fine and accept the penalty points. Where a fine is not paid, a second notice, which is also valid for a further twenty eight days, issues. Thereafter, the process moves from an administrative one to a judicial one with the serving of a court summons. Figure 7.11 of the C&AGs annual report gives an overview of the system and shows the leakages from the system [See Appendix 1]. The 70% of fines that are paid generates approximately **€22 million annually for the State**. As shown in Figure 7.11 of the C&AGs Report, of the remaining 30% of charges, approximately 10% end up being dealt with by the courts. The receipts from road traffic fines in 2012, which includes extra penalties was €7.6 million. The remaining 20% [estimated value of approximately **€6 million**] leaks out of the system, and while there are legitimate reasons for some of that leakage, the majority of it is caused by systemic weaknesses and this has led to a significant loss in income for the State. More importantly it means that certain road traffic offenders may not modify behaviour and become compliant road users simply because they know they can get away with committing motoring offences such as speeding. It is in the public interest that evasion is minimised to the fullest extent possible. The remainder of this chapter deals with the identified systemic weaknesses as they arise in the different stages in the process. The whole issue of cancelling penalty points is dealt with in chapter 3.

#### Systemic weaknesses

There are a number of areas where there are significant weaknesses in the system and the principle ones include

1. Errors in data entry at detection stage
2. Unidentified drivers, especially in respect of company cars
3. Failure to serve summons
4. Failure to get licences endorsed

## **Errors at detection stage**

As outlined in Fig 7.11, a fine notice issues when a driver is intercepted by an Garda Síochána or when the driver is detected speeding by a speed camera. For approximately half the driver fine notices, the driver of the vehicle is unaware of the fact that he/she has been detected until a notice arrives in the post.

Inaccuracies in inputting data, to notepads or to the hand-held devices, will often result in the notice becoming void. In the case of notepads, the data recorded on the note pad is inputted onto the Garda system in the Fixed Charge Processing Office [FCPO] in Thurles, a copy having been given to the motorist. Leakages occur here where the FCPO has to return the form to the Garda District for clarification. Many traffic fines are lost due to

1. delays by the Garda districts in returning the forms which can result in the offence becoming statute barred, or
2. the failure by Garda districts to return the corrected form at all.

The Committee was also informed that Gardaí find the electronic hand-held devices difficult to use. This is an issue that should be addressed so that more Gardaí are able to directly input data.

The whole process system involved in getting an offence entered on to the central Garda system appears unduly bureaucratic when manual note-pads are involved. Where forms have to be returned to the Garda District, there should be a rigorous follow up process to ensure that the forms are returned to the FCPO so that a notice can issue to the driver and this process should be subjected to persistent audit. Ultimately, the process should move away from manual note pads to one where there is direct entry of data with the driver getting a receipt at the side of the road. The Gardaí should also examine ways of making the hand held devices more user-friendly given that technology has evolved, especially with touch-screen devices. It should be possible that the use of note-pads could be phased out.

## **Unidentified drivers/Company Summons cases**

This issue of driving fines not being paid as the vehicle driver is unidentified and where the owner of the vehicle is not a natural person has seen a huge disregard for road

traffic laws in this State. This issue was highlighted by the C&AG as far back as 2003 and, while there have been legislative attempts to fix the system, these have not worked. The Committee was informed that the provisions of the Road Traffic Act 2010 "the 2010 Act" which should fix this problem have not been implemented as the provision is interlinked with a "third payment option" which requires an enhanced ICT system within An Garda Síochána. It is estimated that the provision dealing with company cars will not come into effect until 2015 at the earliest. As outlined in C&AGs 2010 report,

- (i) there is a potential revenue loss of at least €600,000 per annum
- (ii) One company had 203 cases in a two year period which were not pursued and were classified as company status
- (iii) While 28% of notices were paid, 23% were terminated and 49% were not pursued.

The 2010 Act will, when fully operational, impose fines of up to €5000 on a company who fails to identify its staff member. The Committee was also informed that photographic evidence is currently available for all non-intercept detections and that the photograph of the driver together with the licence plate number of the car is also of a quality that would make a driver identifiable. The Committee understands that, in the past, the Garda authorities were reluctant to use photographic evidence because of the right to privacy legislation. The Committee will recommend that, where a company/ garage/ car-hire vehicle is detected, the notice that issues should also contain the photograph of the driver and this will then ensure that companies cannot hide behind legislative loop-holes.

### **Issuing of Summonses**

About 22% (89,000 or so) of fixed charge notices are not paid within the 56 day period and are sent for prosecution, thus resulting in a court summons: Summonses are served by the Gardaí. As outlined by the C&AG and also the Garda Inspectorate report of February 2014 <sup>5</sup> more than half of those summonses are struck out when they are heard in court because the summons has not been served. This is resulting in a potential annual loss of over €3.5 million. It is clear also from the Garda Inspectorates report that the serving of summonses takes up a huge amount of Garda time and is deemed an inefficient use of resources. The high percentage of court summonses that are not served has been highlighted in C&AG reports dating back to 2000. The Commissioner in his evidence to the Committee pinpointed some of the practical difficulties facing a Garda who have to serve the summons in person on the person charged. It is also the

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<sup>5</sup> [Garda Inspectorate Report 2014](#)



case that Garda Superintendents are not being held responsible for the high failure rates in respect of the servicing of summonses and it is not an issue on which performance is judged. The key concern of the Committee is that if a driver who has ignored the two fixed charge notices that have been delivered by post to the address used to tax his/her car and can then take steps to avoid being served a court summons, then that person, simply by not engaging in the process, can escape a fine and the imposition of penalty points on the driving licence.

The Committee notes that the Working Group on Criminal Justice is examining this issue and that the full implementation of the Road Traffic Act 2010 will result in a change in the burden of proof whereby it will be for the vehicle owner/driver to prove that the summons, which will be sent by registered post, has not been served. In that regard, the Committee notes that the majority of people now tax their cars on-line and it appears that there are very few instances where local authorities are contacted to say that the tax disc has not arrived in the post. The Committee is strongly of the view that the process involved in serving of a court summons needs to be changed so that the summons is delivered in the post and where the burden of proof in relation to the serving/non-serving of a court summons rests with the vehicle owner. If the summons process is sorted out it will mean that the proposed third payment option will become more attractive to those who have avoided the fixed charge notices and this should result in more fines being paid and it will also mean that District Courts are not clogged up dealing with road traffic offences.

### **Endorsement of licences**

The Committee raised concerns that many drivers, who are convicted in court for road traffic offences which also attracts penalty points, are not presenting their licences for endorsement and are thus avoiding penalty points. It also appears that, whilst the Gardaí and the Court Service are aware of the issue, there is not a robust follow-up system in place to track down these individuals in order to ensure that the full penalty is imposed and the licence is endorsed. This is a serious issue as it appears that 2 out of 3 offenders are not having penalty points attached to their licences even though they are guilty of a road traffic offence.

The Courts Service in a letter to the Committee (See Appendix 2) outline the difficulties being place on court staff as a result of the current system which, in the view of the Committee is clearly inefficient and ineffective. In terms of a resolution, the Committee is of the view that the system which results in fewer fines being pursued by the Courts is the most effective way of dealing with this issue. The Committee will follow up with all relevant State agencies, including the Courts Service, to establish how effective the third payment option, contained in the 2010 Act, is in taking away road traffic offences from the Courts. In addition, and as outlined in relation to the phasing out of note books, the

number on the driving licence should be captured at a first stage of the detection process and should be used as the unique identifier in terms of the imposition of fines. This Report has already referred to the need to move from a manual to an IT electronic note book and this should allow Gardaí to capture the driving licence number at the time of detection through a simple matching process with the National Vehicle and Driver File. In addition where data from speed cameras is being updated by the Gardaí (at the OSCAM) the number plate on the vehicle should allow the capture of the driving licence as contained in the NVDF. It should also be mandatory that a Court summons contains the driving licence number and thereafter the outcome of court cases should be updated automatically by the Courts Service or the outcomes of all cases should be forwarded electronically to the RSA which can then update the National Vehicle and Driver File. In this way the convicted offender does not have an input into the process after the court decision.

## **Chapter 3**

### **Cancellation of Charges**

#### **Introduction**

The cancellation of fixed charge notices is dealt with in Chapter 7 of the C&AG Report. It highlights weaknesses in the system currently in place. The Committee was also contacted directly by a Garda whistle-blower [Sergeant Maurice Mc Cabe] who submitted documentation in relation to the cancellation of penalty points and this fed into the public examinations undertaken by the Committee. In that regard, the Committee took an unprecedented decision and heard direct evidence, in private session, from the whistle-blower on the systems and processes involved in cancelling fixed charges. The issue of cancelling penalty points has also been examined in the report of Assistant Commissioner John O' Mahoney<sup>6</sup> and the Garda Inspectorate<sup>7</sup> also examined the issue. Both of these reports are now in the public domain. It is clear that a culture change is necessary in An Garda Síochána in relation to Gardaí who are petitioned in relation to fixed charge notices and also in respect of the way whistle-blowers are dealt with. These issues are dealt with in this chapter.

#### **Use of discretion**

As outlined earlier in this report, road traffic offences are detected by either intercept or non-intercept methods. A Garda who intercepts a driver can use discretion and not issue a charge if the situation is deemed appropriate. In most cases it likewise can be said that where a Garda, having intercepted a motorist, proceeds to issue a charge that the use of discretion in such cases was not deemed appropriate.

One of the issues to emerge in evidence given to the Committee was that where a Garda issues a charge on the roadside that senior officers, having been petitioned, subsequently cancelled the charge. The Committee found this to be a worrying aspect of the whole procedure. It can be more easily explained by the use of an example where a driver, on receipt of a fine having been detected on a speed camera, would have a fine cancelled as this would have been the first occasion on which that driver would have had direct contact with the Garda authorities and it could well be that a valid reason was available as to why the charge should be cancelled. The C&AG in a letter to the

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<sup>6</sup> [Garda Professional Standards Unit- Examination of the Processes and Systems in place to deal with Cancellation of Fixed Charge Processing System Notices by Superintendents and Inspectors Acting in that Capacity](#)

<sup>7</sup> [Report of the Garda Síochána Inspectorate – The Fixed Charge Processing System, A 21<sup>st</sup> Century Strategy](#)

Committee [See Appendix 4] outlined however that rates at which charges originating in both intercept and non-intercept cases were cancelled was roughly the same.

### **Cancellation of fines at district level**

Superintendents and district heads had (until 2013 when the process was centralised in Thurles) the capacity to cancel fines in accordance with the Garda manual which is in force since 2005. Cancellations are allowed where exceptional circumstances prevail and are undertaken either on a statutory or discretionary basis. The C&AGs report (See Appendix A) shows that approximately 5% of fixed charge notices are cancelled, of which about 2.2% are cancelled by Garda Superintendents using discretion. This equates to an annual figure of approximately 9,400 cancellations. The examination by the Committee and in particular the evidence of the whistle-blower raises concerns that the power to use discretion to cancel charges was open to abuse and in particular that:-

- offenders with multiple charges were having their fines cancelled
- some senior Gardai had a more liberal attitude to cancellations
- there were instances where Superintendents were cancelling charges that occurred in other districts which is contrary to the Garda manual
- Gardai, who themselves committed road traffic offences while off-duty, were evading the imposition of a charge and penalty points by citing that they were on duty even though the individual was on sick leave.
- a full audit trail was not available which would justify the cancellation.

Documentation was supplied by Sergeant Mc Cabe to support his assertions that discretion was being misused was examined by the Committee. He also gave oral evidence to the Committee which led the Committee to getting a good understanding of how the system of cancellations worked. The Committee is aware that the issues he has raised are now to be the subject of a detailed examination by the Garda Síochána Ombudsman Commission and therefore the Committee will not comment on the content of the material supplied by Sergeant Mc Cabe. The Committee, having regard to the evidence contained in Chapter 7 of the Report of the C&AG and having examined the issue with the Garda Commissioner, can only conclude that the systems of checks and balances that are outlined in the Garda manual were not applied; that an audit process, that would have highlighted the fact that the system was not working as intended, was not in place and that as a result, the reputation of the Garda Síochána was damaged.

While the framework in place to cancel fixed charges using discretion is non-statutory, there are a number of parameters outlined in the guidelines contained in the manual to

assist Senior Gardaí in exercising discretion. The key issue here is that there is an audit trail of the decision which outlines the key stages of the decision making process. In many cases examined by the C&AG there was no documentary evidence. In other cases, the documentary evidence was incomplete, for instance the petition had no documentation to back up the petition. A comprehensive record would also have shown that a driver had previous cancellations. Finally some of the reasons cited in the petition [as outlined in paragraph 7.51 of the C&AGs report] and accepted by Gardaí could be regarded as displaying poor judgement in terms of accepting excuses when weighted against the public interest of ensuring that drivers obey the rules of the road.

Another key issue examined by the Committee was the fact that, notwithstanding that certain matters relating to cancellations were left to the judgement of senior Garda officers, certain Gardaí had a much higher incidence of cancellations than their peers in other districts. Those statistics are outlined in paragraph 7.1 of the C&AGs Report. There is no explanation provided as to why this discrepancy arises and it therefore point to a more liberal attitude being taken by certain Gardaí.

### **The Need for Change**

It is clear that the actions of the whistle-blower presented a challenge to the Garda authorities. The evidence of the Garda Commissioner at the meeting 24<sup>th</sup> January, 2014, while being clear on the point that malpractice by Garda members would not be tolerated, also showed a degree of resentment of the actions of the whistle-blower in highlighting the systemic weaknesses in public and outside the internal procedures. Clearly changes, some of which were introduced in 2013 to cancellation procedures, are needed in order to address systemic weaknesses. The Committee is of the view that in addition to changes to the cancellation system, there is also a culture change needed in the Garda Síochána which will help restore both the public confidence in the force and the morale of its 12,000 uniformed officers.

#### *Systemic Changes*

The Committee welcomes the decision to centralise the cancellation process in the FCPO in Thurles. This should ensure that charges will only be cancelled where

- (i) The cancellation is in accordance with the provisions of the Garda manual
- (ii) That appropriate papers supporting the cancellation are maintained and can be inspected.
- (iii) Any cancellation will have regard to previous offences and previous cancellations

The Committee will recommend that that the process of cancelling fixed charges be subject to regular audit by the Internal Audit Unit of the Garda Síochána.

### *Culture Change*

It is clear that the extent to which charges were cancelled without proper recourse to policy as outlined in the Garda manual, has left the force open to the charge that some Gardai were amenable to "squaring" charges and this has damaged the reputation of the force as a whole. This is an issue that now needs to be addressed from the top down in An Garda Síochána so that, over time, the culture of stringent compliance with road traffic laws will evolve within the force . There needs to be a more coherent message emanating from Garda HQ in this regard and networks at district head level should be established so that there is a forum in place whereby senior Gardaí can discuss the challenges and can develop, in conjunction with the head of the Garda Traffic Corps, clear guidelines to help all Gardaí to enforce our traffic laws which will ultimately make roads safer.

## **Chapter 4**

### **The action of the Whistle-blower**

#### **Introduction**

The Committee had direct involvement since October 2013 with Sargent Maurice Mc Cabe. His evidence to the Committee raised serious concerns about the cancellation of fixed notice charges for traffic offences. The Committee heard evidence from him at a private meeting of the Committee on 30<sup>th</sup> January, 2014. The action by Sargent Mc Cabe [the whistle-blower] and in particular, the provision by him of information containing details of thousands of cancellations, which he deemed to have been inappropriate and an abuse of position by Senior Gardaí, led to a serious concern on the part of Garda authorities. This issue and the handling of his complaints, within the systems provided, were examined in detail at the PAC meeting of 23<sup>rd</sup> January, 2014. Since the Committee examined this issue in January 2014, the whistle-blowers allegations, many of which related to wider issues not associated with the cancellation of fixed charge notices have been referred to a Commission of Inquiry. This Chapter will therefore focus on the handling both by the Committee and the Garda authorities of complaints made by the whistle-blower and will not comment on the merits or otherwise of any of the allegations made by the whistle-blower.

#### **Time-line of events**

The evidence given to the Committee indicates that process commenced when the whistle-blower made a complaint to the Garda Confidential Recipient on 4<sup>th</sup> April 2012. Thereafter the C&AG's office was contacted by this whistle-blower in July 2012 when a dossier containing approximately 4,000 cases where fixed charges were cancelled by Gardaí, some of which related to multiple cancellations for individual drivers. The Garda Síochána also received a similar dossier in October 2012 which became the subject of the O'Mahony review which reported in March 2013. Based on the evidence taken by the Committee the following are the key time-lines in respect of what happened from the time the whistle-blower first reported concerns:

<b>Date</b>	<b>Action</b>	<b>Comment</b>
4 <sup>th</sup> April, 2012	Commissioner receives a complaint from the Confidential Receiver	This relates to the quashing of penalty points in four cases by one Superintendent
July 2012	Whistle-blower makes contact with the office of the C&AG	A dossier containing 4000 cases is handed over
Sept	Whistle-blower makes contact with the CEO of the Road Safety Authority	Dossier containing 189 allegations relating to 2198 cancellations) is passed on by the RSA to the Dept. of Transport, Tourism and Sport and eventually to the Dept. of Justice & Equality
19 <sup>th</sup> Oct. 2012	Commissioner receives dossier from Dept. of Justice & Equality	Assistant Commissioner O'Mahony commences and examination of the dossier
8 <sup>th</sup> Dec. 2012	Garda whistle-blower challenged by Garda Sargent regarding the printing off of material from the PULSE at a station in the Cavan/Monaghan district	
14 <sup>th</sup> Dec. 2012	Commissioner issues a direction to the whistle-blower to hand back any material taken from PULSE	
24 <sup>th</sup> December 2012	Commissioner replies to the Confidential Recipient in respect of the complaints received on 4 <sup>th</sup> April, 2012	
Feb 2013	Assistant Commissioner O'Mahony becomes aware of the identity of the whistle-blower who supplied the dossier being investigated by him	The whistle-blower is not interviewed by the team conducting the examination of the dossier
25 <sup>th</sup> March 2013	O'Mahony Report is submitted by Commissioner to the Dept. of Justice & Equality	
23 <sup>rd</sup> April, 2013	Garda whistle-blower makes direct contact with Assistant Commissioner O'Mahony	
16 <sup>th</sup> May 2013	Commissioner is questioned at PAC in relation to the whistle-blowers	
September 2013	C&AG Annual Report containing a report on the management of the fixed charge notice system	
23 <sup>rd</sup> Jan. 2014	Garda Commissioner gives evidence to the PAC	
29 <sup>th</sup> Jan 2014	Whistle-blower gives evidence to the PAC	This evidence was taken in private session

### **Direct Review of the whistle-blowers allegations by the PAC**

The remit of the Committee in relation to the whole issue of the collection of fixed charges is to examine the systems, processes and procedures employed by an Garda Síochána arising from the report of the C&AG. This report, which is the outcome of this examination, is based solely on the evidence taken by the Committee and therefore does not comment on or refer to other issues that arose as a consequence of the complaints made by the whistle-blowers. As the C&AG's Report had already highlighted systemic weakness in relation to the cancellation of charges, the Committee took the unprecedented step of taking direct evidence from the whistle-blower.

Arising from the evidence given by the whistle-blower, the Committee wishes to report to the following to Dáil Éireann:



1. In taking documentation from the whistle-blower, it took appropriate legal advice, including advice on the appropriateness of accepting records that contained personal data. The Committee members were not circulated with documents containing personal data but were given an anonymised synopsis of the records.
2. The Committee, having taken oral evidence from the whistle-blower in private session, is satisfied that this individual was motivated purely to stop mal-practice which he had detected during the course of his work.
3. The evidence contained in the documents supplied by the whistle-blower confirmed the findings of the C&AG
4. The Committee notes that the whistle-blower used the Confidential Recipient in the first instance and only raised the issue with persons outside the Garda Síochána when he had not heard back from the confidential recipient.
5. The Committee notes the evidence given by the whistle-blower that his treatment for being a whistle-blower had "*destroyed me, my career and my family*".
6. The Committee further notes that whistle-blower was not interviewed as part of the inquiry conducted by Assistant Commissioner John O'Mahony.
7. The Committee was cognisant, while taking evidence from the whistle-blower, that the records supplied were derived from the PULSE system and did not have the background papers which may have had contained documentation in support of the decision to cancel penalty points.

### **Examination by Garda authorities**

The Committee notes that considerable resources were taken up by the examination of the dossier by Assistant Commissioner O'Mahony; that arising from the examination that:

1. Three senior Gardaí became the subject of disciplinary action
2. Thirty nine officers were written to, which equates to a warning
3. A new FCPS manual was in the process of being cleared
4. Considerable changes were made to the cancellation process and now charges cannot be cancelled at district level
5. A new three tier audit process was put in place involving
  - a. The Garda Internal Audit Unit
  - b. The Professional Standards Unit of an Garda Síochána
  - c. The Assistant Commissioner in charge of the traffic unit.

As outlined above, the actions of the whistle-blower have contributed to improvements in the oversight of the cancellation process. It is also clear from the evidence taken by the Committee that the actions of the whistle-blower in highlighting the operation of the cancellation of fixed charges by senior Gardaí posed a major challenge to Garda systems, especially when information relating to the cancellation of fixed charge notices entered the political system and was raised in Dáil Éireann. The Commissioner described the actions of the two whistle-blowers as "disgusting" and put a huge degree of emphasis on the need to maintain discipline within the force. It appears that the desire

to protect the organisation was placed ahead of ensuring that the complaints from the whistle-blower were followed up on.

### **Issues for the future**

The Committee, having heard the evidence of the whistle-blower and having examined the way the Garda authorities dealt with this matter, conclude that the actions of the whistle-blower should prove a catalyst for positive change within the force. Three key issues emerge from that now need to be addressed, as follows:

- The need to review systems such as the confidential reporting system
- The need to give greater protection to whistle-blowers.
- The need to change the internal review mechanisms

### Review of systems

The confidential recipient system whereby Gardaí could request, on an anonymous basis, that issues be examined commenced in 2008. It is clear from the evidence of the Commissioner that the system was rarely used in the six years since its inception. It also emerged in evidence that the efficacy or effectiveness of the system had never been independently reviewed. In the case of the fixed charge notice system, the whistle-blower used the system but appears to have lost confidence in it. It took nine months to get an official response to the complaint that was made relating to four cancellations by one Superintendent. That is simply too long and, using this as an example, it is an indication that the system was not efficient. Not subjecting the system to an independent assessment at some stage since 2008 can now be seen as a missed opportunity which came back to haunt the Garda authorities when the issue raised by the whistle-blower went public in 2013. The Garda authorities should now draw up a programme with its Professional Standards Unit which examines the effectiveness of its systems, if only to give reassurance that the systems in place are working well.

### Protecting whistle-blowers

This entire episode highlights the need to give greater protection to whistle-blowers. While the work of this whistle-blower had positive outcomes for the force and it is likely that the force will emerge stronger from the traumatic learning process that it has gone through, the evidence could also discourage future whistle-blowers. The evidence of the whistle-blower shows what a difficult situation he placed both himself and his family in by speaking up and reporting colleagues. While new legislation is designed to protect whistle-blowers and is recognition of a problem in this area, the fact remains that in organisations like an Garda Síochána, the need to encourage individuals to report mal-practice, especially by colleagues will remain a difficulty. This is an issue that will have to be addressed by Garda management and will require a culture change that can only happen over time as Gardaí at all ranks feel more comfortable and are encouraged by their senior officers to challenge practices.

### Internal Review mechanisms

An issue raised by the Committee at its meeting with the Commissioner arises from the fact that complaints made by Gardaí can only be investigated internally by colleagues of the complainant. To that end, and while in no way commenting on the professionalism or integrity of the O'Mahony investigation, the Committee would welcome a change process whereby internal complaints were handled by a body independent of the Garda Commissioner.

This is because the examination by the Committee has thrown a light into what is, by and large, a secretive process. The fact that, under the current system, all allegations are investigated internally is not helpful in regaining the public confidence that An Garda Síochána needs in order to operate effectively. An independent system will go some way to addressing this issue. It should also act as a deterrent against future actions such as the inappropriate cancellation of fixed charges. To that end, it may well be appropriate to change the current legislation governing GSOC so that it can investigate complaints.

## Chapter Five

### The operation of Go-Safe cameras

#### Introduction

The Garda Síochána has, since 2011, availed of a privatised speed camera service which is operated under contract by the Go-Safe Consortium. As outlined in Fig 7.11 in Appendix 1, the Go safe camera vans account for 22% of fixed notice charges. It was anticipated, when the decision was made to outsource this work, that the operation of this privatised service would generate significant income for the State. However, Chapter 8 of the C&AGs Report<sup>8</sup> shows the service has a net annual cost of €11 million. The contract is due for renewal at the end of 2015. The Committee, at its meeting on 10<sup>th</sup> July 2014<sup>9</sup>, examined the operation of this contract with the acting Garda Commissioner and it probed in detail whether the contract offers value for money for the State.

#### Performance of Go-Safe Cameras

Go-Safe cameras operate in 727 designated accident black-spots and the key test of their effectiveness is that accidents at those designated have declined. As outlined by Commissioner Noirín O Sullivan

“It is important to state that the outsourcing of safety cameras has played a critical role in reducing road deaths and improving the safety of our roads. Since its introduction in November 2010, the safety camera project has in a targeted, systematic and transparent way led to a reduction in fatal collisions and improved speed limit compliance rates in the zones in which they are located.”

The objective of the Go-Safe cameras, whose coverage is approximately 2.7% of the road network, is to increase compliance and thus reduce speed related collisions. It was not about increasing detections. It is clear from the C&AGs own analysis that the rates of compliance have improved significantly and in the various zones are now between 86% and 99%. The locations of the speed camera vans are published on the Garda website and these Go-Safe vans are quite visible to motorists.

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<sup>8</sup> [Chapter 8 of the C&AG Report on the Account of the Public Services 2012- Management of Outsourced Safety Cameras](#)

<sup>9</sup> [PAC meeting 10/07/2014](#)

A concern the Committee has is the extent to which drivers slow down when entering these zones and that increasing levels of compliance are not as evident in other parts of the road network as is evidence by the fact that the rate of speed detections by the Garda robot vans and by Garda intercept processes has not declined. A second concern of the Committee relates to the low levels of detections, which equate to one per hour of surveillance. The Committee, in welcoming the increasing levels of compliance at accident black-spots, recommends that the contract allow greater flexibility for the Gardaí to designate any part of the road network where there is an evident speeding problem which should assist in an overall improvement in compliance levels.

### **Costs**

The initial projections in respect of Go-Safe was that it would generate significant revenue for the State, however this has not materialised and it now costs €15.6 million per annum of which €4.6 million is raised by way of detection by Go-Safe Vans leaving a shortfall of approximately €11million per annum. This shortfall is met from the receipts from fixed charge notices. In effect a large portion of the revenue generated by the Gardaí through fixed charges goes to fund the cost of Go-Safe. As was outlined when the Committee discussed the need to constantly renew the Garda fleet, there is a huge opportunity cost involved in the operation of the Go-Safe cameras. This money could be used to meet the full requirement in replacing the Garda fleet. The Committee is of the view that the issues of increasing detections and of reducing the overall operational cost of Go-Safe must now be examined as part of a cost benefit analysis that should be undertaken before any renewal of the Go-Safe camera operation is undertaken when the current contract expires.

## Chapter Six

### Findings and Recommendations

#### Findings

1. The Fixed Notice Charge System operated by An Garda Síochána has systemic weaknesses which result in up to 20% of fines not being collected.
2. The manner in which data is entered into the Fixed Notice Charge System is unduly bureaucratic and leads to a high level of corrections being needed.
3. The majority of detections of drivers of company cars are not fully processed due to difficulties in identifying the driver.
4. Only half of the court summonses issued to drivers are served by the Garda Síochána and this is resulting in major evasion of fines.
5. The majority of motoring offenders who are charged in court do not have their licence endorsed with penalty points due to systemic weaknesses.
6. The power given to senior Gardaí to cancel fixed charges had to be centralised in 2013 as the proper necessary checks and balances were not being applied.
7. There are high levels of inconsistency in the way senior Gardaí used discretion in cancelling fines and penalty points: The controversy surrounding the cancellation of penalty points has ultimately damaged the reputation of An Garda Síochána.
8. The confidential recipient process under which Gardaí can make internal complaints did not work in the case of the Sergeant Mc Cabe in 2012.
9. No review of the effectiveness of the confidential receipt process has been undertaken since it was introduced in 2008.
10. The evidence given to the Committee by the whistle-blower confirmed the findings of the C&AG in respect of the operation of the fixed charge processing system.
11. The management of the issues raised by the whistle-blowers in respect of the fixed charge processing system in 2012 and 2013 by An Garda Síochána was not effective.
12. A review of the way complaints from members of An Garda Síochána are investigated is necessary in order to ensure that the independence of such a review is seen as beyond reproach.
13. The Go-Safe Cameras have a very low level of detection which may be due to the lack of flexibility in terms of location.
14. The revenue from the outsourced Go-Safe camera scheme has fallen significantly short of what was predicted.

## Recommendations

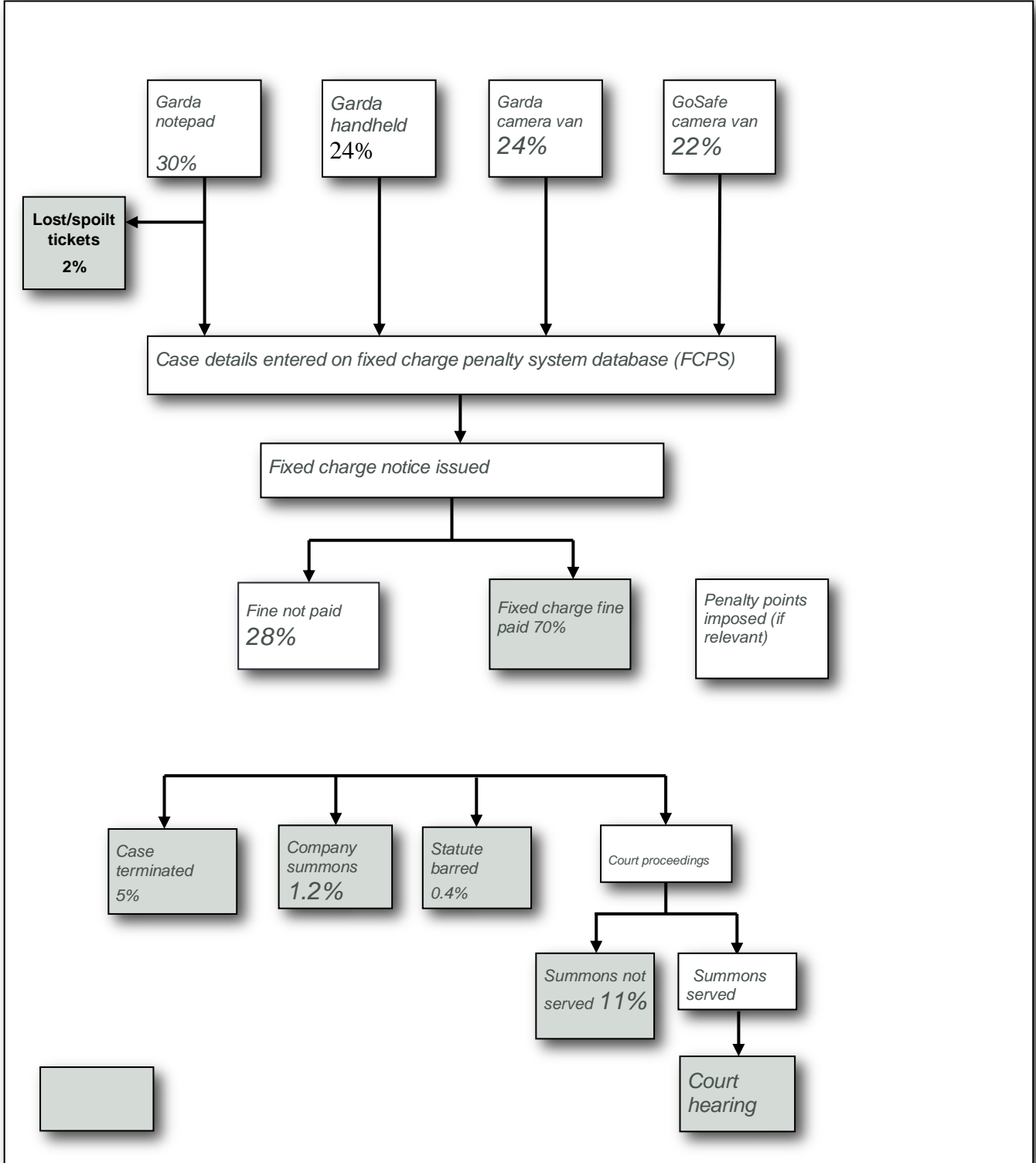
1. The Garda Traffic Corp should examine the possibility of introducing touch screen technology to input traffic offences and which would also capture data such as the driving licence number at point of input.
2. The Fixed Notice Processing Office should use the photographic evidence available to it when dealing with those who fall into the "company car" category
3. Court summonses should be served by registered post using the address that is used to tax the motor vehicles. The onus of proof of non-serving of the summons should transfer to the driver.
4. The driving licence number should be captured when the offence is entered into the system and used throughout the administrative and court process as the unique identifier. The National Vehicle and Drivers File should then be updated automatically with penalty point information when the cases are dealt with.
5. The system whereby fixed charges can be cancelled should be the subject of an annual audit by the Internal Audit unit of An Garda Síochána so as to give assurance to the Garda Commissioner that any cancellations are in full compliance with the policy of the force.
6. The Fixed Charge Processing Office of An Garda Síochána should report annually on the number of charges cancelled using discretion, the number of petitions received and the number of petitions rejected.
7. The Garda Commissioner should arrange for a review of the confidential recipient system with a view to recommending improvements which would make it more effective.
8. An investigative process independent of the Commissioner should be established to deal with complaints of mal-practice against Gardaí
9. A cost benefit analysis study should be undertaken prior to the renewal of the Go-Safe camera contract in 2015
10. There should be greater flexibility in the Go-Safe Contract so as to enable the Garda to move the cameras to areas other than designated black-spots.
11. The Garda Síochána, in consultation with the Garda Inspectorate and the Department of Justice & Equality should now draw up a whistle-blowers charter.
12. A progress report on the impact of changes made to address the systemic weaknesses identified by the C&AG should be made by the Garda Commissioner,

the Department of Justice & Equality and the Department of Transport, Tourism & Sport to the Public Accounts Committee at the end of 2015.



# APPENDIX 1

## Overview of the Fixed Charge Notice System



## APPENDIX 2

### Orders of Reference of the Committee of Public Accounts

(1) There shall stand established, following the reassembly of the Dáil subsequent to a General Election, a Standing Committee, to be known as the Committee of Public Accounts, to examine and report to the Dáil upon—

(a) the accounts showing the appropriation of the sums granted by the Dáil to meet the public expenditure and such other accounts as they see fit (not being accounts of persons included in the Second Schedule of the Comptroller and Auditor General (Amendment) Act, 1993) which are audited by the Comptroller and Auditor General and presented to the Dáil, together with any reports by the Comptroller and Auditor General thereon:

Provided that in relation to accounts other than Appropriation Accounts, only accounts for a financial year beginning not earlier than 1 January, 1994, shall be examined by the Committee;

(b) the Comptroller and Auditor General's reports on his or her examinations of economy, efficiency, effectiveness evaluation systems, procedures and practices; and

(c) other reports carried out by the Comptroller and Auditor General under the Act.

(2) The Committee may suggest alterations and improvements in the form of the Estimates submitted to the Dáil.

(3) The Committee may proceed with its examination of an account or a report of the Comptroller and Auditor General at any time after that account or report is presented to Dáil Éireann.

(4) The Committee shall have the following powers:

(a) power to send for persons, papers and records as defined in Standing Order 83(2A) and Standing Order 85;

(b) power to take oral and written evidence as defined in Standing Order 83(1);

(c) power to appoint sub-Committees as defined in Standing Order 83(3);

(d) power to engage consultants as defined in Standing Order 83(8); and

(e) power to travel as defined in Standing Order 83(9).

(5) Every report which the Committee proposes to make shall, on adoption by the Committee, be laid before the Dáil forthwith whereupon the Committee shall be empowered to print and publish such report together with such related documents as it thinks fit.

(6) The Committee shall present an annual progress report to Dáil Éireann on its activities and plans.

(7) The Committee shall refrain from—

(a) enquiring into in public session, or publishing, confidential information regarding the activities and plans of a Government Department or office, or of a body which is subject to audit, examination or inspection by the Comptroller and Auditor General, if so requested either by a member of the Government, or the body concerned; and

(b) enquiring into the merits of a policy or policies of the Government or a member of the Government or the merits of the objectives of such policies.

(8) The Committee may, without prejudice to the independence of the Comptroller and Auditor General in determining the work to be carried out by his or her Office or the manner in which it is carried out, in private communication, make such suggestions to the Comptroller and Auditor General regarding that work as it sees fit.

(9) The Committee shall consist of thirteen members, none of whom shall be a member of the Government or a Minister of State, and five of whom shall constitute a quorum. The Committee and any sub-Committee which it may appoint shall be constituted so as to be impartially representative of the Dáil.

### APPENDIX 3

#### Membership of the Committee of Public Accounts – 31<sup>st</sup> Dáil

Áine Collins TD <sup>1</sup>	(Fine Gael)	
Paul J Connaughton TD	(Fine Gael)	
Joe Costello TD <sup>2</sup>	(Labour)	
John Deasy TD	(Fine Gael)	
Robert Dowds TD <sup>3</sup>	(Labour)	
Seán Fleming <sup>4</sup>	(Fianna Fáil)	
Simon Harris	(Fine Gael)	
Mary Lou McDonald TD	(Sinn Féin)	
John McGuinness TD	(Fianna Fáil)	Chairman
Eoghan Murphy TD	(Fine Gael)	
Derek Nolan TD	(Labour)	
Kieran O'Donnell TD	(Fine Gael)	Vice Chairman
Shane Ross TD	(Independent)	

#### NOTES

1. Deputy Áine Collins appointed to the Committee by order of Dáil Éireann on 18 July 2013 in place of Deputy Pascal Donohoe who was discharged on his appointment as Minister of State 12 July 2013.
2. Deputy Joe Costello appointed to the Committee by order of Dáil Éireann on 17 July 2014 in place of Deputy Gerald Nash who was discharged on his appointment as Minister of State 17 July 2014 having replaced Deputy Anne Ferris on 8 May 2012.
3. Deputy Robert Dowds appointed to the Committee by order of Dáil Éireann on 17 January 2013 in place of Deputy Colm Keaveney who was appointed on 28 November 2012 in place of Deputy Michael McCarthy.
4. Deputy Seán Fleming appointed to the Committee by order of Dáil Éireann on 21 June 2011 in place of Deputy Michael McGrath.



20 March 2014

**Correspondence 3A.7**  
**Meeting 120-**  
**03/04/2014**

**Mr Ted McEnery**  
**Clerk to the Committee of Public Accounts**  
**Leinster House**  
**Dublin 2**

***Re: PAC Meeting of 30 January 2014 – Request for Supplementary Analysis***

**Dear Mr McEnery**

At the meeting of the Committee of Public Accounts on Thursday 30 January 2014 held in private session, which dealt with matters arising from the examination of Chapter 7 – Management of the Fixed Charge Notice System, I was requested to provide some additional analysis.

The additional information requested is set out in the attached note, and relates to an analysis of cancellation rates by source of the fixed charge notice. A draft of this note has been reviewed and cleared by the Commissioner of An Garda Síochána.

I hope this will be of assistance to the Committee.

Yours sincerely

**Seamus McCarthy**  
**Comptroller and Auditor General**

**2012 Report on the Accounts of the Public Services**  
**Chapter 7 Management of the Fixed Charge Notice System**

***Supplementary Analysis: Cancellation rates by source of fixed charge notice***

Chapter 7 of the 2012 Report on the Accounts of the Public Services examined the management of the fixed charge notice system. The additional analysis reported in this note was carried out in response to a request at the meeting of the Public Accounts Committee on 30 January 2014 (in private session) for analysis of cancellation rates by source of the fixed charge notice.

Fixed charge notices issue following detection either by intercept or non-intercept methods. Intercept cases are recorded on notepads or hand-held devices by gardaí. Non-intercept cases relate to detections by speed cameras, operated by An Garda or by GoSafe. As a result, non-intercept cases relate exclusively to speeding offences, while intercept cases relate to a range of offences including speeding, illegal parking, use of mobile phone while driving, non-display of current valid tax disc, etc.

Chapter 7 was based on analysis of fixed charge notice cases for 2011 and 2012. Until April 2012, the fixed charge notice system allowed for a very limited number of reasons for termination to be recorded – most were therefore classified on the system simply as ‘cancelled’. Following an IT PULSE update on the 28 March 2012, more detailed reasons were recorded on the system, which allows for a more useful analysis of the data. For the period April to December 2012, almost 300,000 notices were issued, with just over 15,000, or 5.2% being terminated. See Figure 1 below.

The percentage of cases terminated was higher for non-intercept (speeding camera) cases than for intercept cases. However, there was no material difference between the sources in respect of termination rates for exceptional/discretionary reasons i.e. after exclusion of terminations due to

- processing system errors — such as an incorrect townland name or incorrect registration plate number, which cannot be successfully prosecuted
- Juvenile Diversion Programme (JLO) cases
- statutory exemptions — these relate principally to emergency vehicle and individuals producing a disabled parking permit following receipt of a notice.

**Figure 1 Number of notices generated and terminated, April to December 2012**

	Intercept cases		Non-intercept cases		Total
	Handheld	Notepad	Garda camera	GoSafe camera	
Offences detected	90,997	68,383	83,257	50,731	293,368
Number of offences terminated	3,642 4.0%	3,133 4.6%	5,326 6.4%	3,171 6.3%	15,272 5.2%
Offences terminated due to					
processing errors, JLO directions, or for statutory reasons	2,162 2.4%	1,431 2.1%	3,796 4.6%	2,300 4.5%	9,689 3.3%
exceptional and discretionary reasons	1,480 1.6%	1,702 2.5%	1,530 1.8%	871 1.7%	5,583 1.9%

Source Analysis by the Office of the Comptroller and Auditor General